Cooperative Conservation Agreement

For

Yellowstone Cutthroat Trout within Montana

Between

Crow Tribe

Montana Department of Fish, Wildlife and Parks (MFWP)

Montana Department of Environmental Quality (DEQ)

Montana Department of Natural Resources and Conservation (DNRC)

USDA-Forest Service, Northern Region, Gallatin & Custer National Forests

USDI-Bureau of Land Management - Montana (BLM)

USDI-Fish and Wildlife Service (FWS)

USDI-Bureau of Indian Affairs (BIA)

Yellowstone National Park

Montana Department of Fish, Wildlife and Parks

Helena, Montana

SEPTEMBER 2000

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This Cooperative Conservation Agreement is made and entered into by the above parties collectively, hereafter referred to as the Yellowstone Cutthroat Trout Conservation Cooperators (Cooperators). This agreement is directed toward conservation of Yellowstone cutthroat trout as a unique subspecies in their historic range within Montana.

I. Purpose

The purpose of this agreement is to establish a framework for collaboration and cooperation between the Cooperators concerned with conservation of Yellowstone cutthroat trout. This agreement is designed to facilitate and encourage implementation of the necessary conservation actions, described in the Conservation Program, to protect, enhance and restore Yellowstone cutthroat trout within the historic range found in Montana. The Agreement also addresses the management needs associated with preservation of the unaltered genome and conservation of populations that express the Yellowstone cutthroat phenotype and other important life history and behavioral traits.

The intent of the Agreement and the Conservation Program is not total restoration of Yellowstone cutthroat trout into all waters that were historically occupied. Total restoration is neither feasible or acceptable for a number of reasons. Many habitats that historically supported cutthroat trout are no longer suitable. Desired non-native trout occupy many habitats and total removal of these fish is neither feasible nor socially acceptable.

The Cooperators seek to improve efficiency by combining efforts, fostering efficient working relationships and by promoting conservation of Yellowstone cutthroat trout as a component of their respective programs. Yellowstone cutthroat trout conservation represents a parallel effort similar to those currently underway for other native fish in Montana (e.g., westslope cutthroat trout, fluvial Arctic grayling, bull trout, pallid sturgeon, etc.)

II. Authorities and Restrictions

The signatory parties hereto enter into this Cooperative Conservation Agreement and any subsequent conservation actions under Federal, State and Tribal authorities, as applicable, and through established Memorandums of Understanding and other agreements.

With respect to species management associated with this agreement, the State and the Crow Tribe are viewed as having jurisdictional authority relative to species management. In addition, the Crow Tribe maintains jurisdictional authority for habitat and land use management on tribal lands.

All parties to this Agreement recognize that they each have specific statutory and regulatory responsibilities and authorities that cannot be delegated, particularly with respect to Yellowstone cutthroat trout population and habitat management and conservation and the management, development and allocation of land and water resources. Nothing in this Agreement and the

subsequent conservation actions are intended to abrogate any of the parties' respective responsibilities and/or authorities.

This Agreement is subject to and is intended to be consistent with all applicable Federal, State and Tribal authorities and governmental compacts.

This Agreement in no way restricts the Cooperators from participating in similar activities and actions with other public or private agencies, organizations or individuals.

Modifications to this Agreement may be made, with the concurrence of the Cooperators, by addendum, amendment, or revision.

All Cooperators agree to work together and participate in a collaborative process associated with the conservation of Yellowstone cutthroat trout and their habitats consistent with agreed upon conservation goals and objectives.

Nothing in this Agreement shall obligate any cooperator to expend appropriations or to enter into any contract or other obligation. This is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing and shall be independently authorized by appropriate statutory authority.

III. Status

Historically, Yellowstone cutthroat trout were the only trout known to occupy aquatic habitats within the upper Yellowstone River drainage in Montana. Yellowstone cutthroat trout probably gained access into the Yellowstone River via migration from the Snake River drainage at Two Ocean Pass some 8,000 years ago. At the time of the Lewis and Clark Expedition, this subspecies of cutthroat trout was prevalent in the mainstem Yellowstone River and in numerous tributary drainages. Historic accounts have indicated that Yellowstone cutthroat trout numbers were high and distributions far reaching. For the purposes of this conservation effort, Yellowstone cutthroat trout historical habitat will include the mainstem Yellowstone River and tributaries above the confluence of the Bighorn River. Historically occupied habitat also includes many of the tributaries to the Bighorn River but not the mainstem and several tributaries in the lower drainage. It has been estimated that approximately 4,300 miles of stream within Montana supported Yellowstone cutthroat trout. Within this area there would have been literally hundreds of populations existing in either an isolated or interconnected condition. Few lake dwelling populations of Yellowstone cutthroat trout were felt to have existed historically (i.e., possibly as few as two or as many as six lakes historically supported populations of Yellowstone cutthroat trout).

A recent assessment[1] of Yellowstone cutthroat within Montana reflects the influence of nonnative trout, altered habitat, and to a lesser extent overexploitation. Many of the influences originated in the late 1800s, and some have continued to influence Yellowstone cutthroat trout to the present time. This most recent assessment of Yellowstone cutthroat trout status indicates that 40 pure stream dwelling conservation populations have been identified. The assessment also addressed the relative condition of these populations and found that a significant number were at risk due to one or more of the following: 1) the limited amount of habitat being occupied; 2) the quality of that habitat; 3) the potential for hybridization, species competition and interaction; and, 4) land use influences on habitat quality.

The lake stocking program has significantly increased the number of lakes that currently support pure populations of Yellowstone cutthroat trout. At present, there are approximately 179 lakes that likely support pure populations of Yellowstone cutthroat trout (i.e., 46 lakes known to be self-sustaining, 72 receive hatchery plants, 61 yet to be evaluated). These lake populations may serve as a valued component of the conservation effort.

IV. Yellowstone Cutthroat Trout Conservation Goal and Objectives

Yellowstone Cutthroat Trout Conservation Goal: Ensure the long term persistence of the Yellowstone cutthroat trout subspecies within its historic range in Montana at levels and under conditions that provide for protection and maintenance of both intrinsic and recreational values associated with this fish.

Objective 1: Secure and Enhance. As a priority action, efforts to secure and enhance all known conservation populations will be accomplished through development and implementation of population specific conservation plans. Conservation populations include those populations that maintain the historic genome (i.e., genetically pure) and other populations that reflect slightly altered genotypes but maintain the Yellowstone cutthroat trout phenotype and other unique life history and behavioral traits. At the core of the conservation effort is preservation of those populations that reflect the unaltered genotype of Yellowstone cutthroat trout. Conservation focus is also extended to populations that exist in a slightly introgressed or hybridized condition (i.e., 10% or less introgression) and maintain unique life history or morphological characteristics. Each Population Conservation Plan will contain pertinent information and direction (e.g., current condition assessment, defined goals and objectives, identification of conservation actions, a time line for accomplishment, associated budgets, monitoring and evaluation needs, and roles and responsibilities) necessary for the protection, conservation and enhancement of the specific population. These plans are expected to change with time and updates and extensions will occur as the status of the population changes.

[1]Yellowstone Cutthroat Trout Current Status and Conservation Recommendations within the State of Montana. Executive Summary.

The priority for completion of the plans will rest first with the core conservation populations and secondly with the other conservation populations. The target date for completion of conservation plans for the genetically unaltered core populations is 2004. Plans for the other conservation populations should be completed by 2006

Additional conservation plans will be completed and implemented as new populations are found and/or created.

Pending completion of population conservation plans, conservation population habitat, on federal lands, will be protected and maintained by implementation of a land use coordination strategy. Application of the land use coordination strategy will be the same for all conservation populations (i.e., the genetically pure conservation populations and for the slightly introgressed (i.e., 10% or less hybridization) populations). At present 17 slightly introgressed populations have been identified and many others are expected to occur.

The following matrix provides a suggested schedule of conservation plan completion, by Conservation Area (CA):

	CA 1	**CA 2**	**CA 3**	**CA 4**
	(18 Pop's)	(9 Pop's)	(8 Pop's)	(5 Pop's)
Per Year Effort	4 to 5	3 to 4	2 to 3	1 to 2

Notes: 1. A brief discussion of the Conservation Areas will be presented at a later point of the agreement.

2. Montana Fish, Wildlife and Parks and/or the Crow Tribe, with input provided by the respective implementation team and Cooperators, will be responsible for conservation decisions associated with maintenance of hybridized populations. Most decisions relating to these hybridized populations are expected to occur within the time frame of this agreement.

Objective 2: Population Identification. Complete the effort to identify all currently existing stream populations by 2004. Efforts to identify additional populations will be a component of each Conservation Unit's annual program of work. The effort was begun in 1985 and has continued annually to the present time.

Objective 3: Population Restoration. As a priority conservation action, efforts to substantially expand the distribution of stream populations during the term of this agreement will be implemented through restoration and establishment of new populations. At this point, the specific level or schedule of population rstoration have not been determined. Population restoration will address several important factors including potential population size, population connectedness, and distribution within the historic range. An analysis of introduction opportunities is being completed (expected completion 2001). This analysis will serve as a reference to assist in final quantification of this objective.

Objective 4: Conservation of Lake Populations. Include lake populations as a valued component of the conservation effort by development and implementation of a management protocol that protects genetic integrity and population health of lake populations. The date for completion of the management protocol is 2001.

Objective 5: Public Outreach. Increase efforts to inform and educate the public on the various aspects of native fish conservation. An increased effort to provide technical assistance to private landowners, resources users and public land managers will be a significant component of this conservation program. These efforts will be ongoing, on an annual basis, throughout the term of this program.

Objective 6 Improved Coordination. Increase communication and coordination with the other States, Federal agencies, Tribal governments and others involved in Yellowstone cutthroat trout conservation.

V. Yellowstone Cutthroat Conservation Commitments

Conservation of Yellowstone cutthroat trout will be anchored to protection of all conservation populations as a mechanism to preserve genetic diversity and conserve unique traits and characteristics, and to provide for a reasonable starting point for long term preservation of this cutthroat subspecies.

Primary elements of the conservation program[2] include the following:

Conservation of Current Populations

- Secure and protect all conservation populations through development and implementation of population specific conservation plans. These plans will be developed by the respective Implementation Teams and approved by the Cooperators which are directly involved in implementation. As was previously indicated, it may be beneficial to preserve slightly hybridized cutthroat populations because they represent special adaptive life strategies and/or population characteristics felt to be of unique significance. In these situations, the respective populations will be treated the same as conservation populations with regard to habitat and population management.
- Isolate populations to prevent invasion by hybridizing and/or competing non-native fish.
- Restoration of habitat condition to nearly natural condition.
- On a case-by-case basis, enhance habitats to more optimal conditions.

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[2]Yellowstone Cutthroat Trout Conservation Program within the State of Montana. Prepared under the direction of Montana Fish, Wildlife and Parks

- Modify land uses to provide a high degree of habitat and population protection. Including implementation of a Federal land use coordination strategy associated with Yellowstone cutthroat trout conservation.on lands administered by the Forest Service and Bureau of Land Management.[3]
- Expand current populations within the context of their streams and watersheds.
- Lake populations will be viewed as a valued component of the conservation effort and they will be secured and protected by development and implementation of a management protocol that protects genetic integrity and population health.

Population Restoration

- Substantially increase the number of stream populations by restoring Yellowstone cutthroat into historic habitats and/or introducing them into certain waters, within the historic range, that did not historically support populations.
- Consideration will be given to replication of currently identified populations which retain their historic genotype.
- Consideration will also be given to situations that allow for creation of interconnected populations that will allow for gene flow under a metapopulation frame work.
- Use of a captive brood that is maintained in a genetically pure condition will be viewed as an important component of the restoration effort. The restoration guidelines[4] developed for westslope cutthroat trout (e.g., genetic protection, introduction techniques, use of captive brood, etc.) should be applied to Yellowstone cutthroat trout conservation.

Genetic Management

- Genetic purity is a major conservation consideration and criterion. Electrophoretic and DNA analyses presently provide reliable methodologies for determination of genetic purity. Those populations that are found to be genetically pure will be given the highest priority for preservation. These are the only populations that can serve as donor sources for restoration by translocation or by incorporation into a captive brood.
- Slightly hybridized populations will be maintained in the current genetic status or enhanced to preserve special life history adaptation and/or other important considerations. Habitats supporting these populations will be given the same level of protection as those habitats supporting pure populations until final conservation

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[3] A Land Use Coordination Strategy has been drafted that is applicable to both subspecies of cutthroat trout found in Montana. Draft version is found in Appendix C Yellowstone Cutthroat Trout Conservation Program.

[4]Final draft--Genetic Conservation of the Westslope Cutthroat Trout in the Upper Missouri River Drainage. Upper Missouri Westslope Technical Committee.

decisions are made and population conservation plans are developed. Montana Department of Fish, Wildlife and Parks and/or the Crow Tribe, with input provided by the respective implementation team and Cooperators, will be responsible for decisions relative to maintenance of hybrid populations. Hybrid populations are also important from a recreational fishery standpoint. These populations will likely provide the majority of fisheries opportunity.

General Fishery Management

- Catch-and-release regulations will be applied to existing conservation populations until such time as a greater degree of recovery occurs. This regulation will only apply to true stream populations and not those associated with lake environments unless specifically warranted. The ultimate conservation goal includes provision for all populations to be healthy enough to support some level of angler harvest.
- It is understood that, currently, most recreational stream fisheries for Yellowstone cutthroat trout will be based on hybridized populations. The goal is to make pure populations a greater portion of the recreational fishery in the future.
- Stocking of non-native trout will not be planned or carried out in drainages or portions of drainages that support pure Yellowstone cutthroat trout where such stocking has the possibility of impacting a pure Yellowstone cutthroat trout population. Stocking of non-native trout will not occur in habitats selected as potential restoration sites. This includes stocking in environments on both public and private land. As an additional safe guard, "state-of-the-art" barriers will be required on all private ponds within drainages that support pure Yellowstone cutthroat trout.
- In certain instances, Yellowstone cutthroat trout occupy portions of streams that are identified as Water Quality Limited Segments (WQLS). Efforts will be undertaken to eliminate and/or reduce the sources of "non point pollution" which are causing water quality concern.

Public Outreach

- A public outreach effort specifically addressing Yellowstone cutthroat trout conservation will be cooperatively developed and implemented by the agencies having responsibility for cutthroat conservation. The Council will facilitate development and implementation of outreach actions. Public outreach efforts will utilize the many and varied options available to get the native trout story to the public.

VI. Roles, Responsibilities and Conservation Considerations

All Cooperators agree to work together, collectively and individually, in the conservation of Yellowstone cutthroat trout and their habitat within their native range in Montana. The conservation effort will include consideration of the five criteria in Section 4(a)(1) of the Endangered Species Act of 1973, as amended, which include:

** Present or threatened destruction, modification or curtailment of habitat or range.

** Over-utilization for commercial, recreational, scientific, or educational purposes.

** Disease, predation, competition and hybridization.

** Inadequacy of existing regulatory mechanisms.

** Other natural (e.g., drought, fire, wind, precipitation, etc.) or human induced (e.g., socio-political) factors affecting continued existence.

Conservation Leadership Through a collaborative and cooperative process, MFWP will serve as lead in the conservation effort and will coordinate establishment of a Conservation Council (Council), assignment of a Conservation Coordinator, identification of Conservation Areas (CA) and establishment of Implementation Teams. The Cooperators agree to participate in and support the Council. The Council will be composed of both agency administrators and technical staff, and their collective responsibilities will be associated with screening of conservation actions, tracking of conservation efforts, and facilitation through agency support. MFWP will serve as the Council chair and at times may choose to delegate that responsibility to other Council members. As a component of conservation action, the Council will move to adopt the Yellowstone Cutthroat Conservation Program which will serve to provide general direction to the coordinated effort.

Conservation Council, Conservation Areas and Implementation Teams The Council will meet annually to review accomplishments and to ratify conservation actions. The Implementation Teams will be responsible for recommending annual programs of work for the respective Conservation Areas and implementation of the annual program of work chartered by the Council. A Conservation Area is a specific geographic area contained within the historic range of Yellowstone cutthroat trout. At present, 4 CAs have been identified and include: CA 1 (upper Yellowstone River drainage above Livingston, MT); CA 2 (Shields River drainage and other tributaries and main stem Yellowstone downstream to Sweetgrass Creek); CA 3 (middle Yellowstone River drainage from Sweetgrass Creek down to just below the confluence with the Clarks Fork); and CA 4 (the lower Yellowstone River which would include the drainage below the Clarks Fork). The Implementation Teams will be responsible for providing annual accomplishment reports and monitoring summaries. By design, Implementation Teams will be small (2 to 5 persons), focused groups having both technical capabilities and work responsibilities associated with Yellowstone cutthroat trout conservation and management. The Implementation Teams will be accountable to the Council. Leadership of the respective Implementation Teams will be at the discretion of the Council and anchored to recommendations from the respective Implementation Teams.

Other subteams and working groups may be created, as needed, by either the Council or a specific Implementation Team to address specific situations. All group efforts will operate under a collaborative process that fosters committed involvement, management by consensus, common goals, measurable objectives, a focus on needs not positions, team participation, responsibility and accountability, promotes a sense of accomplishment, and strives for open communication.

Conservation Coordinator(s) Through a collaborative and cooperative process, MFWP will also coordinate the establishment of a Yellowstone Cutthroat Conservation Coordinator(s) (Coordinator(s)) to serve as liaison between the Cooperators, the Council, the Implementation Teams and other interested parties. This individual(s) will serve as catalyst for action, an executive secretary to the Council, an advisor to the Implementation Teams, a mediator and negotiator in dispute resolution and as a conservation facilitator. The Coordinator(s) will be responsible to develop an annual accomplishment report.

Funding of Conservation Actions A considerable amount of conservation action has already been completed through the independent and combined efforts of the various Cooperators. These actions have been financed though the funding channels currently available. Through improved cooperation and coordination, the Cooperators anticipate that the additional funding needed to achieve the objectives of this Agreement will be secured. The following provides an initial identification of potential funding sources:

Federal Funding Sources Includes but are not limited to traditional agency and challenge cost share appropriations. Agencies include but are not limited to USDA Forest Service, USDI Fish and Wildlife Service, USDI Bureau of Land Management, USDI Bureau of Reclamation, USDI Park Service, and USDI Bureau of Indian Affairs. Other Federal funding could come from the National Fish and Wildlife Foundation (Bring Back the Natives Initiative) and the National Forest Foundation Land and Water Conservation (LWC) funds.

State Funding Sources Includes but are not limited to legislative appropriations, license sales, and special Future Fishery Initiative dollars. Funding may also come from local governmental agencies

Non Governmental Contributions Includes but not limited to contribution of dollars, services and/or materials necessary to the completion of the various conservation projects. Sources may include watershed groups, conservation groups individuals companies and corporations, and private trusts and foundations.

VII. Duration of Agreement

The initial term of this Agreement shall be five years. Prior to the end of the five year period, a thorough appraisal of conservation action will be completed by the Council and a recommendation, relative to termination or extension of the Agreement, will be forwarded to MFWP and the Cooperators. Any Cooperator may withdraw from this Agreement on sixty (60) days written notice to the other parties.

VIII. National Environmental Policy Act (NEPA) and Montana Environmental Policy Act (MEPA)

Signing of this agreement is covered under authorities outlined in Section II listed above. We anticipate that any survey, data collection or monitoring activities conducted through this Agreement will not entail significant Federal and/or State actions under NEPA or MEPA necessary to require formal analysis. Each signatory agency holds the responsibility to review planned actions for their area of concern to ensure conformance and compliance with existing management plans and necessary NEPA and MEPA procedures.

IX. Federal Agency Compliance

During the performance of this agreement, the Cooperators agree to abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of race, color, national origin, age, religion, gender, disability, familial status or political affiliation.

X. Signatories

We, the undersigned, accept the goals and objectives contained herein, will incorporate them into our respective planning and budgeting processes, and will strive to accomplish the goals and objectives within identified time frames:

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