



# The FOAMLINE

VOL. 11, #5

FISHING OUTFITTERS ASSOCIATION OF MONTANA

LATE FALL 2002

## LETTER TO FOAM GUIDE MEMBERS from GARRETT MUNSON, Guide-at-Large Board Member

Howdy. I hope you had a busy season on the river and got yourself at least a few clients who didn't need to hear you say 'Mend!' a hundred times a day. It was a great summer of fishing in our neck of the woods (Missouri river area), hope it was in yours too.

There's a lot going on right now concerning the guiding community in Montana, including the establishment of the River Rec. Advisory Council, possible increases in licensing fees, FAS issues, and the upcoming legislative session. FOAM is representing you in these and many other matters, but I encourage you to also represent yourself. Where do you stand on river regulation? How about the guide licensing process? Please let your directors know if you have any burning issues or ideas.

I read a very interesting article recently in FWP's fall issue of Montana Outdoors written by the editor, Tom Dickson, regarding recreation use in our state and the conflict that has arisen between residents and nonresidents in recent years. Given that it was an FWP publication, I was impressed with the article in the sense that it presented a good amount of pertinent information in a very objective manner. It had some interesting statistical information, most of which demonstrated that while a majority of fishing and hunting recreational use is by residents (57%), nonresidents are the predominant funders of FWP's license revenue (69%), which translates into things like maintaining FAS's, the Block Management program, and generally managing our fisheries. According to the Montana Dept. of Commerce, nonresident travel directly and indirectly supports 32,000 jobs. Some of those jobs are ours.

The thing about this article that hit home for me was this: While I am a person who supports and promotes tourism and nonresident angling and hunting, since it provides my livelihood, I am also a resident angler and hunter who wants places to recreate myself. I am playing on both sides of the fence, and you probably are as well. It seems that this puts us in a unique situation regarding the future of our state's management policies, in the sense that we are in many ways the true stewards of our fishable waters. We are the folks who are out there day in and day out, and we are the people who can make a positive difference through the interactions we have with our nonresident clients and the residents we share the river with. Does conflict between resident and nonresident use necessarily have to continue? I don't think so, and we are people in a position to help make a change.

This is all something to think about this winter while

you're cranking out your favorite patterns and pondering the season to come. Take care, stay warm and dream of big trout.

## ANNUAL MEETING A FORUM FOR TOP ISSUES *Insurance, River Management, Fee Increases Top Agenda*

A small crowd of FOAM members attended our annual membership meeting in Helena, but they learned about several changes coming to our industry, then asked presenters and the FOAM board good questions about the changes. Here's a rundown on the annual meeting discussions.

FOAM's Executive Director outlined the current status of FOAM's legal challenge of the Beaverhead, Big Hole Biennial Rule, noting again the three core contested issues: 1) FWP is acting beyond its authority, 2) improperly using a biennial rule format, and 3) basing regulations on preferential anecdotal evidence instead of facts. FOAM has also determined that, unless the FWP Commission (FWPC) changes the rules, federal Land & Water Conservation Funds granted to FWP for development of fishing access sites along both rivers may be in jeopardy over possible discrimination against nonresidents at several sites. Future FOAMLINES will detail the progress of our challenge as we near a court date.

Montana International Insurance raised liability rates for our members some 29% for 2003, citing insurance industry losses after 9/11. For example, FOAM's \$1 million coverage is distributed between our original underwriter, Capitol Indemnity, and another "reinsurer" who picks up the major share of this coverage for Capitol. Reinsurers in general faced large losses from 9/11 and now charge more to carry shared coverage, according to our agent, Fred Wardinsky. FOAM hopes the current rate increase will hold for several years since our loss record is low and our total premium is large.

Robin Cunningham, FOAM's member on the River Recreation Advisory Council (RRAC), outlined its progress. The RRAC is forming recommendations for the FWPC to use in adopting a statewide river recreation management policy and decision-making process. More on this topic in a later article in this issue.

FOAM found another ally in our efforts to encourage agency understanding and appreciation for tourism. Amy Sullivan, director of the Montana Tourism Coalition (MTC), spoke to members about her participation in the RRAC and shared our concerns about resident preference.

Amy told the members about an incident in the Bitterroot valley that exemplifies, for her, the downside of "pro-resident" or "pro-Montana" thinking - A young out-of-state couple moved to a modest home in the valley, found jobs and sent their kids to school. After a year and a half, they sold

out and went back to the coast. Why? Amy explained, “The mom was so tired of overhearing muttered comments about her ‘liberal California cr\*p’ while shopping at the supermarket, and how her kids were labeled ‘hippies’ at school. Meanwhile, the dad was equally tired of being told ‘that’s not the way we do things here,’ so the couple picked up stakes and left. When I heard this story,” Amy continues, “I was appalled and embarrassed. I’m from Montana, and I was disgusted that these people were treated this way.”

Sullivan works very hard with other MTC members like the Montana Innkeepers Assoc., Montana Tavern Assoc., Montana Snowmobile Assoc., Yellowstone Park Lodges, Montana Taxpayers Assoc., and various chambers of commerce around the state to educate Montanans about the benefits of tourism. “I try to soften the blow in communities where extraction industries are failing,” she says, “to help the people understand that nonresidents may be their best hope for a bright economic future.”

FOAM members at the meeting saw the benefits of working with MTC and were sufficiently impressed with Sullivan that they recommended unanimously that FOAM join the coalition as soon as possible, then coordinate with Amy as a small business association dependent on tourism.

Next, members heard about possible license fee increases. “They may be needed to offset rising management costs within the Dept. of Labor and Industry,” explained Brenda St. Clair, bureau chief for the division that oversees the Board of Outfitters. She said detailed and convoluted budget requirements may shift a greater load of bureau expenses on the MBO, which must pass these costs through to licensees. MBO Chairman Ray Rugg says he will do all he can to avoid raising license fees for several years. “We’ve had the current fee level for only two years and I don’t want to change it soon,” he said at a previous board meeting.

Terms were up for several director and members nominated various replacements for election - Region 2 (Bitterroot): incumbent Jack Mauer running against John Cook; Region 3 (Missouri): replacement director Pat Straub running for a full two-year term; Region 5 (Madison): Joe Dilschneider; Region 8 (Bighorn, Ft. Peck): Matt McMeans. Elections are over December 31.

Because the turnout was so small, the atmosphere was relaxed and attendees had a chance to fully explore their concerns - concerns the FOAM BoD has heard repeatedly over the years. Members always ask questions like “How come you didn’t ask me or the members before you took action?” and “Why wasn’t I told about this issue?” FOAM board members reminded those attending that the BoD is a representative form of governance, the members elect direc-

tors to manage FOAM and carry membership concerns, and that the FOAMLINE and directors do their best to bring their discussion of issues to the membership. FOAM President Matt Greemore, VP Matson Rogers, and newly-elected director Pat Straub reminded members of their duty to contact the board directors with questions and concerns instead of waiting for annual meetings to express frustration. Communication and representation go hand in hand and require participation from both directors and members. The schedule of FOAM BoD meetings will be set during a January 11 meeting in Bozeman, then will be put up on FOAM’s website ([www.foam-montana.org](http://www.foam-montana.org)) so members can attend and bring their comments to the board.

## MBO DIRECTOR WORSECH MOVES TO FWP

*Hank Takes his Considerable Skills to Licensing Bureau*

In a surprise move, Hank Worsch, current Executive Director for the Montana Board of Outfitters, has changed jobs, leaving the MBO and taking a position as License Division Chief in Fish, Wildlife & Parks.

Over the past four years, Worsch has directed MBO staff attention to improve communication, emphasize simplicity, and provide “customer service” to licensees while ably coordinating directives from the MBO itself. Hank has slowly developed credibility and improved relations between the MBO and FWP wardens, U.S.F.S. and B.L.M. representatives, and licensees themselves. His down-to-earth manner and straightforward reasoning defies bureaucratic channeling, perhaps one of the reasons he left the job.

FOAM’s relationship with Worsch has been excellent, and his management skills will be missed. He single-handedly changed the MBO’s disciplinary emphasis from “catch-and-penalize” to licensee compliance via education, instruction, and understanding. At FOAM’s annual meeting, he told us that when his investigators found a fishing outfitter in the field without a life jacket or first aid kit, the investigator gave them a temporary replacement jacket or kit rather than citing them for violations. This single notion exemplifies Worsch’s attitude toward licensees - help instead of hinder.

FOAM has presented Worsch with an award recognizing his dedication, imagination, and downright courage in the face of bureaucratic bull\*\*\*\* that so often hampers our industry. We hope he fits well into FWP and wish him a great future. So long, Hank.

## RIVER REC. ADVISORY COUNCIL PROGRESS

*RRAC Works on Policy Framework, Decision Process*

With two or three meetings to go, the River Recreation Advisory Council (RRAC) is getting closer to some tough decisions while working out how to determine the need

### BOARD of DIRECTORS

#### Region 1 (Kootenai, Flathead)

Tim Linehan  
295-4872

#### Region 3 (Missouri)

Pat Straub  
682-4011

#### Region 5 (Madison) Region 7 (Yellowstone)

Eric Shores  
222-5175

Todd Wester

#### Region 2 (Bitterroot, Clark Fork)

Jack Mauer  
642-6548

#### Region 4 (Big Hole, B’head)

Matt Greemore  
556-1197

#### Region 6 (Gallatin)

Matson Rogers  
665-3029

#### Region 8 (Bighorn, Ft. Peck)

George Kelly

**Guide-at-Large Director** Garrett Munson 431-5089

for management and what management techniques to put in a grab-bag of recommendations.

So far, the RRAC has identified each stakeholder group's interests and issues and developed "guiding principles" based on those varied interests that set sideboards on how the RRAC will build a decision-making framework for the FWP Commission (FWPC) to apply at the *regional* level. This framework, roughly based on the "Limits of Acceptable Change" model, includes the following steps:

- 1) Inventory a stream to list its physical, biological, and recreational characteristics, including use and users
- 2) Describe what conditions and characteristics (C&C) of the stream (or specific stretches) are desired and should be managed for using the data from #1
- 3) Set standards of use and users, waterflow, water quality, management levels, etc., that achieve the C&C of the stream or stretch
- 4) Determine indicators of the C&C that help meet the standards of #3
- 5) Compare the current status (#1) with the indicators (#4) to see if management is needed
- 6) If mgt. is needed, decide what mgt. techniques keep the C&C within the indicator "levels"
- 7) Monitor the mgt. techniques to see if they're working
- 8) Review the C&C from step 1 through 5 periodically to see what's changed and what's needed to adjust for these changes.

While the RRAC rough draft suggests using this decision-making framework on a regional level, some members proposed that FWPC draft a *statewide* guiding policy that may incorporate such "sideboards" as whether residents are preferred over nonresidents, some principles conditioning the exchange of possible commercial permits, how to keep one river's mgt. plan from clashing with another river's (think in terms of cumulative impacts), and other administrative or practical considerations. This policy could guide decisions made on all Montana rivers, just like the current FWP River Management Policy directed the Beaverhead and Big Hole advisory council recommendations.

Because the RRAC has tentatively suggested that local groups (watershed councils, citizen advisory groups, etc.) build the management recommendations for a specific river, FOAM reasons that such a statewide policy will have an immediate and serious effect on just who decides and what decisions and management tools are available for any river's regulation. Any department or commission preference will be reflected throughout a river rec. mgt. decision. Remember the effect ex-commissioner Charlie Decker ("I think residents deserve preferential treatment") and ex-commission chairman Stan Meyer ("We've got to stop the combat fishing on the Big Hole") had on the BH2 rules.

So what? Given the thrust and implementation of the BH2 rules, it seems plain there's a resident, agency, and commission preference to implement controls on commercial service providers and nonresident recreationists. Coupled with a decidedly anti-business "non-transferable" commercial permitting and allocation scheme (even when no need for controls is proven), these ideas may be built in at the statewide "policy" level and more certainly at the local recommendation development level.

For example, FOAM worries about slowly accumulating "authority" and "justification" for resident preference regarding access to Montana's streams in RRAC discussions. RRAC member FWPC Tim Mulligan has reminded the group that their recommendations must "pass muster" with residents, and Montana Wildlife Federation rep Larry Copenhaver and Billings Rod & Gun Club rep Mike Whittington expressed a "need to distinguish" between residents and nonresidents in management considerations. These small but persistent comments and positions indicate a familiar resident preference.

To her credit, facilitator Ginny Tribe continually maintains that "all interests" must be considered when "finalizing the RRAC's recommendations" and that "no one single interest" can drive the process. At the Dec. 9 & 10 meeting, she spent considerable time working out agreement between two interests over public trust and water rights issues. FOAM is relying on these efforts to help balance our interests with a dominant resident preference system.

But, just because RRAC decisions weigh all interests equally and their recommendations only go to the FWPC when 100% of the members agree, there is no guarantee that local groups will be managed the same way. FOAM will certainly advocate that this even-handed, consensus approach at all decision-making levels be mandatory in the statewide policy. When you consider the combination of a possible preferential statewide agency policy and local deference for resident recreationists and regional service providers, a statewide perspective can easily be lost in "local" resident politics. FOAM hopes the current commissioners will be sensitive to all interests and all populations in a statewide river management policy.

To date, few details of the RRAC's meetings have been publicized because the group wants most of the discussion points settled among themselves before releasing even the larger, less-detailed themes or ideas to the public. On the other hand, the RRAC members will eventually have to decide how best to present their final recommendations to the FWP Commission, then how to balance them with public comments, and whether to change the recommendations based on public comment.

Lastly, FOAM again called the pace of the RRAC meeting schedule "too fast," a sense shared by whitewater service providers and council members representing the nonresident and tourism industry. Charlie Sperry, FWP's River Rec Coordinator, admitted at the FOAM annual that "FWP is anxious to show progress in river management to legislators," hoping to stall "legislative intervention." Perhaps FWP is afraid of losing what they consider their authority and control over river management. Clearly, FOAM is not alone in its heightened concerns about the process, all the more reason to keep our eyes - and options - open.

## **B'HEAD, B'HOLE RULES TO BE REISSUED**

*FWP Uses MAPA to Reinitiate BH2 Regulations for '03-'04*

On December 17th, FWP plans on publishing a proposed rule-making process to reinstate the current regulations on the Beaverhead and Big Hole rivers. The department will comply with the full Montana Administrative Procedures Act (MAPA) process, including statements of rationale and justifi-

cation for particular regulations, when proposing substantially identical rules that regulate both rivers during the next two-year period.

FOAM was pleased to learn that FWP will comply with MAPA. A year ago December, the Environmental Quality Council, the committee overseeing FWP affairs, discussed recommending that FWP redo the BH2 rules before May of '02, but FWP argued that "four months was not enough time to complete a MAPA-compliant rulemaking process." Apparently, the four months between mid-December, '02, and late April, '03, *are* sufficient, after all, though no reason was given for the change of agency thinking. Perhaps FOAM's request for EQC review had some small effect after all.

FOAM will comment on the newly proposed rules, right along with many resident Montanans who favor them. Indeed, two commissioners, Mulligan and Dan Walker (Billings), have noted that they've already heard from constituents who like the rules and the precedents they set. You should ask your nonresident clients to respond with their own feelings about current and possible future nonresident restrictions, even if they aren't directly affected on the streams they fish now. FWP will be taking comments through January and February, so your clientele should write during that time. FOAM will certainly put up info on our site ([www.foam-montana.org](http://www.foam-montana.org)) about the rulemaking and the exact timing of the public comment period. FWP will probably publish the rule and its timing online at their website. In any case, clients should write to:

FWP Commission  
1420 East Sixth Avenue  
Helena, MT 59620

or email the commissioners through the FWP website, ([www.fwp.state.mt.us/commission/default.asp](http://www.fwp.state.mt.us/commission/default.asp))

Because FOAM is the sole advocate for broad-based commercial interests and one of the few champions for non-residents on our streams, we need to act responsibly and decisively on the rules that manage nonresident floating on stretches of Montana's streams. Our client-base is large, they bring strong economic benefits to Montana, and they contribute to the state's fish management directly with contributions to groups like TU, FFF, or the Big Hole Foundation and indirectly via excise taxes that are granted to Montana. Their voice should be heard before they are "preferred" off the streams by pro-resident regulations. You can help them be heard by explaining the situation and urging them to write to the FWP Commission about this newly proposed rule.

### **FWP COMMISSION RAISES SMITH RIVER FEES** *Outfitter, Nonresident Client Fees Increased the Most*

On Dec. 12th, the FWPC partly agreed with department recommendations to raise Smith River fees, but didn't go as far as FWP wanted.

Doug Monger, Parks Division head, recommended increasing Smith River fees to help pay for maintenance at other state parks and fishing access sites (FAS). The Smith River and Lewis & Clark Canyon are the only sites in the park system that pay for their own overhead. Monger, along with the Park's Futures Committee, a citizen and legislator group

appointed to deal with state park issues, reasoned that if the Smith can make more money, perhaps the "excess" should be spent elsewhere in the parks system.

Not all the commissioners agreed. Mike Murphy, commissioner for FWP District 1 (Missoula area and north), repeatedly argued that the 100% Smith River fee increases were out of line and suggested 10% increases instead. Dollar-rounding difficulties based on this percentage figure eventually drove the FWPC to agree to round-number fees less than recommended by FWP. They are:

The commissioners also agreed with Monger's recommendations to vote in fee increases averaging about 25% for various individual parks and statewide park passport fees.

The commission struggled with these fees because they recognize that the Parks Division needs more money for maintaining the parks and FAS's, but they also want FWP to manage its budget appropriately - that is, to avoid raising fees on a small population of users in a specific area to cover increasing statewide costs without looking for suitable adjustments to keep costs down or sharing the costs with all users.

One interesting point: To justify outfitter client individual launch fees four times greater than individual resident

Permit Drawing Fee	\$ 5
Private Pre-registration Fee, Resident	25
Private, pre-registration Fee, Nonresident	50
Private Launch Fee, Resident, age 6-12	15
Resident, 13 & older	25
Nonresident, 6-12	15
Nonresident, 13 & older	50
Outfitter Launch (recommended - \$250)	200
Outfitter Staff (recommended - \$30)	25
Outfitter client (recommended - \$150)	100
Outfitter Launch Transfer* (recommended - \$500)	250

\*Transfer fee per launch when *permit* is transferred to new business owner, not when individual season launch(es) are shared

launch fees, Monger reviewed the thinking of the FWPC when setting the original Smith fees, saying those commissioners reasoned that "clients of outfitters have a greater 'ability to pay' than do private residents." He forgot to mention that the extra money goes to the Smith River Corridor Enhancement Fund. So, it's not just an "ability to pay" issue, it's the fact that nonresident clients pay more to keep the Smith accessible and the riparian zone healthy for all users, local or otherwise.

### **FISHING ACCESS SITES NEED OUR HELP**

*FWP, FOAM Board May Discuss Commercial FAS Fees*

One thing is clear from all the commission discussion of Parks fees - Montana's fishing access sites need help. The 300 some state sites need to be regularly cleaned, maintained, and repaired, even if they are infrequently used, but there's just not enough money to do the job right. Maybe we should help.

FOAM members know that, in the past, FWP has proposed charging fees for our commercial use of their sites. Knowing that FWP has the authority to collect these fees,

FOAM reasoned that we may be willing to pay our share of this maintenance if *all* FAS users paid. Well, the RRAC has stated that one of their guidelines is to recommend all users pay and may well turn that recommendation into legislative action sooner or later.

With this “all users should pay” consciousness, maybe it is time that FOAM stand up, shoulder a responsibility, and offer to pay reasonable fees at FAS’s, if only to “prime the pump” while settling on regulations that require other commercial entities and recreationists to chip in on the maintenance. There are many details involved in a fee proposal, like how much to pay, how to calculate payment (per client? a percentage of gross? a flat fee based on use levels?) and how to make sure payments are earmarked for FAS maintenance and not spread out in the entire Parks budget.

Tom Riley of FWP’s Parks Division, following FOAM’s recommendation that annual flat fees are the easiest to collect, suggests that commercial fees be based on client volume in a tiered system - that is, outfitters with, say, less than 50 client days pay a small flat fee, those with 50-100 pay a higher flat fee, those in the 100-500 client day range pay more yet, and those at 1000+ client days pay the most. Suggested fee tiers range from \$50 to \$500 in Riley’s early, unofficial example. He also understands that FOAM wants the fees spent on FAS’s as close to where the fees are collected as possible, probably at the regional level.

Even with this example based on past talks with FWP, many FOAM members ask “Why should I pay at all? My clients’ and my fishing license dollars already pay for FAS work” and “Prove that FWP needs the dough” and “I already pay fees at USFS or BLM sites.” Clearly, there is much to consider, but the initial decision is whether to help out now or not, knowing full well that FWP may eventually impose fees whether we agree or not. Like most issues, participation and communication are key.

In talks with FWP Chief Jeff Hagener about access site fees, the FOAM executive director made it clear that FOAM couldn’t move far without sufficient feedback from our membership. The FOAM board will discuss the fee idea at their Jan. 11 meeting and could survey the membership in early January.

Plus, there’s another fee in the works - Gov. Martz has proposed a 4% fee on our services as part of a tourism revenue package intended to offset a proposed 10% reduction in individual Montana tax rates. While we may be able to successfully challenge this proposal in the legislature, it also makes sense to seek backing from FWP to help exchange (read “kill”) that tax in return for FAS fees. Personally, this FOAM member would rather tell my clients, “You and I are helping to maintain this ramp (or site) right here” rather than tell them “The law says you have to pay a 4% surcharge on my rate to reduce some Montanan’s taxes.”

Both fees are just over the horizon - we should consider the effects of both, then decide which one (if any) we want to pay, how, and where the money goes. Contact your director with any ideas or comments you have and be ready to respond to a membership survey proposed for January distribution, right after the January 11 Board of Directors meeting,

where the topic will get plenty of discussion.

## **FOAM EYES INSURANCE, LEGISLATIVE IDEAS**

*“Recreation Safety Act,” Risk/Liability Waivers at Issue*

FOAM is tracking one legislative idea that may help reduce or control our insurance rates. The “Recreation Safety Act” intends to incorporate in law the idea that recreational activities, by their very nature, include an inherent risk and no provider should be liable for these inherent risks.

You may know that FOAM’s insurance underwriter plans to require “acknowledgement of risk” forms in ‘04. FOAM is negotiating with our insurance underwriter to write standard risk language, but if the RS Act passes, our clients would be covered by a statutory assumption of risk, and we may not need to have each one sign an individual form. Rep. Dee Brown (R, Flathead) sponsored the RS Act at the urging of local whitewater raft companies, the Montana Ski Association and others. FOAM could use this legislation to simplify our insurance compliance, too.

Now, acknowledgment of risks inherent in an activity is not the same as waiving liability for negligent acts. According to FOAM’s attorney, Montana law prohibits “pre-injury releases” intended to waive liability involving negligence, saying such waivers are typically useless in court. Still, some insurance underwriters demand the liability waiver as part of the coverage package, hoping to discourage frivolous lawsuits from clients, save claim payouts, and supposedly reduce the rates they charge.

The RS Act attempts to reduce claims based on inherent risk factors, but does not impose a waiver of liability due to negligence. This conforms with Montana law, aims to reduce claims clearly related to inherent risk, but still retains coverage for clients or participants who claim damages based on liability due to negligence. Given FOAM’s excellent claims record, true liability issues shouldn’t be a factor, and we could better control our premiums if the underwriting insurance companies aren’t paying claims driven by inherent risk.

Of course, each FOAM member should determine what insurance and participant form is best for their business. FOAM will work to standardize risk language, see if the RS Act can help, and continue to represent its members with the insurance agents and underwriters. Our association will do its best to protect our clients and our members with appropriate insurance coverage, fees, and documents.

## **OUTFITTER FUND COMPLETES NEW PROJECT**

*Next: Fund Smith River Hydrologist for Instream Flow Study*

FOAM’s sister organization, the Montana Fishing Outfitters Conservation Fund, has funded the completion of its fourth project, construction of fish ladders on Locke Creek, a spawning tributary of the lower Yellowstone river below Livingston.

Locke Creek runs through Charlie Pierson’s cattle ranch where two small headgate dams divert flow to irrigate his hayfields. The project, coordinated by the Greater Yellowstone Coalition and FWP and fueled with money from our FUND, GYC, and the landowner, built two small fish ladders

below the existing barriers so migrating Yellowstone Cutthroat trout (YCT) could maneuver past the headgates and reach the upper stretches of the creek to spawn. In addition, pools above the headgates were deepened to allow silt to settle out.

In 2001, Pierson agreed to a long-term lease of in-stream flow with FWP to bring much needed water to the lower stretches of the creek. Adding the fish ladders for passage "up creek" increased the available spawning habitat in the tributary by 300%.

We hope this small, successful project will inspire other local ranchers to follow in Pierson's footsteps by granting FWP instream flow and altering spawning habitat on Yellowstone tributaries so the native cutthroat trout populations can continue to grow. Improved populations will help fulfill Montana's Cooperative Conservation Agreement under the Endangered Species Act to preserve known genetically pure populations of YCT.

Earlier this month, the FUND directors agreed to help Montana TU fund a contract hydrologist on the Smith river. TU is battling with the Montana Dept. of Natural Resources and Conservation (DNRC), challenging new water well permits in the over-appropriated basin. DNRC has already permitted several wells, arguing that there is only a "tenuous" connection between dropping groundwater levels and reduced instream flow in the Smith river.

TU disagrees, saying preliminary hydrological research has shown a direct connection between groundwater

and streamflow. Our funding will help pay for extended hydrological studies that could firm up TU's preliminary research findings. Mike Geary, prime mover on this cooperative project, notes the straight-line connection between in-stream flow, better trout habitat, improved fisheries, and satisfied clientele on Smith river float-trips. "Helping them (TU) helps the fishery, helps local anglers, and helps our businesses. It's pretty simple," says Mike.

Previously, the FUND helped FWP build a fish ladder on Wolf Creek of the Missouri, paid for recreational studies on the Big Hole river, and revegetated banks along the Yellowstone in Paradise Valley near Livingston. The FUND matches membership dues and individual contributions with grants from major foundations to back small Montana conservation projects aimed at aiding fisheries and riparian habitat.

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