

# Upper Clark Fork Streamflow Working Group Meeting Meeting Summary

**May 7<sup>th</sup>, 2025, Powell County Community Center, Deer Lodge, MT**

**UCF Streamflow Working Group Mission:** To pursue solutions that support and balance the water needs of the Upper Clark Fork River watershed communities.

## Meeting Objectives

- Inform members of the 2025 Legislative Session outcomes on relevant water bills
- Gain shared understanding of strategies and activities that are active in the UCF Watershed
- Gain/deepen shared understanding of various interests, perspectives and experiences in the UCF Watershed Community

## Participants

Adam Logar	Cam Balentine	Maddie McKeefry	Rob Cosgriff
Amanda Spencer	Casey Hackathorn	Madison Boone	Sale Rhodes
Andrew Gorder	Dan McQueary	Maureen Connor	Sam Carlson
Andy Fisher	Erin Clinkenbeard	Pat Ortmeyer	Stephen Begley
Ben LaPorte	Heather Stokes (Facilitator)	Pete Dallaserra	Ted Dodge
Brian Bartkowiak	Jason Smith	Ray Vinkey	Valerie Kurth
Brian Chaffin	John Hollenbach	Richard Forbes	Walker Conyngham

## Next Steps

- CFC Strategic Plan Analysis
  - CFC will go through the plans they've already gathered and pull out the elements that relate to water quantity, then provide that back to the UCF Working Group.
  - CFC will also identify where the Working Group members have put resources, and what the outcomes have been.
  - CFC will explore how the plans they've gathered have addressed agriculture and landowner water use.

## Introductions

Heather asked the group to include a fond memory about the Upper Clark Fork in their introductions. These are a sampling of the themes that came up:

- Working to protect and understand the region, including water quality sampling, trail maintenance and working with landowners to understand their perspectives
- Growing up and recreating alongside the river
- Appreciation for the watershed's clean water and the gifts the river brings
- Celebrating the decades of hard work that have helped restore and protect the watershed up to this point.

## 2025 Legislative Session Outcomes

After introductions, Andrew Gorder (CFC) gave a [high-level summary of water-related bills](#) recently passed by the 2025 Montana Legislature. He also answered questions from the group regarding the failure of two bills: HB 256 (establishing a new state special revenue account for water development) & HB 886 (clarifying the role of the Montana Water Court). Gorder explained that while both bills were well-supported and valuable, there will need to be more work to be done to achieve their goals (within or beyond the legislature).

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### 2025 LEGISLATIVE SESSION RECAP: WATER BILLS<sup>1</sup>

#### BILLS THAT PASSED

■ **SB 190 – Derek Harvey (D) – (BILL PASSED):** SB 190 allows water users to voluntarily file a written consent to waive the adverse effects analysis requirement when applying for water right permits, changes in appropriation rights, or temporary changes in water rights. CFC and other entities utilize the water right change process to temporarily convert irrigation water rights to instream flow on dewatered streams throughout the Clark Fork Basin. SB 190 will streamline this change process and improve our ability to complete important flow restoration projects on key streams and rivers.

■ **HB 580 – Josh Seckinger (D) – (BILL PASSED):** In Montana, water rights are subject to the law of abandonment, meaning that an irrigator who stops diverting irrigation water for an extended period of time could potentially be accused of abandoning his/her water rights. HB 580 clarifies the law to make sure that water users who voluntarily choose to stop using water during a drought and in compliance with a local, state or regional drought management plan cannot be subject to claims of “abandonment” of their water rights. This common-sense policy change may encourage users to make voluntary decisions to conserve water and help protect streamflows during periods of intense drought.

■ **SB 472 – Denley Loge (R) – (BILL PASSED):** HB 472 increases the civil penalty for violation of the Montana Streambed Preservation Act. Conservation districts hope this will effectively deter more individuals from undergoing projects that could impact our streams and rivers without receiving approval from the Board of Supervisors for the local Conservation District. The bill still allows the Board to work with an offending party to resolve a dispute before collecting the civil penalties.

■ **SB 178 – Sue Vinton (R) – (BILL PASSED):** This bill will create a new tool that could be used to combat dewatering within the basin. The bill creates a new, short-term water leasing tool that promotes voluntary, temporary leases of water rights for a new proposed beneficial use. The leases would be short-term (40 days annually) and cannot be used more than 5 out of every 10 years but are otherwise exempt from receiving a “change of use” authorization from DNRC. Other water users are notified of short term leases and given the opportunity to

object if they believe they will be adversely affected.

■ **HB 432 – Julie Darling (R) – (BILL PASSED):** This bill creates new exemptions from the DNRC’s water right change process for changes to place of use for certain municipal permits and reservations, replacement stock tanks and for certain redundant wells needed for public water supply systems.

■ **HB 676 – Brandon Ler (R) – (BILL PASSED):** HB 676 clarifies that lessees of state lands must be compensated for registered improvements that they have made to state lands if/when the state land lease is transferred to another individual. It also creates a process whereby lessees can register their improvements with the State in order to ensure that they will be compensated should their lease be terminated or transferred.

■ **HB 664 – Bill Mercer (R) – (BILL PASSED):** HB 664 seeks to repeal Montana’s numeric water quality standards for nutrients that were adopted in 2014, eliminate the Nutrient Work Group and attempt to revert the state’s WQS to narrative standards for nutrient pollution. These numeric nutrient standards have a proven track record of success in the Clark Fork Basin and offer the best path for protect our state’s water resources from harmful nutrient pollution.

■ **HB 685 – Steve Fitzpatrick (R) – (BILL PASSED):** In some cases, Montana DEQ can grant permission for a proposed project (such as a mine) to negatively impact water quality in a given stream or river. In order to do so, DEQ must (among other things) balance the economic or social *benefits* of a proposed project with the *costs* of allowing degradation of our high-quality waters. HB 685 eliminates this requirement. Instead, it will require DEQ to simply determine whether the proposed project will result in economic development “in the area that the high-quality waters are located.”

#### **BILLS THAT FAILED**

■ **HB 256 – Ken Walsh (R) – (BILL FAILED):** HB 256 would’ve created a new state special revenue account for water development, and seeded the trust with \$50 million from general fund in 2025 and an additional \$50 million in 2026. The bill would’ve required a portion of the earned interest to fund water storage pilot projects aimed at increasing water storage for beneficial uses. The bill received overwhelming support in the House but ultimately failed in the House Appropriations Committee.

■ **SB 358 – Wylie Galt (R) – (BILL FAILED):** SB 358 represented the culmination of over 20 months of work on behalf of a DNRC Stakeholder Working Group looking to tackle the challenge of exempt well policy. The bill received strong opposition during the session, and the bill language was transformed even more to remove many of the stakeholder working group’s recommendations. The bill failed to pass the Senate.

■ **SB 436 – Carl Glimm (R) – (BILL FAILED):** SB 436 was another exempt well bill. The bill would have inserted a statutory definition of “combined appropriation” in the Water Use Act that is problematic and would’ve continued to allow for DNRC to evade an evaluation of the cumulative impacts of multiple permit exempt wells. The bill was tabled in committee.

■ **SB 186 – Barry Usher (R) – (BILL FAILED):** This bill would have terminated the Montana Water Court after the issuance of final decrees in every basin in Montana. The bill would vest sole jurisdiction in administration of all Water Court decrees and all other water related disputes and controversies in local District Courts.

■ **HB 704 – Mike Vinton (R) – (BILL FAILED):** HB 704 would have continued the proliferation of permit-exempt wells statewide to the detriment of senior water users and our water resources. The bill did little to resolve the abuse of exempt wells for subdivision development and would not close any of Montana’s highly-appropriated basins or aquifers to exempt wells.

■ **HB 658 – Jedediah Hinkle (R) – (BILL FAILED):** House Bill 658 aimed to make it more difficult for local communities to protect their water resources and wells from harmful pollution from septic systems. Septic systems are already largely unregulated by our state and federal water quality laws. HB 658 sought to further deregulate these systems and eliminate the ability of local public health officials to address unique ground and surface water quality

issues in alluvial aquifers and in designated sensitive groundwater areas.

■ **HB 886 – Ken Walsh (R) – (BILL FAILED):** House Bill 886 set out to establish the future of the Montana Water Court post adjudication. The bill would have maintained the existing division court model overseen by one or more water judges. It would also have clarified the extent to the Water Division Court’s jurisdiction over water issues, such as administration and enforcement of final decrees, appointment of water commissioners and appeals of agency decisions related to new permits or changes to existing water rights.

1. This is not a comprehensive list of every water-related bill introduced during the 2025 legislative session. For more information, use the Bill Explorer tool found on the Montana Legislature’s website at:

<https://www.legmt.gov/bills/>

## **Synthesis of Upper Clark Fork Strategic Plans and Activities**

As part of the deliverables (Task 2 – Watershed Restoration Planning) from the cooperative management grant currently funding the UCF Streamflow Working Group, the Clark Fork Coalition was charged with putting together a synthesis of all the watershed plans that have been implemented in the Upper Clark Fork. As per the grant:

Watershed Restoration Planning Objectives:

- 1 Create a matrix of proposed flow restoration priorities endorsed by the Streamflow Group to provide structure and direction to the group’s future planning and project implementation;
- 2 With these project priorities serving as a common goal (or set of goals), draft a five-year strategic plan for the Streamflow Group.

Activities:

Review and analyze the numerous existing watershed plans (created primarily by agencies and conservation organizations) and synthesize into a holistic and publicly accessible set of group-endorsed priorities focused on increase

- Compile, review, and identify overlap in these plans; consolidate goals; and find synergies and challenges among them.

CFC Executive Director Brian Chaffin presented their progress at the “10k’ level.” In summary, the synthesis has proven more complex than they’d initially anticipated, as there are a wide variety of plans at various scales and are poorly interconnected. CFC is overlaying ~16 different sets of data for this project (reaching back to the 1950s).

Year(s)	Document, Plan, and/or Key Findings
1950s	<b>Surveys from FWP and USGS</b> revealed that the UCF was essentially devoid of aquatic life due to water quality impairments from heavy metals
1980s - 2000s	<b>State of Montana data reports and Superfund settlements with ARCO</b> quantifying and describing the impairments to the Upper Clark Fork River.
1986	<b>FWP publishes instream flow reservations</b> for the UCF establishing flow targets for individual reaches of the mainstem and several tributaries
1995	<b>The Montana Legislature closed the UCF</b> to new water appropriations
2000	The <b>State of Montana released a bull trout recovery plan</b> for the Clark Fork and Kootenai River Basins
2007	<b>NRDP releases its first Aquatic and Terrestrial Restoration Plan</b> for the UCF
2010	<b>Montana DEQ publishes TMDLs</b> and framework for water quality resolution
2011	<b>CFC publishes an Aquatic Restoration Strategy</b> for the UCF outlining strategies and priorities
2011	<b>DEQ approves WRC's Watershed Restoration Plan</b> for the Upper Clark Fork River Tributaries
2014	<b>DEQ publishes UCF Phase 2 Sediment and Nutrients TMDLs</b> and Framework Water
2015	<b>CSKT Water Compact</b> with the State of Montana was ratified by the Montana Legislature, impacting water appropriations in the UCF watershed (MCA 2021)
2015	<b>DNRC publishes a Water Supply Report</b> for the UCF basin (relates to the CSKT compact)
2016	<b>CFC releases an updated Aquatic Restoration Strategy</b> for the UCF
2019	<b>NRDP releases its final Aquatic and Terrestrial Restoration Plan</b> for the UCF
2023	The <b>State of Montana releases a Strategic Plan</b> that integrates Superfund remediation and restoration actions on the UCF mainstem
2024	<b>NRDP releases Upper Clark Fork River Basin Aquatic and Terrestrial Resources Restoration Plans</b>

Fig. 1 – The Documents/Plans/Key Findings under review for the synthesis report.

CFC has begun comparing the different approaches and geographic ranges taken by each plan, but returned to this group to determine whether there are specific questions CFC can answer, as there's no clear unifying story linking all the plans.

## Presentation Discussion

Members discussed:

- interest in learning more about how the plans have affected water quantity,
- identifying where gaps between the plans may lie,
- comparing where resources have been allocated and what the outcomes have been.
- their concerns that no number of plans and goals will provide additional water when it's scarce and wanted to see more inclusion of how the various plans have addressed agriculture
- the need for increased water storage capacity (repairing/improving infrastructure as well as groundwater storage)
- how to continue to support agriculture in the Upper Clark Fork and their contribution to the land - there needs to be maintained focus on this to avoid land use transitions
- questions about short/long-term "efficiency" as it pertains to irrigation approaches

- the need to continue understanding how the last 75 years of plans have influenced water in the UCF will help make decisions moving forward and may help address water scarcity issues in the future
- the group also expressed interest in exploring how education and outreach can help broaden how water plans can provide agriculture benefits.

### **Working Group Member Updates**

- CSKT and FWP will be hosting meetings to explain the Milltown Water Rights Town Hall Implementation Framework
  - o May 19, Deer Lodge at 6:30 p.m. Powell Community Center (416 Cottonwood Ave)
  - o May 20, Ovando at 6:30 p.m. Ovando Fire Hall (410 Main St)
  - o May 22, Drummond at 6:30 p.m. Community Hall (52 East Broad St)
- Trout Unlimited's Bureau of Reclamation Aquatic Ecosystem Restoration Project (AERP) funding was recently unfrozen and their mainstem diversion work is back on track. TU is also exploring additional funding opportunities to help with water storage (HB 256).
- The town of Philipsburg is about to launch their new wastewater treatment plant. However, the town faces issues with water supply. They need to replace a 7-mile water transmission line, which will cost an estimated \$23 million to replace.
- WRC has been working with the Bureau of Reclamation to begin the Racetrack Lake Project, and hope that construction will begin in 2026.