

## Report to EQC

Clark Fork River Basin Task Force  
July 17, 2006

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## Report Outline

- Clark Fork Task Force
  - Mandate
  - Budget
  - Members
- Clark Fork Basin Watershed Management Plan
- HJ 3
- 05-06 Task Force Work Plan
- Hungry Horse Negotiation Actions
- Ground Water Conferences

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## Clark Fork Task Force Mandate

- 2001 - HB 397
  - Prepare a water management plan for the Clark Fork River basin that identifies options to protect the security of water rights and provide for the orderly development and conservation of water in the future.

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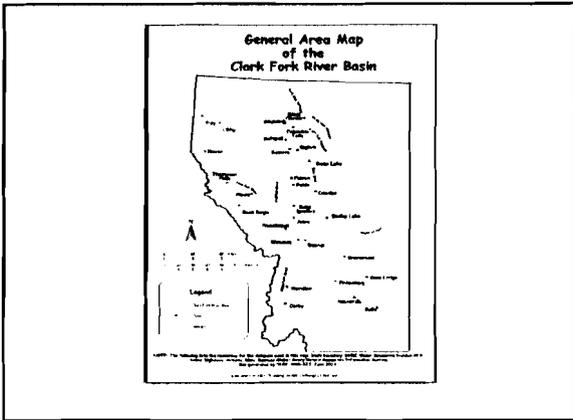
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### Clark Fork Task Force Mandate

- 2005 - HB 236
  - Identify short-term and long-term water management issues and problems and alternatives for resolving any issues or problems identified;
  - Identify data gaps regarding basin water resources, especially ground water;
  - Coordinate water management by local basin watershed groups, water user organizations, and individual water users to ensure long-term sustainable water use;
  - Provide a forum for all interests to communicate about water issues;
  - Advise government agencies about water management and permitting activities in the Clark Fork River basin;
  - Consult with local and tribal governments within the Clark Fork River basin;
  - Make recommendations, if recommendations are considered necessary, to the department for consideration as amendments to the state water plan

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### Clark Fork Task Force Budget

- HB 2 - DNRC Water Resources Division
  - Clark Fork Task Force - \$12,500 Special Revenue for each year of 2006-07 biennium
- DNRC Grant - \$16,500 for ground water conferences

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### Clark Fork Task Force Members

- Marc Spratt - Flathead Conservation District (Flathead Basin above Flathead Lake)
- Nate Hall - Avista
- Holly Franz - PPL Montana
- Matt Clifford - Clark Fork Pend Oreille Coalition (Conservation/Environmental organizations)
- James Steele, Jr. - Confederated Salish and Kootenai Tribes
- Gail Patton - Sanders County Commissioner (Basin local governments)
- Jay Stuckey - Green Mountain Conservation District (Clark Fork River Watershed below Flathead River confluence)

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### Clark Fork Task Force Members

- Arvid Hiller - Mountain Water Company (Municipal water companies and the Clark Fork River Watershed between the confluence of the Blackfoot River and the Clark Fork River and the confluence of the Clark Fork River and the Flathead River)
- Elna Darrow - Flathead Basin Commission (Flathead Lake)
- Bill Slack - Joint Board of Control (Flathead River watershed below Flathead Lake to the confluence with the Clark Fork River)
- Harvey Hackett - Bitter Root Water Forum (Bitterroot River watershed)
- Fred Lurie - Blackfoot Challenge (Blackfoot River watershed)
- Jim Dinsmore - Granite Conservation District (upper Clark Fork River watershed)

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### *Ex Officio* Clark Fork Task Force Members

- Rep. Verdell Jackson - HD 6, Kalispell
- Rep. Joey Jayne - HD 15, Arlee
- Sen. Jim Shockley - SD 45, Victor

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## Clark Fork Basin Watershed Management Plan

- Clark Fork Basin Watershed Management Plan
  - Adopted September 04
  - Largely adopted into State Water Plan January 05



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## Key Plan Findings

- Except during periods when Avista's or PPL Montana's rights are filled, it is unlikely that surface water and ground water directly connected to surface water is legally available in the basin for future appropriation.
- The same hydropower rights put water use based on a water right junior to Avista's or PPL Montana's rights at risk much of the time.
- Ground water is growing in importance as a source of water supply in the basin.
- Acquiring more ground water data is crucial to future water management.

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## Proposed DNRC Water Right Decision

- Recent DNRC Hearings Examiner recommendation confirms Plan finding about the absence of legally available water in basin.
- Hearings Examiner recommended denying Thompson River Lumber Company surface water right permit because "The Applicant has not proven that water can reasonably be considered legally available. Applicant has proven that water is only available at times the flows at Noxon Rapids Dam exceed 50,000 cfs."

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### Plan Recommendation

- The State of Montana should open discussions with the USBOR to determine the availability and cost of temporary and long-term contracting options, and to determine a quantity of firm storage available from Hungry Horse Reservoir for water use in Montana.

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### 2005 HJ 3

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana DNRC be urged to enter into negotiations with the US Bureau of Reclamation to determine the availability and cost of water stored behind Hungry Horse Dam for which the State of Montana might contract to support existing water use and future water development in the Clark Fork River basin.

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### Task Force 05-06 Work Plan Topics

- Hungry Horse Negotiations
- Ground Water
- Water Rights Adjudication
- Regional Water Quantity Body

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### Hungry Horse Actions

- At September 19, 2005 meeting, DNRC Director Mary Sexton recommended that the Task Force write a letter to Governor Schweitzer asking him to write the BOR requesting a contract for a block of Hungry Horse water that the State can market to basin water users.
- On Sept. 28, 2005, the Task Force wrote to Mary Sexton requesting that DNRC determine how much water the State needs for a contract as a prerequisite to Governor's BOR letter.

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### Hungry Horse Actions

- On Oct. 8, 2005, Tribal Chairman Matt wrote to the Governor stating that, "Should DNRC pursue negotiations for long-term contracts for purchase of water from BOR's Hungry Horse Project prior to resolution by adjudication or negotiation of the Tribes' on- and off-Reservation reserved water rights, the Tribes will formally object."

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### Hungry Horse Actions

- On Nov. 11, 2005, Director Sexton wrote to the Task Force, "We have proposed that such a request be posed jointly by the State and the Tribe. We believe that this could further the strength of the request and also position the Tribe and the State more favorably in on-going efforts to increase flows in the Columbia Basin."

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### Hungry Horse Actions

- On Dec. 1, 2005, Task Force members met with CS&KT legal staff to discuss Hungry Horse negotiations.
- At Task Force meeting, Jan. 25, 2006 meeting, BOR explained computer models that could be used to schedule releases of Hungry Horse water and walk water down the Clark Fork to delivery to specific points.
- Also at the January 25 meeting, Rich Moy agreed that the DNRC will develop scenarios of future basin water use that might be used in an analysis of a contract for Hungry Horse water.

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### Hungry Horse Actions

- In February 2006, Gerald Mueller met with Governor Schweitzer's Chief Policy Advisor Hal Harper asking that the state inquire with the BOR about the process necessary for determining how much Hungry Horse water state water users need and how much of it may be available for a contract. Mr. Harper said that he would discuss such an approach with CSKT Chair James Steele Jr.
- On June 9, 2006, DNRC Director Sexton and Tim Hall discussed Hungry Horse negotiations with three CSKT Council members and Tribal legal staff. DNRC was invited to address full Tribal Council at future meeting.

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### Hungry Horse Actions

- On June 23, 2006, CSKT Vice-Chairwoman Carole Lankford wrote to Mary Sexton.
  - The letter affirmed the position that the legal availability of water from the Hungry Horse Project cannot be determined until the on-and off -Reservation reserved water of the Tribes have been quantified by adjudication or by compact between the Tribes, the United States and the State of Montana.
  - It also stated that, in the Tribes are interested in learning about the Bureau of Reclamation's position on water contracts from the Hungry Horse Reservoir. Consequently, the Tribes agree to participate as observers in any meetings the DNRC conducts with the BOR concerning the potential for water contracts from Hungry Horse Reservoir.

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### Hungry Horse Next Steps

- Governor will write to the BOR requesting a meeting to explore the process by which the BOR will respond to the State's request for a Hungry Horse contract.

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### Action by Other States

- In February 2006, Washington passed legislation is to develop new water supplies in the Columbia basin for both consumptive and instream uses.
- The development is to occur through new storage, conservation, and l...any other actions designed to provide access to new water supplies within the Columbia river basin for both instream and out-of-stream uses.†
- It is possible that this additional water development in Washington may come at the expense of Montana water uses provided by Hungry Horse and Libby Dams.

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### Task Force Ground Water Actions

- To address ground water data gap and ground water policy issues, the Task Force will convene two conferences in the fall of 2006.
  - Technical conference on September 27, 2006 cosponsored by the UM River Center
  - Policy conference on November 9, 2006 cosponsored by UM Dept. of Geography

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## Technical Conference Agenda

- Overview existing ground water information for the Clark Fork River basin by sub-basin by Montana Bureau of Mines and Geology
- Ground water modeling tools in use to define and/or predict the nature and extent of surface and ground water connections on a sub-basin scale
- Methodologies used to assess surface and/or ground water depletions from resulting from ground water appropriations
- Information, tools, and assessment methodologies needed to management ground water effectively in the Clark Fork River basin

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## Policy Conference Agenda

- Clark Fork basin economic and demographic trends
- Effect of population and economic growth on water use
- 3 panels will be invited to address present and future water supply issues/problems
  - Basin elected tribal and local government officials
  - Basin tribal and local government planners
  - Basin users/interests (irrigation districts, private water supply company, and realtors)

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## Policy Conference Agenda

- Policy and administrative tools for allocating ground water while protecting surface water conditions

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## Conclusion

- We need to press forward in two areas on behalf of Clark Fork basin water users:
  - Need to reserve a block of water in Hungry Horse.
  - Need to learn more about basin's ground water resource and develop tools to manage it.

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