Riffles

CLARK FORK COALITION

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PROTECTING AND RESTORING THE WATERSHED Field report – 2022

As a friend of the river, over the last year you have given generously to keep the waters of the Clark Fork River basin clean, healthy, and flowing. You've cleaned up pollution, healed damaged waterways, improved aquatic and riparian habitats, protected still-pristine streams, and much more. Transforming the river from forgotten waste receptacle to restoration success story isn't magic or rocket science. It's simply love for the river fueled by a willingness to take action—that special alchemy is, and always has been, the most powerful agent for healing and recovery in the Clark Fork watershed.

***READ ON** to learn more about all the ways you helped the river over the last year, and thank you!*

Photo: Jenni Chaffin

UPPER CLARK FORK CLEANUP AND RESTORATION

KEEPING THE BAR HIGH FOR SUPERFUND CLEANUP

Removing mine waste and toxic heavy metals from more than 100 miles of floodplain is difficult, long-term work filled with social, political, and ecological complexities. But it's critical to get right. That's why we work closely with cleanup agencies, contractors, local leaders and stakeholders, and restoration experts to ensure the best possible outcomes of this multi-decade effort. Over the last year, that included weighing in on the new strategic plan being developed for the next 33 miles of cleanup (to be released for public input in 2023), flagging issues like contaminated bank erosion and re-exposure of toxic metals in public areas, and hosting briefings and meetings to keep the public informed about and engaged in the Superfund process.

Because cleanup agencies need reliable data to find out what's working, what isn't, and how to adapt over time, we also worked closely with university and agency research partners to look at pre- and post-cleanup conditions and aquatic, riparian, and biological response. Input from local residents, river-users, and guides have helped shape the questions behind this research, too, which included channel migration analysis; bank stability studies; riparian and aquatic habitat characterization; comparison of various bank treatments and resulting habitat and vegetation conditions; an ongoing study of songbirds that nest, feed, and live in the cleanup zone; water quality studies; and long-term cleanup monitoring. That's a lot of data, and often it generates more questions than it answers. But in a dynamic river system that's undergoing major transformation, we believe it's exactly what's needed to ensure successful restoration and recovery in the Upper Clark Fork River.

The Key to Cleanup and Recovery: More Water

The impacts of climate change are accelerating, further aggravating chronic low-flow problems in many Montana streams. In the Upper Clark Fork, yet another year of drought reduced the river to a trickle in some places, spiking water temperatures and disconnecting streams from the mainstem. It is now an annual occurrence in this already arid basin.

In response, the Clark Fork Coalition teamed up with the Watershed Restoration Coalition and convened a new Upper Clark Fork Flow Working Group to take a basin-wide approach to restoring instream flow. This group includes a broad diversity of water users, including agricultural producers, mining interests, local government, the Confederated Salish and Kootenai Tribes, natural resource managers, and conservation nonprofits. Together, we made significant progress identifying and prioritizing innovative flow restoration solutions, such as exploring expanded headwaters storage and market-based leasing, implementing new water management strategies, and creating an Upper Clark Fork Basin water budget to better understand the complex hydrology of the Upper Clark Fork.

On July 24, we released water from Racetrack Lake, keeping Racetrack Creek connected to the mainstem river during some of the hottest days of summer.

Saving Water, Saving Fish

RACETRACK CREEK

As one of the largest tributaries to the Upper Clark Fork River, Racetrack Creek used to recharge the mainstem river, provide excellent habitat for both native and wild fish, and supply adequate water for agriculture. But over the last century, over-allocation of this limited water resource meant the lower reaches of the creek went dry nearly every summer. In 2011, the Clark Fork Coalition acquired a lake storage water right in Racetrack Lake. We wanted to use that water to restore flows to Racetrack Creek in summer to reconnect the tributary to the mainstem when water levels are critically low.

After nearly a decade of efforts to secure legal permission from the Montana Department of Natural Resources and Conservation (DNRC) and extensive negotiations with local water users, in 2022 we were finally able to release water into Racetrack Creek, allowing it to run from its headwaters all the way to the confluence with the Upper Clark Fork River.

DNRC's decision to approve stored water for use as instream flows was a groundbreaking precedent in Montana. As we look for strategies to improve resilience in a climate-stressed watershed, headwaters storage solutions such as this, which can satisfy both irrigation needs and protect instream flows, are key for the future in the basin.

ASPEN GROVE

The headwaters of Cottonwood Creek on the east side of the Deer Lodge Valley provide excellent native fish habitat and are a crucial cold-water climate shield in superheated summers. But if fish can't get there, those benefits are lost. That's why we've worked for the last four years with Aspen Grove Ranch, Watershed Restoration Coalition, and Natural Resources Damage Program (NRDP) to improve ecological conditions and ensure fish can reach that cool, clean headwaters habitat.

This summer, we wrapped up one of CFC's biggest irrigation projects ever when we helped convert Aspen Grove Ranch's flood irrigation to a pivot sprinkler. The project affects over 330 acres and replaced a canal with a pipeline to put a significant slug of water—10 cfs (nearly 570 million gallons)—back into Cottonwood Creek from spring through mid-summer. In another win for the ecosystem, this project included a new fish screen, which eliminates entrainment of trout in a system that holds the largest conservation population of genetically pure westslope cutthroat trout on the east side of the valley.

ELSEWHERE IN THE UPPER CLARK FORK

This year we also made progress toward legally protecting 27 cfs (more than 1.5 billion gallons per year) on two tributaries and the mainstem Upper Clark Fork, working with NRDP and DNRC. We partnered with NRDP to pilot a split-season lease and upgrade of the Valiton diversion that returns 10 cfs to the river in summer, and are now working on our fourth mainstem diversion upgrade. And with Beaverhead National Forest, we installed a fish-friendly culvert on Little Gold Creek that opened up two miles of cold headwaters habitat in the Boulder Creek drainage, the only Flint Creek tributary that supports viable populations of both native bull trout and westslope cutthroat trout. In both large- and small-scale projects, we're working toward a healthy, resilient watershed.

A cutthroat trout caught in the Aspen Grove canal. The new irrigation system now prevents fish entrainment.

ADVOCATING FOR THE URBAN RIVER

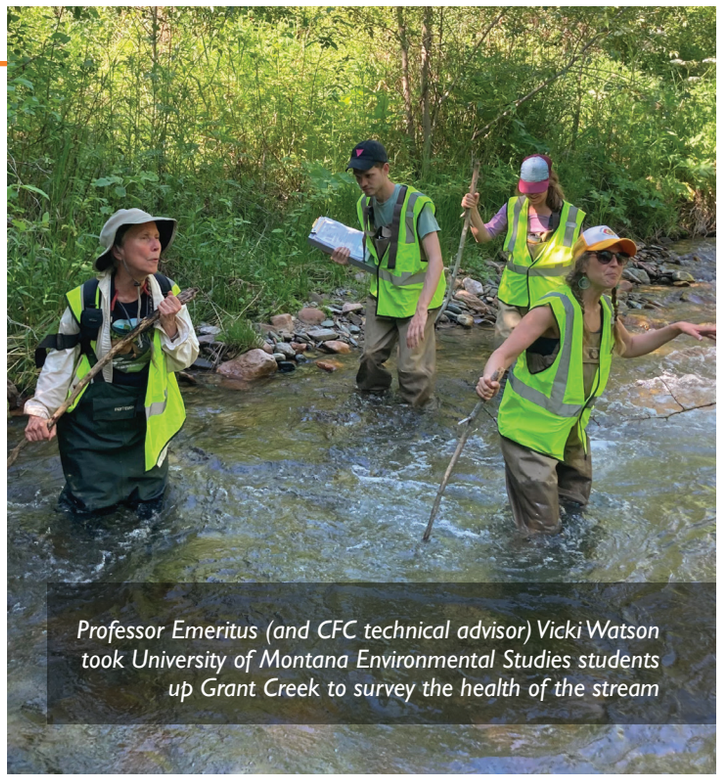
Much of CFC's work on the urban stretch of the river focuses on education and advocacy. As the saying goes, we protect what we love and we love what we know. So in the Missoula area we nurture people's love for the river to help ensure it is clean, protected, and resilient. We provide information on current issues, guidance on best practices, pathways for action, science-based watershed education, and hands-on stewardship opportunities. What that means for the river is a growing water ethic that makes the protection of local waterways a central focus of the city's growth, not an afterthought.

Grant Creek

One place we're promoting the vision of river-smart growth is in Grant Creek, on the west side of Missoula. Now in its second year, our Restore Grant Creek campaign calls for holistic restoration and protection of this important Clark Fork tributary and native trout stream—from ridgetop to confluence.

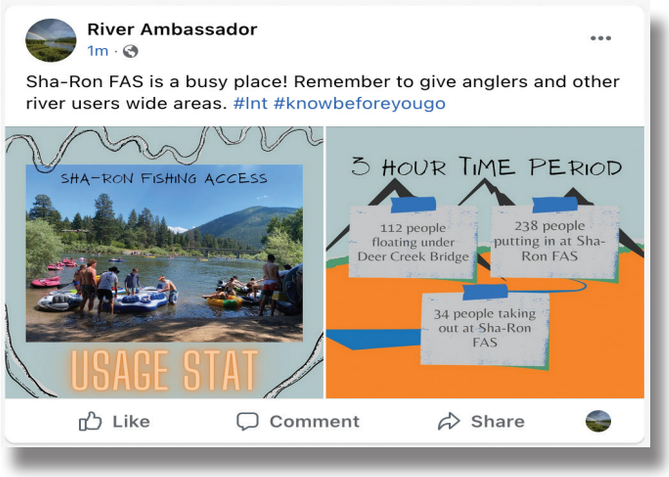
A key part of that effort is the Grant Creek Working Group, comprised of a diversity of creekside stakeholders with a shared goal of caring for Missoula's "forgotten wilderness stream." This year the group offered creek restoration recommendations to the City of Missoula on a crucial half-mile stretch of the creek that is part of a major City-County residential development project.

Over the next year, the group will develop recommendations for the entire stream, from its headwaters in the Rattlesnake Wilderness Area to its confluence with the Clark Fork River near Kelly Island.



Professor Emeritus (and CFC technical advisor) Vicki Watson took University of Montana Environmental Studies students up Grant Creek to survey the health of the stream

River Ambassadors



As Missoula's population booms, river recreation is more popular than ever. On warm summer days, you can find thousands of people fishing, floating, or just hanging out by the river—a situation that can put pressure on the river and visitors alike. In 2022, CFC once again managed the River Ambassador program, which trains and deploys ambassadors to busy access sites to assist floaters, boaters, anglers, swimmers, and sunbathers. The ambassadors shared knowledge and best practices about river use and encouraged river-smart behaviors while on the water. By sharing timely information with the public on social media, River Ambassadors helped relieve stress points, kept recreationists safe, and protected the river during high-demand days.

River Ambassadors also collected data on river usage, which will help inform access and management decisions, like the expanded Sha-Ron Access parking, toilets, and trails. Missoula City, Missoula County, and Montana Fish, Wildlife & Parks are co-sponsors of this outreach program.

A New Urban Nature Area

Five years ago, in a relatively untrammeled area near the confluence of the Bitterroot and Clark Fork Rivers, the City of Missoula acquired two ponds and surrounding property through a swap with Knife River gravel company. The ponds are part of a nearly four-mile contiguous riparian corridor protected by conservation easements and floodplain restrictions. It's remarkably pristine for its proximity to a major Montana city and is one of the only intact riparian ecosystems in the valley.

Now, CFC is working in partnership with Learning with Meaning, Five Valleys Audubon, and the Montana Natural History Center to advocate for the property to be designated as a new natural area within the city limits.

To help people learn more about this special place, last spring and fall CFC and partners offered three public birdwatching days. These events gave participants a unique view of the property and demonstrated its importance as wildlife habitat. Together, the lush grasslands, uninhabited bottomland forests, shrubby wetlands, and Bitterroot River frontage make a rich haven for hundreds of species of both resident and migrating birds as well as a diversity of other animals and native plants.

Missoula has many recreation areas and parks with trails and amenities for a wide range of outdoor activities. This would be Missoula's first and only natural area. With growth and development continuing at a fever pitch, we have a small window in which to protect this rare resource.

Currently, the City of Missoula is on the verge of deciding its fate. In the coming year, we'll be working closely with our partners and people throughout the area to help make the vision of a protected natural area in the Missoula Valley a reality. Subscribe to our email newsletter for updates.

Frenchtown High School students get ready to float past the toxic Smurfit-Stone mill site as part of their watershed education.

River Education

Our education programs reach students across the watershed, connect communities to local environmental issues, and inspire people of all ages to help protect and restore the Clark Fork River. CFC's variety of Creeks in the Classroom programs provide the foundations for watershed literacy and a passion for river protection.

For instance, Community Programs Coordinator Julia Crocker visited 30 fourth and fifth graders at Missoula International School to talk about CFC's mission to restore and advocate for the Clark Fork River basin. Each student made their own mini watershed out of recycled paper as part of their end-of-year exhibition.

For our Snow & Tell program, Community Programs Manager Lily Haines took 64 Seeley-Swan and Frenchtown high school earth science students on field trips, giving them a chance to explore climate science and the relationships between snowpack and sustainable use of our regional water supply.

Our Adopt-A-Stream program brought 20 teens from local youth homes to lower Miller Creek to help with restoration projects all summer. In August, thanks to generous donors, we were able to take 50 kids from youth homes out for a whitewater rafting trip down the Alberton Gorge that helped deepen their connections to and understanding of the river. In all, we took youth on eight educational floats in 2022.

We also support educators in watershed literacy curriculum development. We worked with several teachers to create curricula for their classrooms that incorporate issues facing the urban river. In Frenchtown, students who are directly affected by the contaminated Smurfit-Stone mill site explored the setting by boat and foot, surveyed their community to identify solutions, worked with landscape architects to build a future vision for the site, and wrote to EPA officials to advocate for the health of the river and community.

Project-based learning opportunities like these help students learn about real-world challenges in the watershed so that they can begin to craft, and build investment in, lasting solutions.

BEHIND THE SCENES TO CLEAN SMURFIT

Upstream of Frenchtown, the old 3,200-acre industrial paper mill site, Smurfit-Stone, is leaching contaminants into the groundwater and the Clark Fork River. A flood event like the one on the Yellowstone River last spring would be devastating if (when) the Clark Fork pushes past the berms and into the waste ponds and dumps on the mill property. The ramifications for downstream communities are immense and unjust.

The Clark Fork Coalition has worked to keep pollution from the Smurfit site out of the river since 1985. We've dedicated the last 12 years to getting the Environmental Protection Agency (EPA) and potentially responsible parties (PRPs) to fully clean up and restore the site now that it's closed.

We're now in year three of our Clean Smurfit Now campaign. In that time, we've moved the issue of Smurfit cleanup from stalled out to the focus of three meetings with the Region 8 EPA administrator. The campaign also helped coalesce stakeholders around a new, widely shared demand to clean up the dumps, remove the berms, and restore the river.

In 2022, we continued to talk to the PRPs and EPA. In addition to participating in the Missoula visits by EPA Region 8 Administrator KC Becker, we convened a virtual meeting with corporate officers and attorneys for International Paper and WestRock, the two principal PRPs. While we did not expect commitments in this conversation, it gave us an opportunity to convey our deep concerns about site conditions and risks. We believe in frank dialog with industry leaders when their actions harm the river. We will keep communication open with these PRPs as we continue to demand timely and comprehensive cleanup at Smurfit.

Thorough cleanup requires good data—something we've found sorely lacking at Smurfit in spite of 12 years of studies. To help fill the gap, we teamed up with the Confederated Salish & Kootenai Tribes, Missoula Water Quality District, Montana Trout Unlimited, Fish, Wildlife & Parks, and the Natural Resources Damage Program to secure funding for additional fish tissue sampling. (The downstream extent of EPA's sampling went only as far as St. Regis, and they plan no further studies.) As we've seen concentrations of dangerous toxins such as PCBs and dioxins increase in fish tissue further from the site, it's vital that we know more about potential toxins in fish in the Lower Clark Fork.

Following up on other research, in July CFC hosted a press briefing to inform local journalists about new findings. Elena Evans from Missoula Valley Water Quality District confirmed that contaminants on the site are interacting with groundwater and the river. Karin Boyd from Applied Geomorphology showed that the river channel is shifting closer to the crumbling berms, which are under unyielding pressure from the river. And CFC's legal director Andrew Gorder pointed out that if we applied today's waste management, water protection, and environmental laws, the berms and unlined waste dumps at the site would not be legal.

Finally, we helped Frenchtown high school students gain hands-on knowledge and apply their water quality and river ecology lessons to the real-world contamination problems at Smurfit. Several Frenchtown students who participated in a tour of the site and heard CFC's podcast, *Toxic*, wrote letters to EPA's project manager to express their concerns and share their vision for a clean site. On the EPA's glacially paced timeline, many of those high school students will have children of their own before the site is clean. We can and must do better than to accept a process that assumes pollution will remain in place for generations.

WATCH the video at tinyurl.com/Smurfit-brief

That said, we know from past Superfund campaigns that the process can be tedious, long, and frustrating. But perseverance always pays off. Slowly but surely, we're making progress toward our goals: Clean up the dumps, remove the berms, and restore the floodplain. You'll hear much more about our Smurfit campaign in 2023.

In November, the EPA led advocacy groups including CFC, Trout Unlimited, and American Rivers, county employees, and members of the Frenchtown Community Advisory Group on a tour of the site. Together we voiced our concerns and shared our vision for a solution that works for the community.

DEFENDING CLEAN-WATER LAWS, PROTECTIONS, AND POLICIES

Montana has some of the most protective water laws in the country. But, in recent years, we have seen numerous efforts to weaken or eliminate those protections. With your support, and with the help of many conservation, agency, and public and private partners, we worked to maintain and enforce strong water protections, while also ensuring that we have effective tools and efficient processes in place to allow for much-needed solutions. Read on for more about our legal policy work.

Fought to maintain selenium pollution limits

For several years, the Canadian mining company Teck Resources has tried to invalidate Montana's selenium pollution standards, helped along the way by some sympathetic Lincoln County Commissioners. At high concentrations, selenium is toxic to fish, causing deformities, reduced reproduction, and other problems. Selenium pollution is found in Montana in Lake Koocanusa and the Kootenai River near Libby due to runoff from Teck Resource's mountain-top removal coal mines upstream in Canada. With help from Trout Unlimited, the Montana Environmental Information Center, Earthjustice, and you, we defended the current, scientifically sound and ecologically protective standards via op eds, speaking up at public hearings, and written comments to Montana Department of Environmental Quality (DEQ). For now, the more protective standard remains in place, but this battle is not over.

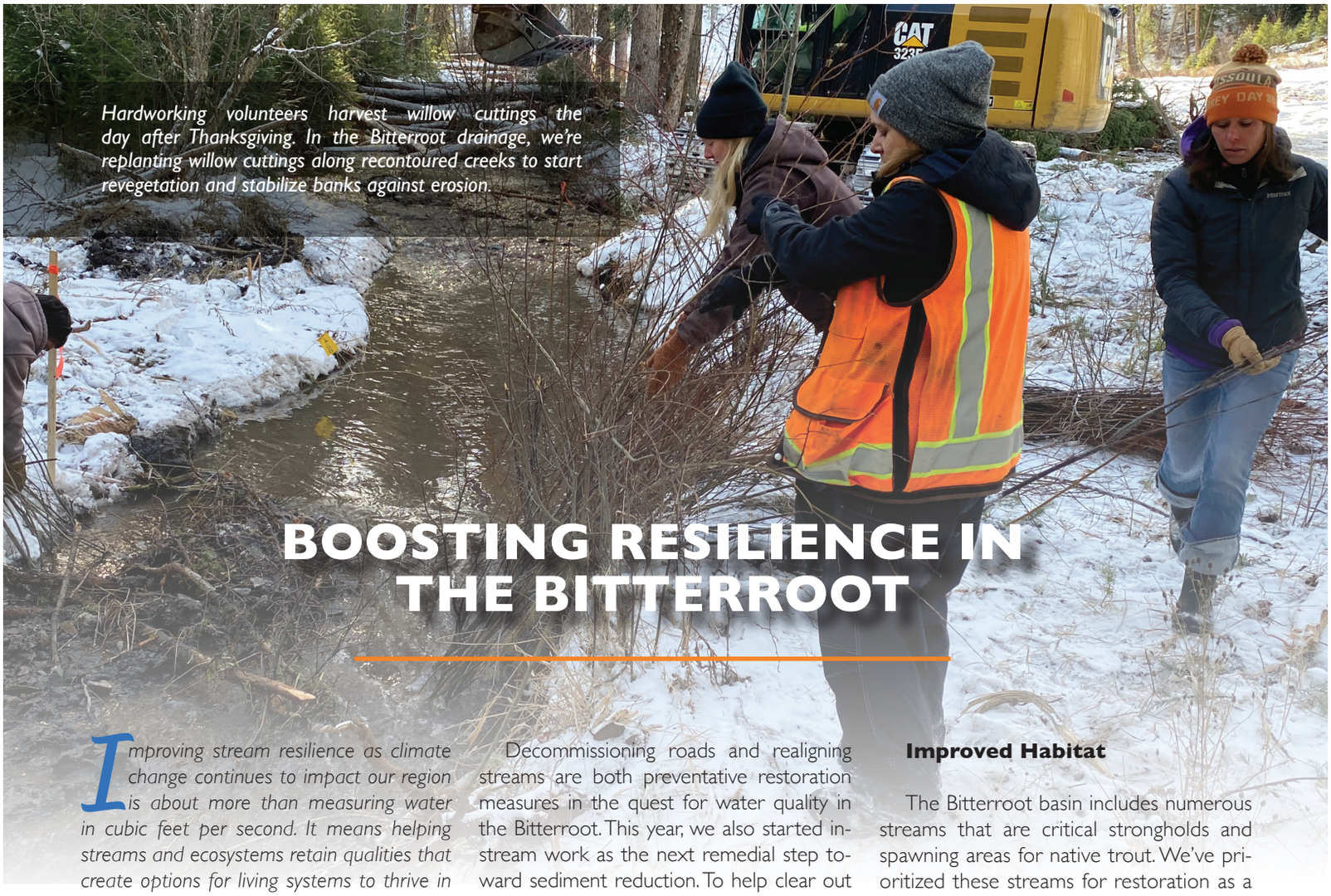
Advanced solutions for chronic low flows

In addition to convening and working with the Upper Clark Fork Flow Working Group to explore innovative strategies to restore instream flow (see page 2), we also participated in Governor Gianforte's plan to overhaul the cumbersome water right change application process now used by the Department of Natural Resources and Conservation. This is the process used to convert an existing water right from consumptive use to use for instream flow. It's a highly effective tool to restore stream flows and aquatic conditions, but the current bureaucratic red tape can take years to complete. We now have an opportunity to reform this process during the 2023 legislative session, and CFC will lend its full support to this proposal.

Held the line on nutrient pollution

A law passed during the 2021 Montana legislative session mandated that the DEQ update its nutrient pollution standards. (Nutrient pollution is the culprit that causes that slimy green stuff that often appears in the Clark Fork in summer). Specifically, they required DEQ to use a narrative rather than numeric standard, which would undermine years of research to determine safe levels (that is, specific, numeric limits) of nitrogen and phosphorous. We directly engaged in the rulemaking process and tapped you for help as well, through social media, action alerts, and a virtual presentation. EPA has since rejected several problematic portions of DEQ's proposed rule and questioned the validity of the law that triggered it, citing potential violations of the Clean Water Act. DEQ continues to work on a revised rulemaking, and we continue to keep a close eye on this issue as a new legislative session begins.

As a Water Watchdog, you'll recieve alerts when it's time to take action. Be a voice for the river—Sign up to become a Water Watchdog today at www.clarkfork.org



Hardworking volunteers harvest willow cuttings the day after Thanksgiving. In the Bitterroot drainage, we're replanting willow cuttings along recontoured creeks to start revegetation and stabilize banks against erosion.

BOOSTING RESILIENCE IN THE BITTERROOT

*Improving stream resilience as climate change continues to impact our region is about more than measuring water in cubic feet per second. It means helping streams and ecosystems retain qualities that create options for living systems to thrive in hard times. Many of our on-the-ground projects this year worked toward that whole-system health. To that end, this year in the Bitterroot basin CFC addressed sediment issues and low flows, and improved aquatic and riparian habitats in five priority streams—***Lolo**, **O'Brien**, **Miller**, **Tin Cup**, and **Lost Horse**—*where our work will have the highest impact.*

Reduced Sediment

The Bitterroot mountains are laced with hundreds of miles of unused forest roads crossing steep hillsides of naturally erosive granitic soils. These roads are major sources of streambed-clogging sediment in many of the basin's native trout streams.

Over the last eight years we have been decommissioning these roads, focusing especially on the Upper Lolo drainage, which is home to remnant populations of native bull trout. The work entails removing culverts, re-contouring hillsides, covering the scars with downed trees, and planting grass and shrubs to help keep crumbling soils in place and out of creeks. This year we removed a half mile of road and five culverts on **Dick Creek**, a bull trout stronghold headwater stream.

Decommissioning roads and realigning streams are both preventative restoration measures in the quest for water quality in the Bitterroot. This year, we also started in-stream work as the next remedial step toward sediment reduction. To help clear out sediment that is already in the water, last summer we installed 141 wood jams into the **East Fork Lolo**, **Granite**, and **Lost Park Creeks**. The logs and branches in the water create complex habitat for aquatic insects and spawning habitat for fish by acting as a trap for sediment and creating water dynamics that scour out gravel beds below.

Increased Flows

This year, we secured funding to initiate planning for flow restoration projects in **Lost Horse Creek,** a bull trout and westslope trout stronghold. We also monitored multiple Bitterroot tributaries to ensure they stay wet and connected to the mainstem. We explored water rights leasing or purchasing plans that would be mutually beneficial for local landowners and instream habitat. And we continued to work through the Department of Natural Resources to legally protect more than 130 million gallons of water in Tin Cup Reservoir. so it can be released into **Tin Cup Creek** to boost flows during hot summer months.

Improved Habitat

The Bitterroot basin includes numerous streams that are critical strongholds and spawning areas for native trout. We've prioritized these streams for restoration as a key strategy in improving conditions for native fish and overall watershed health.

Last fall, we worked with consultants to survey 1.5 miles of upper **O'Brien Creek** and design restoration treatments on high priority sites. These treatments will restore a natural, self-maintaining channel by reconnecting the floodplain, reestablishing native riparian vegetation, and creating instream habitat with large woody debris structures in a key reach for spawning westslope cutthroat trout.

On key reaches in the **Miller Creek** drainage we moved the stream channel away from the road so it can move in its floodplain, making it a more resilient stream that can also create new wetland habitat. Thanks to our hardworking volunteers, we also planted willows along the creek. Willows are an important riparian species that stabilize banks and provide shade. Finally, we installed a beneficial fish barrier to protect genetically pure strains of westslope cutthroat trout.

After three years, our campaign to "Bring Back the Bitterroot" is making good progress to increase resilience in this iconic headwaters basin. Many thanks to our partners and supporters for making it possible!

A Watershed Resilience Superhero

Boosting resilience in the Clark Fork basin and helping it heal from the impacts of 160 years of industrial mining, logging, and agricultural use can be very expensive work. But that work is essential to reestablishing healthy ecological function in the watershed's tens of thousands of miles of tributary systems.

Enter our local watershed resilience superhero: the beaver. Beavers are outstanding aquatic engineers whose natural behaviors achieve many of the same results as complex restoration projects. The dams they build store water, capture sediment, improve water quality, boost stream health, and create more complex habitats. But because those same activities can also be highly destructive, they've earned a reputation among landowners and land managers as a nuisance, resulting in longstanding beaver management policies that suppress beaver activity, keeping them from returning to areas where they were once common.

CFC and its partners have worked for many years to increase the presence of beavers in western Montana, including educating landowners, land managers, and natural resource agency personnel to gain greater acceptance of beavers on the landscape. In 2022, we worked on a suite of beaver-related projects to help increase the benefits this master aquatic engineer can bring to the Clark Fork watershed and beyond:

- Sponsored a fourth year of the statewide **Beaver Conflict Resolution Program** with Defenders of Wildlife and the National Wildlife Federation, reaching five western Montana counties to assist a diversity of land managers with training, education, and non-lethal beaver management projects

- Worked with the University of Montana, Lolo National Forest, and Montana Fish, Wildlife & Parks on **beaver-related research**, including monitoring beaver dams and beaver dam analogs to study impacts and benefits to native trout fisheries, and conducting beaver occupancy surveys via aerial photography and community-science field teams

- Continued collaboration work to implement the 2020 **State Beaver Action Plan**, including securing funding and helping plan upcoming beaver-focused conferences involving state and federal agencies, fish biologists, landowners and managers, decision-makers, and others

Special thanks to the Broad Reach Fund for their generous support for this work!

CABINET MOUNTAINS MINES

A Big Win, A Bad Actor, and Continued Vigilance

The proposed Rock Creek Mine has been a focus for CFC and numerous local, national, and tribal partners since the late 1980s. Finally, in June of 2022, after decades of advocacy, analysis, and legal action, we celebrated a long-awaited victory: Hecla Mining Company withdrew its plan of operations and several key permit renewal applications.

If you're a longtime member you'll recall that this massive hard rock mine would have tunneled beneath the pristine Cabinet Mountains Wilderness in northwest Montana, threatening to permanently drain alpine lakes and bull trout spawning streams. It also would have dumped wastewater into some of the purest water in the Lower 48—in perpetuity.

While we explore strategies to permanently remove Rock Creek Mine as a threat to Montana's water resources, we also remain vigilant to keep Hecla's proposed Montanore Mine at bay. (Montanore is on the east side of the Cabinet Mountains and would access another part of the same ore body as the west-side Rock Creek Mine would have.) In the case of Montanore, groundwater modeling predicts up to 100% permanent dewatering of the headwaters of two critical bull trout spawning streams, as well as alpine lakes. Currently CFC and its partners are challenging Hecla's attempt to dodge clean water protection laws by renewing an old water pollution permit for the mine after the state Supreme Court found that its first permit application violated multiple state and federal water protection laws.

In 2022, we also kept the heat on the state's languishing enforcement action against Hecla CEO Phillips Baker under Montana's "bad actor" statute. In November 2021, CFC's attorneys at Earthjustice filed a mandamus lawsuit on behalf of CFC and nine other groups (including three tribal partners) to compel Montana Department of Environmental Quality to enforce this law as part of its duties to protect Montana's waters. A hearing in the case took place in State District Court in early November 2022—we continue to track developments.

Underground mining in the Cabinets could permanently dewater pristine alpine lakes and bull trout spawning streams. Withdrawal of the Rock Creek Mine spares Cliff Lake (pictured here), but the Montanore Mine still threatens numerous lakes and headwaters streams in this fragile wilderness.

Randy Beacham

LOOPHOLES DIE HARD

In Montana, no one owns water. Instead, state laws determine who can obtain rights to use water. The state also administers, controls, and regulates those rights. Water rights were first established in Montana in the Gold Rush days under a doctrine of "first in time, first in right." That is, whoever diverted water first from a stream had first right to use it. Over time, numerous court rulings, laws, and policies were needed to resolve disputes as more users made claims on both surface and groundwater.

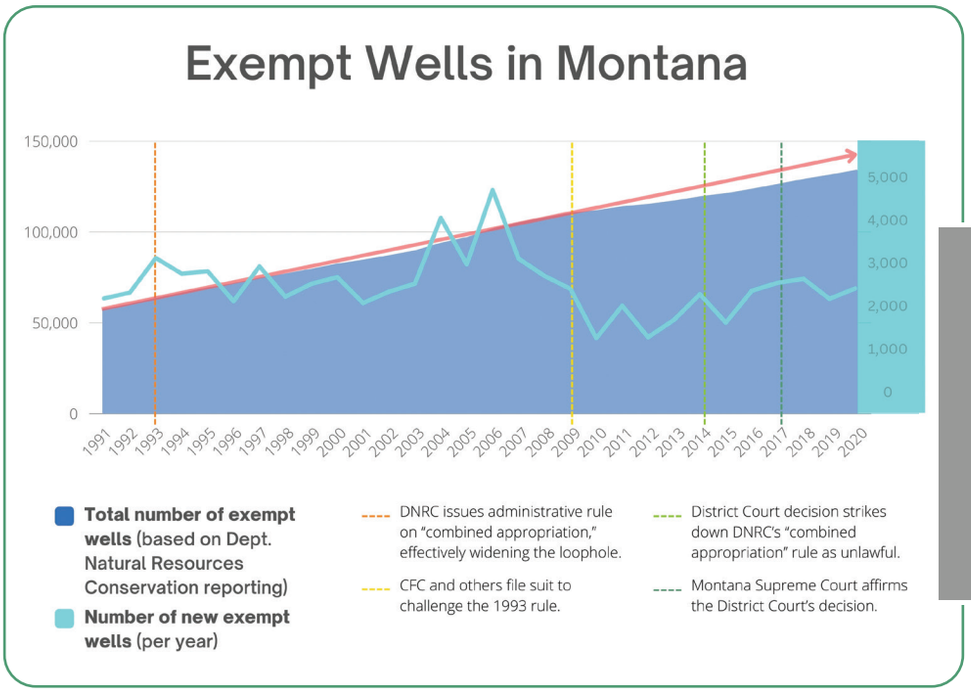
In 1973, the Montana Legislature passed the Water Use Act, which created a process for permitting new water rights. To reduce permitting burdens on small, individual users, it exempted groundwater use for "domestic, agricultural, or livestock purposes." This meant applicants did not have to prove that the water was physically and legally available. Nor were they required to prove that the new use would not adversely affect those with senior water rights.

Fast-forward to the late 1990s and that exemption was being exploited by developers to drill permit-exempt wells for each "individual" home they built. Where in the past a new subdivision might be denied a water use permit because it would have negative impacts on local water supplies, the loophole gave developers the green light to build countless homes without so much as a water impact study or any notice to existing water users about potential impacts to their water rights. The result: hundreds of thousands of exempt wells have been drilled across Montana over the last decades, depleting local water tables, reducing flow in nearby creeks, and reducing water available for senior water rights holders.

CFC has worked for more than a decade to close the so-called "exempt well loophole" to stop unfettered depletion of groundwater resources. We won a Montana Supreme Court decision in 2016 that ordered the state to close this loophole to protect water supplies and water rights. Since then we've defeated numerous attempts to re-open the loophole or codify it into Montana law. In 2022, we successfully stopped another abuse of the exempt well statute by developers. We sent a legal policy memo to the Montana Department of Resource and Conservation (DNRC) (who issues water permits) urging immediate course correction. We were pleased to see that DNRC partially updated its permitting guidance in response. However, problems remain with DNRC's continued allowance of numerous exempt wells for some subdivision developments without any analysis of cumulative impacts.

Unfortunately—but unsurprisingly—some state lawmakers are proposing legislation for the 2023 session that would open the exempt well loophole yet again. CFC and our partners—including conservation groups, farmers, ranchers, municipalities and other water users—are preparing to fight back.

If you'd like to help stop these dangerous proposals, **sign up for our Water Watchdog team at clarkfork.org.**



Despite court rulings and policy changes, the number of unmonitored and permit-exempt groundwater wells just keeps climbing to the detriment of senior water users and our rivers and streams. Nonetheless, some state lawmakers would like to see the exemption expanded. We'll be fighting to make sure that doesn't happen.

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Annual River Cleanup

Last spring, hundreds of volunteers pitched in from St. Regis to Anaconda and all points in between to clean river banks and riparian areas. Together we removed an estimated 3 to 5 tons of trash from an impressive 200 miles in the Clark Fork watershed, helping to keep garbage out of the water, reduce in-stream and bank hazards, and remove waste that can be harmful to fish, birds, and other wildlife. People in the community dug into the muck, braved thorns, weeds and weather, and collected trash before it could be swept away by spring runoff. Many thanks to our generous sponsors, and to everyone who participated!

Save the date for for the 2023 Clark Fork River cleanup—**back in person** for the first time since 2019! We'll kick off with an Earth Day celebration at Caras Park and cleanup of the downtown river corridor on **Saturday, April 22, 2023**. As always, we'll treat volunteers to a free BBQ lunch, coffee in the morning, and the promise of a wonderful time with your fellow river heroes. We'll still offer the now-popular DIY cleanup as well—look for details in upcoming emails and social media.

Volunteers from the University of Montana Neuroscience Club pick up trash on the north bank of the Clark Fork River during the 2022 ***DIY Clark Fork River Cleanup.***

Photo: Jenny Taylor