State of Montana's Response to Public Comments on the

CLARK FORK RIVER OPERABLE UNIT STRATEGIC PLAN

State of Montana's Remedy and Restoration Approach

Prepared by the Department of Environmental Quality and the Montana Natural Resource Damage Program

October 2023

Table of Contents

Introduction

Ther Montana Department of Environmental Quality (DEQ) and Natural Resource Damage Program (NRDP) (collectively, the State) released a draft Clark fork River Operable Unit Strategic Plan (Plan) – State of Montana's Remedy and Restoration Approach on March 22, 2023, for the Clark Fork River (CFR) Operable Unit (OU) of the Milltown Reservoir/Clark Fork River Superfund Site (Site). A public comment period was held from March 22, 2023, to May 21, 2023. During the comment period, the State hosted a public meeting on April 25, 2023, to present the Plan to the public. This document presents the State's response to comments received on the draft Strategic Plan.

Purpose

The purpose of the Strategic Plan for the Site is to describe the integrated approach the State is using to complete remedy actions and restoration activities.

The objectives of the Plan include:

- Outline the State of Montana's available resources to implement the project in the most efficient and cost effective way;
- Summarize the remedial actions and restoration activities to date for the CFROU, best practices and lessons learned within the remedial design and construction processes;
- Describe the processes and decision criteria the State will apply in developing the future work sequences and the priorities for the remaining remedial action and restoration activities;
- Outline the implementation schedule for the remaining Remedy and Restoration activities and how the remaining funds available are anticipated to be spent; and
- Describe the methods and schedule for community engagement for better transparency to facilitate alignment among stakeholders and improve cohesiveness of State of Montana Agencies.

Public Comment Summary and Response

For outreach on the State posted the public comment announcement on the DEQ and NRDP web pages and sent notice of this opportunity for public comment to approximately 428 individuals/entities on the DEQ mailing list for the Clark Fork Site and to approximately 202 individuals/entities on the NRDP mailing lists related to the Upper Clark Fork River Basin.

The State received eleven comment letters during the public comment period.

See Appendix A for copies of the comment letters.

This response to comments document summarizes the public comment received and provides the State response to the comments.

State Responses to Public Comments on the Clark Fork River Operable Unit Strategic Plan

1. Aquatic and Wetland Habitat, Fisheries Health, Design: The most common theme in comments received on the Strategic Plan was an interest in designing the clean-up to create more aquatic and wetland habitat. Several commenters referenced the recent observed decline in fisheries on the Upper Clark Fork River. Commenters recommended a focus on floodplain connectivity, channel complexity, improving channel morphology, instream habitat, channel features such as shade to help during drought conditions, native vegetation, short term habitat, side channels, and large log jam/root wad structures incorporated into banks. Several commenters specifically referenced designing the work such that the river is restored to a more natural functioning. Overall, the commenters were calling for an increased effort on improving fisheries and overall habitat.

The State is committed to maximizing river function through the remediation and restoration of the Clark Fork River to the extent practicable. The remediation and restoration are required to operate within the confines of the Record of Decision (ROD), Explanation of Significant Differences (ESD), and Restoration Plan. The removal of contaminated sediment, lowering of the floodplain, rebuilding of the streambanks and replanting riparian vegetation will provide the greatest long-term benefit to stream health and water quality into the future. As the stream is returned to a more naturally functioning state it will develop channel and habitat complexity over time. Meanwhile, the State will continue to look for ways to enhance natural stream and floodplain function processes (floodplain connectivity, channel complexity) in the context of the overall remediation and restoration. This will include utilizing partnerships with other agencies of varying expertise including Fish, Wildlife and Parks, the United States Geological Survey, the Environmental Protection Agency and local stakeholder groups.

2. Budget: Several commenters voiced concerns over the budget projections in the Strategic Plan. Every commenter expressed that they did not favor reducing clean up levels from past work. Several called for utilizing the round robin process to obtain more funding, while the others called for locating outside funding to supplement the work. One commenter pointed out that the budget in the Strategic Plan is a best case scenario and recommended developing contingency plans and incorporating public reviews after each phase completion.

The budget projections in the Strategic Plan are based on the best available and most current information. The current projections that the State has run show there is sufficient funding to complete the State's obligations for both remedy and restoration. These projections will be evaluated annually with updates to the Strategic Plan. There are provisions in the Clark Fork River Consent Decree that address cost over-runs. At this time the State does not believe it will need to use those options and that this approach will be able to achieve a protective cleanup. One component of the Strategic Plan is to continually look for cost-saving alternatives while achieving the goals of the ROD and Restoration Plan. The State is looking at ways to incorporate outside funding as opportunities are available in conjunction with the remediation and restoration work.

3. Phase Schedule: Several commenters mentioned the Phase Scheduling approach detailed in the Strategic Plan. Some of the commentors expressed support for prioritizing Phases 13 and 14 work (which includes Arrow Stone Park). Several commenters called for working multiple phases simultaneously to expedite the cleanup. Several commenters voiced concern over the ordering of the phases, calling instead for a simple upstream to downstream order.

The phase sequencing in the Strategic Plan is generally upstream to downstream. The considerations behind the exceptions are detailed in the Strategic Plan. Arrow Stone Park (part of Phase 13 and 14) is being prioritized due to its high level of community use and the presence of exposed soil areas in the Park. Phases 10, 11, and 12 were moved up in priority due to their large volume of tailings and contaminated soils and the high risk of entraining these materials into the river. Phase 7 is currently undergoing design and is projected to be the next Phase to start remediation.

The State is moving at a rate it believes is prudent and safe. We will continue to look for ways to accelerate the cleanup such as working on multiple phases at once. The complexity of this project affects how quickly and in what order the State is able to implement the cleanup. As we move through remedy and restoration we consider many issues, including safety of the public and workers, multiple contractors utilizing the same repository and potentially the same borrow sources, impacts to the environment, finances/budgeting, coordination with landowners, etc.

4. Changing Removal Boundaries from Floodplain to Channel Migration Zone (CMZ): a few commentors specifically voiced concern over the implementation of the CMZ as the boundary for cleanup. The commenters were concerned over how the reduced cleanup area would hold up long-term, citing the impacts of climate change, Montana's dynamic climate, the use of historical channel migration data for the CMZ calculations, and the possibility of future larger flood events. Two commentors were concerned that the new CMZ approach would limit the building of important stream channel features such as oxbows and side channels and/or the possibility that future designs would leave those features contaminated.

The remedy will still be conducted in accordance with the ROD and ESD, and in coordination with the 2020 Revised Restoration Plan. The remedy is expected to meet the performance standards and Remedial Action Objectives (RAOs) established in the ROD, Part 2, Decision Summary, Section 13.11 *Performance Standards and Remedial Goals*. While the main excavation is now limited to the 100-year CMZ, the Strategic Plan includes flexibility and budgeting to excavate outside of the 100-year CMZ to address highly contaminated areas as deemed necessary in accordance with the ROD and ESD. Additionally, locations where contaminated soil will be left in place have robust vegetation creating a protective cover, which is consistent with the guidelines set forth in the ROD and ESD. The remedy prescribed in the ROD is designed to protect against large flooding events through removal of the worst contaminated material, rebuilding streambanks, restoring natural stream and floodplain function, and ensuring vegetative cover over the floodplain.

5. Public Engagement: All commenters that mentioned public engagement were supportive of the State's renewed attention to transparency and stakeholder engagement detailed in the Strategic Plan. Several mentioned looking forward to the renewal of the Design Review Team. Powell County referenced a need for more public education.

The State is committed to transparency and public and stakeholder engagement on this project and believes that the renewal of the Design Review Team will help improve the project moving forward. We are committed to two public meetings and two fact sheets per year to keep the public informed. We are working closely with Powell County and others in educating the public regarding proposed remediation at Arrow Stone Park and other public access locations on the project. Finally, we will continue to evaluate whether outreach efforts are effective and adjust accordingly.

6. Human Health: The commenters that included human health in their response advocated for the importance of prioritizing human health in the clean-up. Several comments requested that the importance of protecting human health be more explicitly highlighted in the Strategic Plan. Several comments recommended consideration be given to other high traffic points along the river as potential human health risks.

The State has followed the considerations for human health established in the ROD and EPA's *Human Health Risk Assessment* (EPA 1998) and *Human Health Risk Assessment Addendum* (EPA and ATSDR 2001) and has demonstrated its commitment to human health by prioritizing high use areas such as Arrow Stone Park. In the interest of facilitating timely and cost-effective construction of Phases, the State will not conduct side cleanup projects.

7. Monitoring: One commenter recommended a more qualitative approach to geomorphic and vegetation monitoring than is currently implemented by the Qualitative Rapid Assessment, including the addition of river geomorphology as a project measurable. The alleged channel widening in completed sections was the root concern. The commenter also wanted clarification on how monitoring data would be used and how annual reviews would contribute towards an adaptive management approach.

The Qualitative Rapid Assessment (QRA) is the State's primary method of monitoring the overall vegetation performance, river function, and geomorphology in the remediated Phases. It involves a combination of aerial imagery and ground-truthing to achieve a time- and cost-effective understanding of how the remedy is performing. The State is currently working with Montana FWP and other agencies on monitoring the Clark Fork and adapting lessons learned to influence future designs. The ROD dictates project measurables and does not require intensive geomorphic monitoring.

8. Hotspot Removal: One commenter specifically recommended an approach to target contamination hotspots that may pose an "imminent and immediate threat or danger" to human or aquatic life. While other commenters did not specifically mention addressing hot spots, several did request that localized spots with high human traffic be addressed sooner.

The Strategic Plan has included consideration for presence of contaminated material that poses an immediate risk to water quality in its prioritization of the Phases. The State has relied heavily on the *Human Health Risk Assessment* to prioritize previous work that was needed to protect human health. The State reviewed the County's use of Arrow Stone Park as a high-traffic area and concerns were raised regarding the Park and exposed soils. The State has responded with an interim plan and has prioritized the Park for design and implementation of remedy over the next two years. However, interim actions take away time and resources to continue progress on long-term design work. To properly manage and execute each Phase the State does not intend to divide energy between the main construction and side projects.

The table below shows the comments received in summary and how comments were groups for response in the document:

Concern	Details	Party
Aquatic and Wetland Habitat, Fisheries, Design	Emphasize the importance of CFR wetlands as waterfowl habitat, want more design emphasis on wetland features	Montana Wetlands and Waterfowl
	Point out fisheries decline, wants to find more opportunities to improve habitat, floodplain connectivity, stream function. Want emphasize channel stability, want in channel habitat and morphology addressed	TU
	Uses fisheries, feels positive about fisheries improving	Brian Connelly
	Kudos for updated streambank designs improving fish habitat, encourages more of that. Wants emphasis on river function in plan. Diverse suites of aquatic habitats, floodplain connectivity, promote off channel and instream habitat.	Janet Cass
	Concern over fisheries decline, State needs to determine cause of decline, State needs to consider status of fisheries when budgeting. Wants State to incorporate fish habitat and channel morphology into design process, State needs to track/design for channel migration and river widening.	CFRTAC
	Concern over changing climate conditions resulting in low flows and warm water. Want State to integrate instream habitat features into the design. Shade and cover for droughts. Building channel and floodplain complexity, mention lowering floodplain [no clear opinion on that], want state to think about channel morphology and fish habitat. Work better with FWP and incorporate fish habitat needs. Worried that CMZ design will reduce channel complexity	CFC
	Support SP focus on restoration of native veg, habitat, and habitat connectivity. Encourage new bank design and any other features that enhance stream complexity and habitat.	Powell County

	Want short term aquatic habitat incorporated into design. Want habitat complexity to support younger fish. Want to allow for natural stream behavior, design side channels and other channel features. Don't like the current point bar construction. Don't like channel reconstruction efforts to date. Want large log jam/root wad structures incorporated into banks, and features that encourage complex channel formation.	FWP
Budget	Point out that budget in Strategic Plan is really a best-case scenario. Recommend developing contingency plans and public reviews after completion of each phase. Recommend seeking outside funding for further habitat restoration.	TU
	Wants to do round robin instead of changing removal boundaries	Janet Cass
	Worried about budget, want State to find additional funding, want more transparency from State about funding situation and spending	CFRTAC
	Not happy that State is leaving more contamination in order to stretch the budget, cite concerns over climate change impacts, recommend finding additional funding through round robin or other	CFC
	Advocate for remedy and restoration that is complete, recommends looking for more money from: local gov, non-profits, grants, other agencies, internally, continuous cost saving approaches	Powell County
Phase Schedule	Recommend continuing to run multiple phases at once if it works with phases 13/14, recommend explicitly stating that human health risk is a criterion for phase sequencing.	TU
	Support moving phase 13 and 14 up, recommend working multiple phases at once	CRTAC
	Appreciates Phase 13 and 14 being prioritized	Toni Chew
	Want State to work faster for sake of environment and human health, the longer contamination is unaddressed the more damage it does. Expedite areas of high public use.	
	Happy to see Phase 13 and 14 prioritized	Powell County
	Want phase sequencing that works from upstream to downstream to avoid fish kills	FWP
Changing Removal Boundaries, CMZ Comments	Concerned about leaving contamination in place, cites concern over using RI calcs given climate change	Brian Connelly
	Does not support changing removal boundaries, cite Montana's dynamic climate, wants round robin	Janet Cass

	Concerned about narrower removal boundaries, want a plan from State to manage waste left in place	CFRTAC
	Concerns that RI-style calculation will not hold up to new norm of channel migration (apparently most channel migration in last 50 years occurred in the last ~11 years). Worried that this approach will prevent natural habitat-forming processes. Worried State won't build floodplain features (oxbows, side channels) or that they will still be contaminated. Generally concerned about leaving behind contaminated floodplain. Recommend calculating CMZ based off of 2011-2019 dataset.	CFC
	Don't believe 50-year CMZ is sufficient long-term, worried about future water quality	FWP
Public Engagement	Appreciated renewed attempt at public communication, want more opportunities for significant public engagement and stakeholder input, want DRT brought back, want inclusion of public stakeholders in the monitoring of past phases	TU
	Appreciate renewed effort for public outreach and engagement, looking forward to working together	CFTAC
	Appreciates collaborative and transparent approach in SP, likes commitment to public meetings, site tours, remedial design meetings, ready to help us	CFC
	Supports CIP, want to keep seeing public education, engagement, and involvement	Powell County
Human Health	Wants human health emphasized as a driver of phase schedule, State should prioritize emerging human health concerns	TU
	Wants human health explicitly highlighted as a goal in the Strategic Plan, happy to see Arrowstone Park bumped up	Janet Cass
	Supportive of focus on Arrowstone Park, recommending other areas on river that receive high use	CFRTAC
	Appreciates that guiding goal of the SP is protecting human health, cite concerns over sloppy cleanup at Arrowstone, would like to see other river access points expedited	CFC
Supportive	Supportive of maintaining adaptive management approach	MO Watershed Restoration
	Support science-based adaptive management approach, decision to bump up Arrowstone Cleanup, support States effort to be more transparent and are happy the DRT is coming back	CFRTAC
	Complimented the States public meeting, understands our budget woes, appreciates 13 and 14 being prioritized	Toni Chew
Other	Want to see a plan for hotspot monitoring and removals: "imminent and immediate threats and dangers". Appreciate this approach for Arrowstone, want to see it for entire river	Powell County

	Monitoring: want "robust" monitoring program, don't believe QRA is sufficient for geomorphic or vegetation monitoring, want to know how monitoring data will be used, want to know how annual reviews will contribute to an adaptive approach.	FWP
	Geomorphology: wants geomorphology added as a measurable. Believes reconstructed sections are wider and shallower	FWP

DEQ
Montana Department
of Environmental Quality

October 11, 2023

Molly Roby
Remedial Project Manager
U.S. Environmental Protection Agency
Region 8 – Helena, MT

RE: Transmittal of the State's Response to Comments on the Clark Fork River Operable Unit Strategic Plan 2023

Dear Ms. Roby,

Attached is the State's response package to the comments on the Clark Fork River Operable Unit Strategic Plan. Included are the response to EPA's comments, responses to both sets of EPA's line edits in the document, and a compilation of the public comments received and the State's responses.

Please feel free to contact us for further information or discussion,

Sincerely,

Jessica Banaszak
Environmental Project Manager

Department of Environmental Quality
P.O. Box 200901
Helena, MT 59601
(406) 431-2252
jessica.banaszak@mt.gov

cc: Katie Garcin-Forba, Superfund, AML, and Construction Bureau Chief, DEQ
Doug Martin, Acting NRDP Manager, NRDP
Jason Rappe, AML and Construction Section Supervisor, DEQ
Logan Dudding, Senior Environmental Project Manager, DEQ
Brian Bartkowiak, Environmental Science Specialist, NRDP
Carolina Balliew, Remedial Section C Supervisor, EPA
Jess Wilkerson, Legal Counsel, DEQ
Aspen Ward, Assistant Attorney General, NRDP

DEQ
Montana Department
of Environmental Quality

October 11, 2023

United States Environmental Protection Agency
Region 8, Montana Office
Federal Building
10 West 15th Street, Suite 3200
Helena, MT 59626

RE: EPA comments on the Clark Fork River Operable Unit Strategic Plan 2023

Dear Ms. Roby:

The Department of Environmental Quality (DEQ) and Natural Resources Damage Program (NRDP) have reviewed the comments submitted by the U.S. Environmental Protection Agency (EPA) on the *Clark Fork River Operable Unit Strategic Plan* (Strategic Plan). The State has worked to incorporate the comments into the body of the Strategic Plan, and has the following responses to the concerns outlined in the letter received on May 18, 2023:

1. The remedy must be completed in accordance with the Record of Decision (ROD) for Operable Unit 3 (OU3) and the Explanation of Significant Differences (ESD). EPA has significant concerns that there have been decisions made that may affect the protectiveness of the remedy and that while the design criteria has been adjust over the course of the project with the implementation of the ESD, the design criteria utilized in the remedial design should be consistent with the performance standards and Remedial Action Objectives (RAOs) established in the ROD. Section 1.1 of the Strategic Plan states “Cost projections using recent unit bid prices revealed that insufficient funds would remain to complete the final 15 phases of work if implemented under initial design criteria”. This is inconsistent with cost estimates provided by DEQ in support of the ESD in which DEQ confirmed that they had sufficient funding to implement the changes made through the ESD, where it was indicated that the change “does not fundamentally alter the remedy with respect to scope, performance, or cost”. EPA is concerned that the elements described in Section 4 of the Strategic Plan may not meet the ROD and ESD requirements. For instance, limiting cleanup to the channel migration zone (CMZ) may not meet the requirement of addressing contaminated soils within the 100-year floodplain and may not be fully protective. EPA requests that DEQ provide an assessment within the Strategic Plan of how the design criteria described in Section 4 meets the performance standards and RAOs of the ROD and specifically describe any modified design considerations to support the integrated remedy and restoration. If DEQ is looking to adjust the design criteria from those established in the ROD, this Strategic Plan document is not an appropriate mechanism to make these changes. Instead, this would require a decision document to modify the remedy strategy and would need to be provided to EPA for review and approval. Additionally, if there are

significant adjustments to the cost or schedule projections (ie an extension to the construction schedule), and an alternate decision document may still be required.

Response:
The Clark Fork River Operable Unit 3 remedy is still being conducted in accordance with the Record of Decision (ROD) and Explanation of Significant Differences (ESD), and in coordination with the 2020 Revised Restoration Plan. The remedy is expected to meet the performance standards and Remedial Action Objectives (RAOs) established in the ROD. While the main excavation is now limited to the 100-year Channel Migration Zone (CMZ), the Strategic Plan includes flexibility and budgeting to excavate outside of the 100-year CMZ to address highly contaminated areas as deemed necessary for human health and environmental protectiveness. The locations where contaminated soil will be left in place have robust vegetation and adequate cover to protect floodplain stability and limit contact with exposed soil, consistent with the requirements in the ROD and ESD.

The Cost Estimate for the Clark Fork River Operable Unit Explanation of Significant Difference (CDM Smith, 2013), which was attached to the ESD, estimated a total cost for Phases 1-22, including O&M of $143,294,666 (not including inflation and interest). The 2023 Strategic Plan estimated a total cost for upcoming work in Phases 4, 7, 8, 9, 10, 11, 12, and 17-22 including O&M of $104,460,000 (not including inflations of interest). This is not a significant change in terms of cost of the remedy.

As part of the design for Phase 7, the State will provide documentation of design criteria and an explanation of how the design will meet the performance standards and RAOs established in the ROD and ESD. Future Preliminary Design Plans (PDPs) for subsequent phases will also include this design criteria discussion for review.

2. The identified criteria for the prioritization of future phases of construction as shown in Table 2 does not indicate a consideration towards human health, which should be the fundamental consideration. EPA would like to participate in the determination of the criteria for future phases of construction.

   Response:
   The State has followed the considerations for human health established in the ROD and EPA's *Human Health Risk Assessment* (EPA 1998) and *Human Health Risk Assessment Addendum* (EPA and ATSDR 2001) and has prioritized Phases 13 and 14 to address increased recreational usage of Arrow Stone Park. The Strategic Plan includes the schedule for future phase work and a discussion of the considerations and criteria used to determine the schedule. If EPA has specific concerns about the schedule the State will address them. EPA will be notified of any changes to the phase scheduling.

3. Settlement funds set aside for the remediation must be used and tracked appropriately in accordance with the Consent Decree. EPA has indicated to the State of Montana our concern of the budget transparency for the Clark Fork River remediation and restoration. EPA wants to ensure that the settlement funds set aside for the cleanup of the river (remediation) is tracked appropriately, separately from the settlement dollars set aside for the restoration. To date, EPA does not have a clear indication of the breakdown of how the budget will include both settlement funds to accomplish a complete remediation of OU3. In the ESD, DEQ had demonstrated that

sufficient funds were available to implement the remedial design and remedial action. Please provide EPA with a breakdown of the remaining budget and how funds from the settlements are to be tracked over the course of the project.

Response:
DEQ currently tracks all spending on the remedy and provides a quarterly report to EPA. DEQ and NRDP have specific MOUs that document the specific remediation and restoration cost for each phase. These costs are also broken out in each payment to the contractor during construction and tracked by the agencies. DEQ is available to meet with EPA to explain and clarify the spending reports.

4. Any data used for the decision-making must be collected under an EPA approved sampling document. Section 1 indicates several design studies have been or are intended to be used to support design considerations going forward. EPA requires that appropriate quality assurance documentation (ie QAPP, SAP) be provided for EPA approval in order to make decisions that would affect the remedy performance based on the data collected as part of these studies. For instance, the Reach A scale hydraulic model was completed without EPA or other stakeholder buy in. EPA did not get the opportunity to participate in the review of the 2020 Restoration Plan by NRDP as it affects the integration of the remediation and the restoration. We need to be able to formally document on the administrative record the decisions that impact the remedy and its protectiveness. The Strategic Plan is not the appropriate document to detail any data summaries or analyses that would impact the implementation of the ROD, ESD, or Restoration Plan.

   Response: The purpose of the Strategic Plan is to summarize the State's approach to the remaining phases of remediation and restoration. The PDPs will continue to be the primary Comprehensive Environmental Response, Compensation, and Liability Act documentation for the administrative record and will include phase specific data summaries and analysis to support remedial activities. The PDPs remain subject to EPA review. Section 1 contained several documents that the State used to answer internal data gaps and feasibility questions in completing integrated remedial and restoration work. When developing specific PDPs for a phase, it may require additional sampling or analysis that will undergo EPA review and approval.

   NRDP provided a stakeholder review draft to EPA on July 20, 2020, along with other trustees and stakeholders prior to the public release of the draft revised Restoration Plan for the Clark Fork River Aquatic and Terrestrial Resources. Additionally, NRDP provided a presentation of the draft plan to trustees and stakeholders including EPA on August 24, 2020. NRDP received comments from EPA on August 31, 2020. These comments from EPA were then incorporated into the Final 2020 Revised Restoration Plan.

   DEQ performs all remedy work under approved quality assurance documentation. The Reach A Hydraulic model was developed by NRDP as a reach scale tool to guide remediation and restoration activities. A hydraulic model is a standard engineering tool used in river restoration. DEQ and NRDP are not aware of hydraulic models being subject to the DQO process for other sites in the Clark Fork Basin or other sites on the National Priorities List. However, a phase specific hydraulic model will be prepared for each phase's PDP. The PDPs will be subject to EPA review and comment in accordance with Consent Decree and Site Specific Memorandum of Agreement.

Please feel free to contact us for further information or discussion,

Sincerely,

Jessica Banaszak
Environmental Project Manager

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cc: Katie Garcin-Forba, Superfund, AML, and Construction Bureau Chief, DEQ
Doug Martin, Acting NRDP Manager, NRDP
Jason Rappe, AML and Construction Section Supervisor, DEQ
Logan Dudding, Senior Environmental Project Manager, DEQ
Brian Bartkowiak, Environmental Science Specialist, NRDP
Carolina Balliew, Remedial Section C Supervisor, EPA
Jess Wilkerson, Legal Counsel, DEQ
Aspen Ward, Assistant Attorney General, NRDP

Appendix A – Public Comment Letters

List of Comments

No.	Individual/Association	City/Area
1	Montana Fish, Wildlife and Parks-Region 2	Missoula, MT
2	MO Watershed-Restoration	MT
3	Brian Connelly	Missoula, MT
4	Molly Roby/EPA	Helena, MT
5	Janet Cass	MT
6	Kathy Hadley/CFRTAC	MT
7	Toni Chew	Deer Lodge, MT
8	Karen Knudsen/ Clark Fork Coalition	Missoula, MT
9	Amanda Cooley/ Powell County Planning Director	Deer Lodge, MT
10	Mark Mariano, Bailey Tasker, Morgan Byrne/MTWW	Butte, MT
11	Casey Hackathorn/Trout Unlimited	Missoula, MT

Comment #1

FWP.MT.GOV

THE **OUTSIDE** IS IN US ALL.

Montana Fish, Wildlife and Parks - Region 2
3201 Spurgin Road
Missoula, MT 59804
(406) 542-5500
05-05-2023

Montana Natural Resource Damage Program
Attn: CFROU Strategic Plan Comments
P.O. Box 201425
1720 Ninth Avenue
Helena, MT 59620-1425

RE: Montana Fish, Wildlife and Parks Comments on the Strategic Plan

Montana Fish, Wildlife and Parks (FWP) supports updating the strategic plan to reflect the current process associated with remediation and restoration efforts. We appreciate the opportunity to offer input and comments on the strategic plan. FWP is responsible for the Stream Protection Act (SPA), which this work should be consistent with, as well as being responsible for affected fish and wildlife resources and serving as a technical contributor for a fellow state agency. Our comments are as follows.

- **Page 7 Goal 2** – FWP recommends adding geomorphology as a measurable to determine success for this goal. Proper geomorphological function is important as it relates to Objective 2-2.
- **Page 7 Goal 2** – Add an objective to this goal to "incorporate restoration strategies that provide adequate short term aquatic habitat to designs when possible". This would be complementary to Objective 2-2 and provide short term habitat for fish and aquatic life while the longer-term process of habitat formation occurs. Habitat complexity is vital for fish habitat and particularly for younger life stages.
- **Page 7 Goal 3** – FWP supports an annual review to allow for an adaptive approach to remediation and restoration. It is critical that lessons learned from past phases are incorporated into future phases, and that designs and techniques aren't recycled forward without adequate review. Additionally, robust monitoring and analysis of that data is essential to a successful annual review.
- **Page 10 Phase Sequencing** – FWP supports a phase sequencing that works from upstream to downstream. FWP has documented several fish kills in recent years that are likely associated with heavily contaminated areas interacting with the river. These areas primarily exist upstream of Deer Lodge.
- **Page 14 Section 4.3.3** – Avulsions and channel movements can be a part of natural stream function. FWP understands the need for short term stability while the floodplain recovers but is supportive of incorporating design features that encourage side channels and other complex channel features. Side channels have been identified as an important feature for spawning brown trout in the mainstem and are likely important for younger life stages of trout that have

declined dramatically in recent years. These features should be designed to be active at a variety of flows, not only high flows.

- **Page 15-16 Current Bank Treatments** – This section focuses on treatments used for outside bends, with the exception being the brush trench. More information should be included about inside bend/point bar designs. Point bars are being constructed at a very low angle and elevation. Technical and performance information should be provided to better explain and evaluate this approach.
- **Page 16 4.3.5** – More explanation for how channel dimensions are determined for channel reconstruction areas is necessary. Channel reconstruction areas downstream of Perkins Ln appear to be much wider and shallower than an adjacent channel that wasn't reconstructed.
- **Page 21 Restoring in-channel aquatic habitat** – FWP supports efforts already made in this area with current bank treatments and encourages looking for further opportunity (larger log jam/root wad structures incorporated into banks, features that encourage complex channel formation and scour, etc.) in the future.
- **Page 21-22 Reducing the CMZ** – This approach should only be used as a last resort. The river will inevitably make it out of the 50-year migration zone in the future and any contaminants left behind will become an issue for stream health at that point. While this approach could save habitat and accommodate use values in the short term on state lands, it is likely not the best long-term outcome for state lands.
- **Page 32-33 Section 8.2** – The QRA is a good and efficient tool for monitoring for major issues and very broad scale trends. However, the QRA or any form of visual assessment is not adequate to monitor geomorphology on a project that is rebuilding the floodplain and banks of a major river. FWP recommends a robust geomorphology monitoring plan be developed. A geomorphology monitoring plan should incorporate surveyed cross sections from a bankfull elevation. Phases should be surveyed on an adequate schedule post remediation, and after trigger events such as high flow events. Vegetation monitoring may also benefit from a more robust approach than the QRA provides. Standardized plots that can be monitored through time would be a cost effective and quantifiable way to monitor vegetative performance.
- **Page 34 Addition** – FWP appreciates the plan laying out a monitoring section so that expectations of what data will be available is clear. We recommend adding a section that details how monitoring data will be used for future phases, but also with respect to the phase being monitored. For instance, if vegetation is not meeting objectives in a given phase, actions can be taken to help vegetation performance come in line with objectives. Additionally, phase-specific monitoring plans should lay out what the objectives are for each phase.

Thank you for the opportunity to comment on the Strategic Plan, and we look forward to discussing these comments further as the plan is finalized.

Sincerely,

Randy Arnold
Regional Supervisor, Region 2

Comment #2

From: mo watershed-restoration.com
To: Natural Resource Damage Program
Subject: [EXTERNAL] CFROU Strategic Plan Comments
Date: Monday, May 15, 2023 4:25:39 PM

Writing in support of maintaining management goals with an adaptive management approach for the Upper Clark Fork remediation.
Thanks

Comment #3

Unruh, Jody

From: Brian <allhourspainting@gmail.com>
Sent: Friday, May 19, 2023 4:32 AM
To: Natural Resource Damage Program
Subject: [EXTERNAL] CFROU Strategic Plan Comments

Follow Up Flag: Follow up
Flag Status: Flagged

I don't think leaving toxins in place is a viable strategy. As we know from 1908, our river is capable of massive flood events which could erode huge areas of river bank and bring toxins right back into the river. As the Yellowstone River demonstrated last year, our Montana climate's change towards more rain in the spring can cause a rapid transition within our snowpack, leading to immense amounts of water being added to our river systems in a short period of time. While we refer to events like that as a 100 or 500 year flood, we know too well that the probably those events is rapidly increasing as our planet warms and our weather patterns shift. A flood event of that nature would quickly undo much of the work that has been done downstream. It is unacceptable to take a chance that could undo the hard work and massive funding that has been allocated to our river's cleanup were undone by quitting now. If more funding is needed then, those funds should be sought out. Our river is coming back, the fishing continues to improve, I use the stretches near Beck Hill, Garrison, and Gold Creek to recreate and escape the ever busier water around Missoula, and I want to see the river continue to improve, not be lost in one unfortunate event.
Brian Connelly
Missoula, Montana

Sent from my iPhone

Comment #4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 West 15TH Street, Suite 3200
Helena, MT 59626-0096
Phone 866-457-2690
www.epa.gov/region8

May 18, 2023

Ref: 8SEM

Department of Environmental Quality
1225 Cedar Street
Helena, MT 59601
Sent by email only

To Whom it May Concern,

The U.S. Environmental Protection Agency (EPA) has reviewed the *Clark Fork River Operable Unit Strategic Plan* (Strategic Plan) describing the State of Montana's remedy and restoration approach dated March 2023. EPA reviewed the draft document and provided comments to the Department of Environmental Quality (DEQ) in June 2022 and again on February 17, 2023. The majority of the comments that were included were not incorporated or considered in the revision of the draft Strategic Plan prior to being released for Public Comment on March 22, 2023. EPA's previous comments are still relevant and should be considered in the finalization of this plan.

In addition to the comments previously provided, EPA has four overarching concerns with the Strategic Plan as outlined below:

1. The remedy must be completed in accordance with the Record of Decision (ROD) for Operable Unit 3 (OU3) and the Explanation of Significant Differences (ESD). EPA has significant concerns that there have been decisions made that may affect the protectiveness of the remedy and that while the design criteria has been adjusted over the course of the project with the implementation of the ESD, the design criteria utilized in the remedial design should be consistent with the performance standards and remedial action objectives (RAOs) established in the ROD. Section 1.1 of the Strategic Plan states, "Cost projections using recent unit bid prices revealed that insufficient funds would remain to complete the final 15 phases of work if implemented under initial design criteria." This is inconsistent with cost estimates provided by DEQ in support of the ESD in which DEQ confirmed that they had sufficient funding to implement the changes made through the ESD, where it was indicated that the change "does not fundamentally alter the remedy with respect to scope, performance, or cost." EPA is concerned that the elements described in Section 4 of the Strategic Plan may not meet the ROD and ESD requirements. For instance, limiting cleanup to the Channel Migration Zone may not meet the requirement of addressing contaminated soils within the 100-year floodplain and may not be fully protective. EPA requests that DEQ provide an assessment within the Strategic Plan of how the design criteria described in Section 4 meets the performance standards and RAOs of the ROD and specifically describe any modified design considerations to support the integrated remedy and restoration. If DEQ is looking to adjust the design criteria from those established in the ROD, this Strategic Plan document is not an appropriate mechanism to make these changes. Instead, this would require a decision document to modify the remedy strategy and would need to be provided to EPA for review and approval. Additionally, if there are significant adjustments to the cost or schedule projections (i.e., An extension to the construction schedule), an alternate decision document may still be required.
2. The identified criteria for the prioritization of future phases of construction as shown in Table 2 does not indicate a consideration toward human health, which should be the fundamental consideration. EPA would like to participate in the determination of the criteria for future phases of construction.

3. Settlement funds set aside for the remediation must be used and tracked appropriately in accordance with the Consent Decree. EPA has indicated to the State of Montana our concern of the budget transparency for the Clark Fork River remediation and restoration. EPA wants to ensure that the settlement funds set aside for the cleanup of the river (remediation) is tracked appropriately, separately from the settlement dollars set aside for the restoration. To date, EPA does not have a clear indication of the breakdown of how the budget will include both settlement funds to accomplish a complete remediation of OU3. In the ESD, DEQ had demonstrated that sufficient funds were available to implement the remedial design and remedial action. Please provide EPA with a breakdown of the remaining budget and how funds from the settlements are to be tracked over the course of the project.
4. Any data used for decision-making must be collected under an EPA approved sampling document. Section 1 indicates several design studies have been or are intended to be used to support design considerations going forward. EPA requires that appropriate quality assurance documentation (i.e., Quality Assurance Project Plan, Sampling and Analysis Plan) be provided for EPA approval in order to make decisions that would affect the remedy performance based on the data collected as a part of these studies. For instance, the Reach A scale hydraulic model was completed without EPA or other stakeholder buy in. EPA did not get the opportunity to participate in the review of the 2020 Restoration Plan by NRDP as it affects the integration of the remediation and the restoration. We need to be able to formally document on the administrative record the decisions that impact the remedy and its protectiveness. The Strategic Plan is not the appropriate document to detail any data summaries or analyses that would impact the implementation of the ROD, ESD, or Restoration Plan.

EPA values the partnership with the State of Montana at the Site. We look forward to renewing a collaborative approach to remediation. EPA requests a review of the Strategic Plan incorporating our comments prior to the document being made final.

Sincerely,

Molly Jane Roby
Remedial Project Manager
U.S. Environmental Protection Agency, Region 8

Attachments (word files):
EPA's June 2022 comments on the draft *Clark Fork River Operable Unit Strategic Plan*
EPA's February 2023 comments on the draft *Clark Fork River Operable Unit Strategic Plan*

cc list by email only:
Jessica Banaszak, DEQ
Logan Dudding, DEQ
Katie Garcin-Forba, DEQ
Brian Bartkowiak, NRDP
Doug Martin, NRDP
Matt Kryman, EPA
Jamie Miller, EPA

Comment #5

From: J C
To: Natural Resource Damage Program
Subject: [EXTERNAL] CFROU Strategic Plan Comments
Date: Friday, May 19, 2023 7:58:33 PM

Montana has a one-time-only chance to take the right step in crafting funding for the Clark Fork River Strategic plan in a way that matches Montanans' aspirations for the river.

HUMAN HEALTH: I appreciate that cleanup of Arrowstone Park – a popular public park in Deer Lodge – has been bumped up as a priority on the cleanup timeline. Please expedite cleanup on other reaches and river access points that see high-use and are exposing people unknowingly to dangerous toxins. "Protecting human health" should be highlighted as an explicit goal in the new plan.

STREAMBANK DESIGN: Kudos to the State for promoting streambank designs and treatments that promote ecological function and fish habitat. For example, the recent use of large wood for bank construction is an improvement over previous designs that relied heavily on engineered coir logs. Incorporating new data into cleanup as research is completed is key and II encourage the State to implement an adaptive management approach in practice.

RIVER FUNCTION: Please make river function fully integrated into the plan as a component of the design process. A fully restored, ecologically functioning river

system requires connected and diverse suites of aquatic habitats. Actions that encourage floodplain connectivity and promote off-channel and instream habitat development are the foundations of system resilience.

FUNDING: This new plan is based on the recognition that currently available funds are insufficient for maintaining the waste-removal approach of the prior cleanup phases. As a result, the plan proposes to stretch the settlement dollars to Garrison by leaving more waste in place along the way, where it will sit exposed to Montana's dynamic climate. Another approach that doesn't cut corners on protecting human health and restoring fish and wildlife habitat would be to maintain the remediation goals of previous mainstem cleanup phases and collect additional funding – through "the round robin" provision – that can be made available if money runs out.

Thanks for reading, and please do the right thing for the river and the people of Montana.

Sincerely,
Janet Cass

Comment #6

May 20, 2023

Montana Natural Resource Damage Program
Attn: CFROU Strategic Plan Comments
P.O. Box 201425
1720 Ninth Avenue
Helena, MT 59620-1425

The Clark Fork River Technical Assistance Committee (CFRTAC) has been encouraged by the State's transparency with the rollout of the new strategic plan and will continue to work with DEQ and NRDP to ensure impacted communities are both informed and represented at the decision-making table. As cleanup continues to progress over the next 15+ years, buy-in from the community and impacted landowners will be critical to achieving an effective long-term remedy that is protective of both human health and the environment.

CFRTAC supports the science-based adaptive management approach that is laid out in the new strategic plan but are deeply concerned about the recent decline of the fishery upstream of Deer Lodge. Until only recently (and over several decades) the upper Clark Fork supported a robust fishery that was cherished by locals despite the mining related impacts. With fish numbers upstream of Deer Lodge ranging from 25-90 trout per mile, the State needs to invest significant capacity to investigate the cause of the decline. One of the primary objectives of the cleanup is to recover aquatic ecosystems on the mainstem and the current status of the fishery needs to be taken into consideration as the State prioritizes how it spends the remaining settlement funds.

CFRTAC also encourages the State to integrate fish habitat and channel morphology considerations into the design process. Previous phases that relied heavily on coir fabric for bank construction lack the complexity needed for robust fish habitat. As the cleanup and river channel both continue to evolve, the State needs to track (and design for) transformations in channel morphology. Data has shown that a significant amount of lateral channel migration and river widening occurred on the upper River over the past decade. It's integral that we track how the channel responds over time and encourage the State follow a geomorphic assessment and monitoring plan.

The current funding situation on the Clark Fork is challenging and CFRTAC is deeply concerned about the budget realities and inherent tradeoffs that will result with less money available per river mile moving forward. We encourage the State to work on multiple phases concurrently and ramp up capacity to go after additional funding for both remediation and restoration. Moving forward, the State should also provide clarity about the funding situation, and review overall project costs and expenditures on an annual basis.

The new narrower removal boundary that is being proposed as part of the strategic plan will result in significant quantities of tailings left in the floodplain. Does the State have a plan or strategy to manage the waste left in place?

CFRTAC is very supportive of the decision to bump up Arrowstone Park as a cleanup priority, especially considering the current concerns related to human health and exposure in the community. Citizens of Deer Lodge and Powell County deserve a cleanup at Arrowstone Park that they can be proud of and will be protective for the long-term. Other locations on the river that see high levels of use (like fishing access spots) should be investigated.

CFRTAC would like to work with the State in the future to organize effective and robust public outreach that is digestible for both landowners and community members. We support the State's efforts to be more transparent and also encourage the re-establishment of the official design review team (and process).

Thank you for the opportunity to comment.

Sincerely,

Kathy Hadley,
Board President, CFRTAC

Comment #7

From: Toni Chew
To: Natural Resource Damage Program
Subject: [EXTERNAL] CFROU Strategic Plan Comments
Date: Sunday, May 21, 2023 12:13:33 AM

To Whom It May Concern:

I attended the April 25th presentation in Deer Lodge of the revised Clark Fork River Strategic Plan. I commend the Montana DEQ public involvement team for distilling thirty years of superfund remediation and restoration into thirty minutes of intelligible conversation.

My takeaway from the evening's discussion was that mining and smelting fifty billion dollars' worth of gold, silver and copper from the headwaters of the Clark Fork River left heavy metal contamination that no amount of money can clean up; however, I appreciate the on-going effort.

I'm a life-time resident of the Deer Lodge Valley and can remember seeing the Clark Fork River run red and the fish kill lying beside it along the river bank. So, you can understand my concern about heavy metal contamination of the flood plain at Arrow Stone Park in Phase 13-14 of the Strategic Plan. That's where my grandkids and their friends play, and I appreciate Phase 13-14 being assigned a high priority.

Thank you for your consideration,
Toni Chew

Comment #8

CLARK FORK COALITION

PO Box 7593 • Missoula, MT 59807 • 406.542.0539 • clarkfork.org

May 19, 2023

Montana Natural Resource Damage Program
Attn: CFROU Strategic Plan Comments
P.O. Box 201425
1720 Ninth Avenue
Helena, MT 59620-1425

RE: CFROU Strategic Plan Comments

Dear Mr. Martin,

The Clark Fork Coalition (CFC) appreciates this opportunity to comment on the State's new Strategic Plan for the Clark Fork River Operable Unit (CFROU). This new strategy integrates several opportunities for adaptive-management techniques with the potential to set the river on a brighter restoration trajectory. CFC recognizes that the State faces an enormous challenge – to clean up one of the most contaminated river corridors in the U.S. on a diminished budget. While we understand that the financial realities require the State to revisit past analyses, remedial designs, and approaches, it's important that the State's work going forward is fully protective of human health and the environment and maintains the flexibility to adapt to unforeseen circumstances as cleanup progresses.

CFC generally supports most of the strategies that are proposed in the new Strategic Plan. We do have a few concerns to share, along with some suggestions that we hope you will incorporate into the plan.

HUMAN HEALTH

CFC appreciates that the first guiding goal listed in the Strategic Plan highlights the importance of protecting human health and the environment. In recent years, it's become apparent that several "stop-gap" or temporary remedial actions within the CFROU – such as measures taken by the PRPs to contain slickens within the floodplain – have failed. Arrowstone Park is the most significant example of remedial failure, and we appreciate that cleanup of Arrowstone Park has been bumped up as a priority on the cleanup timeline. In that vein, we would like the plan to allow for expedited cleanup on other reaches and river access points that see high-use and are exposing people (perhaps unknowingly) to dangerous contaminants.

PUBLIC ENGAGEMENT

CFC is encouraged by the collaborative and transparent approach outlined in the new strategy. Involving landowners, the public, and stakeholders in the Remedy and Restoration process will pay dividends for ensuring the long-term success of the project. CFC especially appreciates the commitment to holding public meetings, site tours, and remedial design meetings, and we stand at the ready to help engage and inform the public on this front.

REMEDIAL/RESTORATION DESIGN

The Clark Fork faces many limiting factors, but the related problems of chronic drought, low flows, and elevated water temperatures stand out as major stressors that CFROU cleanup and restoration work can address. As recently as 2021, flows on the mainstem of the Clark Fork dropped into the single digits in some locations leaving vast stretches of channel (both remediated and un-remediated) exposed and devoid of refugia habitat. As design processes evolve, we encourage the State to integrate instream habitat features that provide cover and shade during periods of drought and low flows.

Building channel and floodplain complexity (and associated ecosystem resiliency) is essential to the overall success of the CFROU cleanup. The Clark Fork River is not just the space between the banks, and actions taken to lower the floodplain fundamentally impact the channel morphology in both the short and long term. Moving forward, we encourage the State to integrate channel morphology and associated fish habitat considerations into the design process. Input from MT Fish Wildlife and Parks is crucial, and we recommend that the State commits long-term capacity for FWP input in both design review and fisheries monitoring. With fish numbers upstream of Deer Lodge at historic lows, it's critical that the State works collaboratively with FWP to understand the cause(s) of this decline.

CHANNEL MIGRATION ZONE

While the Channel Migration Zone (CMZ) analysis allows for more focused and efficient remedial actions, CFC has some concerns with this approach. First, we're concerned that the methodology used to calculate the 100-year CMZ is overly conservative. The database used to calculate the CMZ compared the channel locations from 1955-2019. As research from the CFC and UM Western shows, rates of channel migration ticked up significantly from 2011-2019, accounting for a substantial portion of the total migration rate from 1955-2019. What happens if recent trends in migration rates are the "new norm" and continue through the project timeline? Would a CMZ analysis based on a 2011-2019 timeframe lead to different decisions about what waste gets cleaned up and what gets left behind?

Second, CFC is concerned that the inherent rigidity built into the CMZ framework will prevent the types of natural habitat-forming processes from occurring. For example, will the State build complexity like oxbows and side channels into a floodplain that will remain contaminated outside the relatively narrow strip of river corridor that represents the CMZ removal boundary?

BUDGET

With only $105 million left to remediate 30+ river miles and floodplain, the State is proposing to leave considerably more contamination in the floodplain than previous phases. Furthermore, as discussed above, the decisions about what waste will be left behind are based on a conservative picture of the future movement of a climate-stressed and increasingly revved-up river system. Instead of downgrading the cleanup to meet the limited budget, CFC urges the State to raise the dollars needed to do the cleanup right – whether that's through the "round robin" provision or other means.

TIMELINE

We also encourage the State to reevaluate the pace of cleanup and the timelines that have now pushed it out to 2038. We recognize that cleaning up a 30-mile river corridor is a complex process and that implementing multiple phases simultaneously has risks and challenges. However, there are costs to extending the timeline. As long as un-remediated and unrestored stretches of river sit exposed to Montana's dynamic climate, those costs will be borne by the river and those who live and recreate in the Upper Clark Fork.

The State's cleanup and restoration of the Clark Fork is a once-in-a-lifetime opportunity for the river and the people, fish, and wildlife it sustains. CFC recognizes the necessity of conducting a cost-effective cleanup and appreciates the focus on areas of highest risk and ecological importance and the commitments to public engagement and adapting when unforeseen circumstances arise. Again, we urge the State to: expedite cleanup on all areas of high public use; include MT FWP and fish habitat needs in the design process; consider how the new CMZ analysis may limit opportunities for habitat complexity and how a CMZ based on a 2011-2019 dataset would change remediation decisions; consider accelerating the pace of the work; and take full advantage of any and all additional dollars that can be raised for the project. Securing additional funds would also ensure that the cleanup is fully protective of human health and the environment, and that its outcomes not only meet the requirements of the ROD but match the public's aspirations for the river.

Thank you for the opportunity to comment.

Sincerely,

Karen Knudsen
Executive Director
Clark Fork Coalition
PO Box 7593
Missoula MT 59807

Comment #9

From: Amanda Cooley
To: Natural Resource Damage Program
Subject: [EXTERNAL] CFROU Strategic Plan Comments
Date: Sunday, May 21, 2023 3:00:42 PM

The Powell County Planning Department recognizes and appreciates the effort to create a Strategic Plan that addresses the remaining cleanup and restoration work to be done along the Clark Fork corridor. As the Plan is implemented, we hope to see administering agencies continue to evaluate alternatives, incorporate new information, and use innovation in best-practices. Both human and ecological health must remain priorities in the short-term and long-term. We respectfully submit the following comments:

- We are happy to see that Phases 13 and 14, which include Arrowstone Park, have been made a priority. Powell County looks forward to supporting the immediate and ongoing work to maintain a public park with a healthy environment for both wildlife and park users.

- While significant work has been put into creating a plan that utilizes the remaining budget, the County will continue to advocate for a remedy and restoration that is complete, protective, and restorative - even if it means needing to recruit additional funding. The Planning Department is willing to continue coordination and recruitment of resources to the extent they are able. Avenues for recruiting additional resources include-

    - partnering with local governments, non-profits, and other interested parties to secure grants and other funding opportunities.
    - Supporting projects and agencies whose priorities intersect with the Superfund work.
    - Working internally to secure additional funding
    - Continue to evaluate ways to save on line items such as haul costs and repository options

- Powell County supports the use of the Community Involvement Plan to communicate with local partners and stakeholders. The County would like to see implementation agencies continue to make public education, engagement, and involvement a priority.

- The County identifies an immediate need to create or implement a hot spot identification and treatment plan. This should include additional resource allocation for near-term action to supplement the Strategic Plan's goal to reduce "**imminent and immediate threats and dangers."** Specific areas identified include those at Arrowstone Park, which are currently being addressed, and some additional areas upstream from Arrowstone Park. The River should be evaluated and addressed yearly for hot spots.

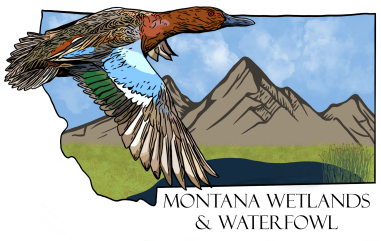
- We strongly support the objective in the Strategic Plan to restore native vegetation, improve habitat, and improve habitat connectivity. We encourage and the use of vegetative materials to reconstruct stream banks and strongly encourage using vegetation, large rocks, and other features to create stream complexity and fish habitat.

We recognize and appreciate the efforts of those involved in creating and implementing the Strategic Plan. We look forward to a remedy and restoration that serves to truly be restorative to the

function of habitat, ecosystem, and human health. We expect the work to be mindful of the budget and proposed timelines, but not bound and restricted in a way that significantly diminishes the standards and goals of the work to be done.

Best,

Amanda Cooley, CFM
Powell County Planning Director
Office: (406)-846-9729
Mobile: (406)-220-6210
409 Missouri Ave, Deer Lodge, MT 59722 Ste 114



Comment #10

May 21, 2023
Montana Natural Resource Damage Program
Attn: CFROU Strategic Plan Comments
P.O. Box 201425
1720 Ninth Avenue
Helena, MT 59620-1425

Montana Wetlands and Waterfowl (MTWW) is encouraged by the work on previous phases of Clark Fork Restoration that created some of the wetland habitat in the upland sections. The Upper Clark Fork Valley plays an outsized role for waterfowl in the Pacific Flyway; in fact, the Clark Fork Valley between Butte and Missoula is a major migration corridor. The area is also important for nesting and overwintering waterfowl, which are native and federally managed as part of the Migratory Bird Treaty Act of 1918.The newly-created wetlands, ponds, and swales resulting from the remedy and restoration have created outstanding habitat and the wildlife is already thriving in these areas.

We encourage NRDP to consider the benefits of wetlands and their inhabitants during design, remedy, and restoration in future phases. We also ask that enhanced consideration be given to design features that would further benefit wetland wildlife. Examples of these features to incorporate into the wetlands include nesting islands, aquatic vegetation, standing woody debris, native emergent vegetation, appropriate upland vegetation, and connection to riverine processes.

Thank you for the opportunity to comment.

Sincerely,
Mark Mariano, Bailey Tasker, and Morgan Byrne
Board of Directors, MTWW

Comment #11

May 19, 2023

TO: Montana Natural Resource Damage Program
Attn: CFROU Strategic Plan Comments
P.O. Box 201425
1720 Ninth Avenue
Helena, MT 59620-1425

RE: CFROU Strategic Plan Comments

Thank you for the opportunity to provide input on the Clark Fork River Operable Unit Strategic Plan. Trout Unlimited supports DEQ and NRDP in their effort to build a joint strategy to complete remediation and restoration within the CFROU as effectively and efficiently possible. We offer the following feedback on the proposed plan:

1. Projected Budget. The projected costs and planned budget to complete work by 2038 rely on key assumptions working in favor of the State. In particular, the plan relies on the assumption that return on investment outpaces inflation over the remainder of the project schedule and that removal quantities remain within the budget estimates for each remaining phase. While the Strategic Plan describes a path to complete the work with the existing settlement funding, TU believes that the State should develop plans for the contingency that costs are higher than projected on future phases and/or investment income is less than projected. At a minimum, the State should consider a public review of the Strategic Plan after completion of each future phase to provide transparency around the funding situation and adapt a realistic approach to overall project completion as more complete information becomes available.

2. Schedule and Prioritization. The State has articulated several difficulties with construction of multiple phases concurrently, but the proposed schedule includes completing phases 10/13 and 11/14 at the same time. If this approach proves successful and cost effective, the State should consider continuing this approach with future work. TU would also support inclusion of a human health criterion to the phase sequencing matrix. We understand that human health risk assessment is "baked in" to the ROD, but it would provide recognition that if human health concerns emerge at sites like Arrowstone Park, the State will consider those issues in their prioritization.

3. Partner Funding. TU supports consideration of outside funding opportunities to provide enhanced habitat restoration outcomes in the Clark Fork River corridor. The lack of fisheries response in the Clark Fork River to combined remediation and restoration efforts over the first seven phases and concurrent NRDP aquatic habitat restoration efforts in the watershed suggest that additional work is needed to meet the overall restoration goals for the Upper Clark Fork River Basin.

   Goals and Objectives. TU supports the stated goals and objectives of the Strategic Plan for remediation, restoration, and integration of remedy and restoration to maximize ecological benefits and protect human health. In particular, TU is interested in seeking opportunities to improve aquatic habitats, floodplain connectivity, and stream function into future phase designs. Recognizing that the project designs emphasize channel stability over process to minimize

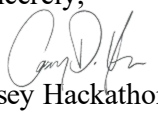
312 N. Higgins Ave, Suite 200, Missoula, MT 59802
406-546-5680 - casey.hackathorn@tu.org - www.tu.org

interaction between the river and contaminants left in place, TU suggests that future designs consider approaches that might bring in-channel habitat and morphology closer to a reference condition during construction.

4. Public Engagement. TU appreciates the increased emphasis on public communications in the Strategic Plan. Moving forward, we encourage the State to follow through with providing meaningful opportunities for stakeholder input and participation rather than simple communication of agency actions outward. Similarly, we support reinvigoration of the Design Review Team process to engage stakeholders in the project designs including community groups like the Clark Fork River Technical Assistance Committee (CFRTAC). In addition, we suggest inclusion of public stakeholders in the monitoring of past phases which could encourage collaboration and adaptive management principles improving problem-solving and promoting innovation to cost-effectively achieve project goals and outcomes on future phases.

Thank you for your consideration. We look forward to continued engagement with NRDP and DEQ on the project.

Sincerely,



Casey Hackathorn
Upper Clark Fork Program Manager