



Stan Bradshaw
Staff Attorney
Montana Water Project

May 29, 2015

Michelle McGree
Montana Fish, Wildlife & Parks
Habitat Protection Bureau, Fisheries Division
P.O. Box 200701
Helena, MT 59620-0701

RE: Braziel Creek Future Fisheries Grant Application

Dear Ms. McGree:

I submit this and the attached Future Fisheries application materials to you on behalf of Trout Unlimited, Montana Water Project (TU MWP). Attached to this letter are the following:

- 1) Future Fisheries Grant Application
- 2) Supplemental questionnaire for leasing or salvage projects
- 3) Future Fisheries Budget Template
- 4) Attachment A, Map of project area
- 5) Attachment B, 2011-2012 Braziel Creek Restoration Project Report
- 6) Attachment C, Stitt Lease
- 7) Attachment D, Comparison of Flows in Braziel Creek, 2009-2014
- 8) Attachment E Photo of Braziel in June 2013

Please note that I am the contact person for TU MWP on this application. If you have any questions, don't hesitate to email me or call me that the number listed below.

Sincerely,

Stan Bradshaw

c.c. Ryen Aasheim

**FUTURE FISHERIES IMPROVEMENT PROGRAM
GRANT APPLICATION**

(please fill in the highlighted areas)

I. APPLICANT INFORMATION

A. Applicant Name: Trout Unlimited, Montana Water Project (TU MWP)

B. Mailing Address: PO Box 412

C. City: Helena State: MT Zip: 59624

Telephone: 406-449-9922 E-mail: sbradshaw@tu.org

D. Contact Person: Stan Bradshaw

Address if different from Applicant: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

E. Landowner and/or Lessee Name (if other than Applicant): Wade Stitt

Mailing Address: 1664 Lower Braziel Creek Road

City: Helmsville State: MT Zip: 59843-9141

Telephone: 406-793-5762 E-mail: hlm5761@blackfoot.net

II. PROJECT INFORMATION*

A. Project Name: Braziel Creek ten-year instream lease

River, stream, or lake: Braziel Creek

Location: Township: 12N Range: 10W Section: 10

Latitude: 46.8077028 Longitude: 112.8396583 *within project (decimal degrees)*

County: Powell

B. Purpose of Project:

To lease 0.5 cfs in a split-season water rights lease from Wade and Diana Stitt (Stitts) for instream use in Braziel Creek

C. Brief Project Description:

Braziel Creek, approximately 3.9 miles long, is a second-order tributary to Nevada Creek, which it joins about 2.0 miles downstream of the Nevada Creek Reservoir (Attachment A). Braziel Creek is home to a nearly pure strain of westslope cutthroat trout (Attachment B). Historic agricultural activity (livestock grazing and irrigation) left the stream over-widened and dewatered in late summer. In addition, the open ditch was found to entrain fish when sampled by MTFWP. In 2010, the Stitts embarked on a restoration project in partnership with the Big Blackfoot Chapter of Trout Unlimited (BBCTU) and other Partners (Blackfoot Challenge and DFWP) to restore the stream channel, recover the riparian area, replace the historic diversion, and install a fish screen.

In 2014, BBCTU, with other partners, including the Future fisheries Program, restored an additional 540 feet of Braziel Creek’s channel on the property immediately downstream from the Wade Stitt property.

About the same time TU MWP began to monitor flows in the ditch. See attachments D and E. Flow monitoring indicated that, by mid-July-and earlier in some years--irrigation severely dewateres Braziel Creek. In 2013, 2014, and 2015 BBCTU entered into single season, split-season arrangements to test the idea of late-season flow restoration and to maintain a base flow pending the completion of a change application. The Columbia Basin Water transactions Program and Trout Unlimited, Montana Water Project funded those agreements. Based on the experience in 2013 and 2014, the Stitts have entered into a ten-year lease for 0.5 cfs. (Attachment C) TU MWP is in the process of compiling an application for submission to DNRC.

D. Length of stream or size of lake that will be treated: 0.70 miles

E. Project Budget:

Grant Request (Dollars): \$ 12,400

Contribution by Applicant (Dollars): \$ 4,000 In-kind \$ 8432
 (salaries of government employees are not considered as matching contributions)

Contribution from other Sources (Dollars): \$ 36,000 In-kind \$
 (attach verification - See page 2 budget template)

Total Project Cost: \$ 54,832

F. Attach itemized (line item) budget – see template

G. Attach specific project plans, detailed sketches, plan views, photographs, maps, evidence of landowner consent, evidence of public support, and/or other information necessary to evaluate the merits of the project. If project involves water leasing or water salvage complete supplemental questionnaire (fwp.mt.gov/habitat/futurefisheries/supplement2.doc).

H. Attach land management and maintenance plans that will ensure protection of the reclaimed area.

III. PROJECT BENEFITS*

A. What species of fish will benefit from this project?:

Westslope cutthroat trout

B. How will the project protect or enhance wild fish habitat?:

The project will protect and enhance native fish habitat by securing critical minimum instream flows in Braziel Creek.

C. Will the project improve fish populations and/or fishing? To what extent?:

This project will improve resident cutthroat populations Braziel Creek and will provide recruitment to Nevada Creek.

D. Will the project increase public fishing opportunity for wild fish and, if so, how?:

It will lead to increased populations of westslope in Nevada Creek which is accessible in part of its reach to anglers.

E. If the project requires maintenance, what is your time commitment to this project?:

The landowners have signed a 10-year water lease with Trout Unlimited (see attached). Under the terms of the lease, TU is obligated to monitor flows in the protected reach for the life of the lease.

F. What was the cause of habitat degradation in the area of this project and how will the project correct the cause?:

Irrigation withdrawal. The project will secure critical minimum flows for resident fish.

G. What public benefits will be realized from this project?:

This project will build on previous restoration efforts on Braziel Creek, and public benefits include: 1) recruitment of recreational fisheries to the Nevada Creek, 2) increasing the amount of fishable water, 3) improved water quantity on-site and downstream.

H. Will the project interfere with water or property rights of adjacent landowners? (explain):

No. The project simply requires the reduction of diversion at the Braziel Irrigators' headgate. As a result, there is no change experienced by landowners upstream. Downstream, there will be an increase in flow to the mouth of the stream in mid-to-late summers, when flows decline. This flow increase poses no threat to other landowners—There are no other water rights on Braziel Creek below the Stitt ranch.

I. Will the project result in the development of commercial recreational use on the site?: (explain):

No. This project was instigated by the Big Blackfoot Chapter of Trout Unlimited to enhance the resident westslope cutthroat fishery in Braziel Creek. In addition, it's primary value to the recreating public is as a source of recruitment of fish to Nevada Creek.

J. Is this project associated with the reclamation of past mining activity?:

No.

Each approved project sponsor must enter into a written agreement with the Department specifying terms and duration of the project.

IV. AUTHORIZING STATEMENT

I (we) hereby declare that the information and all statements to this application are true, complete, and accurate to the best of my (our) knowledge and that the project or activity complies with rules of the Future Fisheries Improvement Program.

Applicant Signature:  Date: 5-29-2015

Sponsor (if applicable): 

*Highlighted boxes will automatically expand.

**Mail To: Montana Fish, Wildlife & Parks
Habitat Protection Bureau
PO Box 200701
Helena, MT 59620-0701**

**E-mail To: Michelle McGree
mmcgree@mt.gov**

**Incomplete or late applications will be returned to applicant.
Applications may be rejected if this form is modified.**

***** Applications may be submitted at anytime, but must be received by the Future Fisheries Program office in Helena before December 1 and June 1 of each year to be considered for the subsequent funding period.*****

FUTURE FISHERIES IMPROVEMENT PROGRAM

SUPPLEMENTAL INFORMATION SHEET FOR WATER LEASING OR WATER SALVAGE PROJECTS

The following additional information is requested to supplement the Future Fisheries Application for projects associated with water leasing or water salvage. Please complete this supplemental form and submit it as part of the Future Fisheries Grant Application.

- 1. Please complete the following table describing the water right(s) associated with the proposed project.** Note: Much of this information can be obtained either from your own water rights records or online at <http://www.dnrc.state.mt.us/wrd/home.htm> (choose “water rights” and then select an index to look up applicable claims)

RIGHT NUMBER; WATER SOURCE	POINT OF DIVERSION	QUANTIFIED FLOW (CFS)/ VOLUME (AF)/ IRRIGATED ACRES	PRIORITY DATE; PERIOD OF USE	RELATIVE PRIORITY ON WATER SOURCE	PURPOSE OF WATER RIGHT	OTHER CLAIMED ON THE STREAM SENIOR TO YOUR LISTED CLAIMS
76F 91870 Braziel Creek	NWNWSE SEC.10, 12N 10W	1.0 CFS/90 AF/ 33 irrigated acres	5/1/1874 May 1 st through September 30	3 th priority of 10 claims	Irrigation	Unquantified instream stockwater rights
76F 91871 Braziel Creek	NWNWSE SEC.10, 12N 10W	2.5 cfs/46 AF/ 33 irrigated acres	4/12/1903 May 1 st through September 30	7 th priority of 10 claims	Irrigation	The only quantified right that is senior is 76F 91870 (above). All other senior rights are Unquantified instream stockwater rights

- 2. In the last 10 years, has your full water right amount regularly been available at your point of diversion throughout your period of use?**

Yes / No (Please circle one)

Have you ever made “a call” on junior water users to obtain the water you needed (through a water commissioner or otherwise)?

Yes / No (Please circle one)

- 3. Please describe or include a summary of any measurements of the amount of water you have regularly diverted and how much typically flows by your diversion during different time periods. See attachment D.**

4. Has your local FWP fish biologist confirmed that your leasing/salvage project addresses a stream flow problem that significantly limits the fishery?

Yes / No (Please circle one)

5. How much actual water (often different than just the remainder of your water rights) will be added to the stream through completion of your project?

0.5 Please fill in and circle one – cfs / gpm / miners inches

What length of stream will benefit from this additional flow? (Note: Under certain circumstances, senior water can be protected legally from diversion by downstream junior users.)

.70 miles (please fill in or describe)

6. Is there a water commissioner on your stream? Yes No (Please circle one)

Are you willing to actively assist in monitoring and/or protecting the conserved water instream? Yes No (Please circle one and describe)

WORK ITEMS (ITEMIZE BY CATEGORY)	NUMBER OF UNITS	UNIT DESCRIPTION*	COST/UNIT	TOTAL COST	CONTRIBUTIONS			
					FUTURE FISHERIES REQUEST	IN-KIND SERVICES	IN-KIND CASH	TOTAL
Personnel								
Survey				\$ -				\$ -
Design				\$ -				\$ -
Engineering				\$ -				\$ -
Permitting	120	hours	\$30.30	\$ 3,636.00		3,636.00		\$ 3,636.00
Oversight				\$ -				\$ -
Labor				\$ -				\$ -
Monitoring	120		\$50.00	\$ 6,000.00	2,000.00	4,000.00		\$ 6,000.00
			Sub-Total	\$ 3,636.00	\$ -	\$ 7,636.00	\$ -	\$ 3,636.00
Travel								
Mileage	2080	miles	\$0.58	\$ 1,196.00	400.00	796.00		\$ 1,196.00
Per diem				\$ -				\$ -
			Sub-Total	\$ 1,196.00	\$ 2,400.00	\$ 796.00	\$ -	\$ 1,196.00
Water Lease								
Payment	10 years		\$5,000.00	\$50,000	10,000.00		40,000.00	\$ 50,000.00
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
			Sub-Total	\$ 50,000.00	\$ 10,000.00	\$ -	\$ 40,000.00	\$ 50,000.00
Equipment								
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
			Sub-Total	\$ -	\$ -	\$ -	\$ -	\$ -
Mobilization								
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
				\$ -				\$ -
			Sub-Total	\$ -	\$ -	\$ -	\$ -	\$ -

TOTALS	\$ 54,832.00	\$ 12,400.00	\$ 8,432.00	\$ 40,000.00	\$ 54,832.00
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*Units = feet, hours, inches, lump sum, etc.

MATCHING CONTRIBUTIONS

CONTRIBUTOR	IN-KIND SERVICE	IN-KIND CASH	TOTAL	Verified? (Y/N)
TU MWP	\$ 8,432.00	\$ 4,000.00	\$ 12,432.00	Y
CBWTP	\$ -	\$ 36,000.00	\$ 36,000.00	N
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	

Brazil Creek

Restoration objectives: Reestablish natural channel conditions, riparian area and flows capable of increasing westslope cutthroat trout numbers.

Project Summary

Brazil Creek drains a small tributary Nevada Creek (mile 24.5) located along the southeastern foothills of Hoodoo Mountain near Helmville. Brazil Creek is about 4 miles in length and generates an estimated base-flow of 0.5-1.0 cfs prior to entering Nevada Creek about 2.0 miles downstream of the Nevada Creek Reservoir. Prior to restoration activities in 2010, lower Brazil Creek was heavily altered from channelization; dewatering and heavy riparian grazing, all of which contributed to degradation of westslope cutthroat trout habitat. Furthermore, undersized culverts limited fish passage and cutthroat trout entrainment had been identified in one irrigation ditch. To improve conditions for cutthroat trout, a project was initiated that included

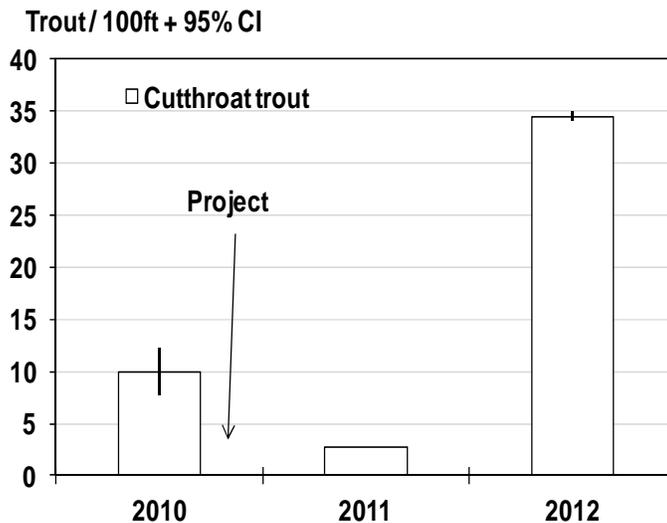


Figure 24. Estimates of trout abundance for age 1 and older westslope cutthroat trout in Brazil Creek at mile 0.2, 2010-2012.

reconstructing 1,500' of lower Brazil Creek, upgrading an undersized a county road culvert, installing a fish screen on the existing diversion and livestock were fenced from the project to allow vegetative recovery. The landowner has entered into a single season agreement with Trout Unlimited for 2013, which secures 0.5 cfs of minimum flows.

Fish population and other monitoring activities

Brazil Creek supports a simple fish community of westslope cutthroat trout and sculpins. Genetic testing in 2008 of the westslope cutthroat trout found mild (1.5%) introgression with rainbow trout. Prior to restoration, a fish population monitoring site was established in 2010 at mile 0.2 within the treatment area followed by two years of post-treatment monitoring (Figure 24). We also conducted a single pass electro-fishing survey of an irrigation ditch in 2011 on lower Brazil Creek to examine Coanda fish screen installed in 2010. The 2011 survey found no fish in the ditch, compared to a CPUE of 11 in 2010. Pre- and post-project flow monitoring has also been conducted through the project area, which highlighted an opportunity to secure late-season flows.

ATTACHMENT A: Brazil Creek reach proposed for protection by instream lease



Google earth

feet
meters



— Protected Reach

WATER RIGHTS LEASE AGREEMENT FOR INSTREAM FLOWS

THIS AGREEMENT is made between Trout Unlimited and Marjorie, Wade and Diana Stitt (Stitts).

RECITALS

1. Trout Unlimited enters into this lease agreement to provide for instream flows in Braziel Creek. Maintaining instream flows in Braziel Creek with a water lease pursuant to this agreement will benefit the recruitment of westslope cutthroat trout by providing rearing and resident habitat in the Creek.
2. The Stitts own water right claims as follows:

<u>No.</u>	<u>Flow</u>	<u>Purpose</u>	<u>Priority Date</u>
76F 91870	1.0 cfs	Irrigation	May 1, 1874
76F 91871	2.5 cfs	Irrigation	April 12, 1903

The Stitts and their predecessors in interest have diverted water from Braziel Creek since 1874 under water right claim no. **76F 91870**, and subsequently under water right no. **76F 91871**, and have used the water of Braziel Creek for flood irrigation.

The parties to this lease intend this agreement to accomplish instream flow purposes as set forth in the agreement pursuant to the provisions of section 85-2-407 and 408, Montana Code Annotated.

THEREFORE, the parties agree as follows:

1. **Lease of Water Right Claim.** Trout Unlimited leases part of water right claims nos. **76F 91870** and **76F 91871** in the amount of 0.50 cfs (20 miners inches)

when flows in Braziel Creek, as measured at the location described in Exhibit A, reach 0.5 cfs. When flows reach 0.5 cfs, the Stitts shall reduce or cease diversions to maintain a flow of 0.5 cfs. The purpose of use of the water will be to benefit the fishery of Braziel Creek.

- 2. Term of Lease.** The term of this lease shall be ten (10) years, commencing on the date that the Department of Natural Resources and Conservation (DNRC) approves this lease agreement and the associated applications for changes in use of the water rights claim, unless otherwise terminated by either party. No later than one hundred and eighty (180) days prior to the end of the term of this lease, Trout Unlimited will contact the Stitts to discuss renewal of the lease for an additional term.
- 3. Trout Unlimited Contributions.** In furtherance of this agreement, Trout Unlimited shall:

 - a) Pay the Stitts a total of up to fifty thousand dollars (\$50,000.00)

 - i) TU shall pay Marjorie Stitt twenty-five thousand dollars (\$25,000) and Wade and Diana Stitt twenty-five thousand dollars (\$25,000).
 - b) The parties recognize this payment represents compensation for the Stitts foregoing irrigation during low flows, as described in paragraph 1, above.
- 4. Stitts' Contributions.** In furtherance of this agreement, the Stitts shall:

 - a) Lease to Trout Unlimited water rights described in section 1 of this lease;
 - b) afford Trout Unlimited or its designated representatives reasonable access to Braziel Creek at the measuring site in order for Trout Unlimited to carry out its flow monitoring obligations described in paragraph 6; and

- e) Cooperate with Trout Unlimited to provide information necessary to complete the application for changes in use of the water rights claim.
5. **Flow Measuring Program.** Trout Unlimited shall implement whatever flow measuring program that DNRC requires in approving the application for change.
6. **Funding the lease.** The Stitts acknowledge that funding is dependent upon grant availability from federal, state and private funds. Trout Unlimited shall not be liable for failure to provide funds that have been committed to the project for reasons beyond its control. The parties agree that the loss of available funds that have been committed to the project shall not obligate Trout Unlimited to the Stitts. If Trout Unlimited is unable to provide funding committed to this project, the Stitts are released from any obligation to honor the terms of the lease, and Trout Unlimited shall execute any and all documents necessary to change the purpose and place of use back to that in existence at the date of execution of this agreement.
7. **Changes in Purpose of Use.** The parties recognize that DNRC must approve the changes in the purpose and place of use for part of water right claim nos. **76F 91870** and **76F 91871**. While Trout Unlimited cannot act as the Stitts' legal representative in any proceedings before DNRC, it will compile the application and any documentation required by DNRC in its review of the necessary change. Trout Unlimited's compilation of the application is subject to whatever review and modification that the Stitts or its representatives consider necessary. If DNRC does not approve the application and lease agreement, or if DNRC imposes conditions of approval unacceptable to either party, this agreement shall

terminate. Upon termination of this agreement, Trout Unlimited agrees to execute any and all documents required to change the purpose and place of use to back that in existence at the date of execution of this agreement.

- 8. Default.** If either party fails to perform material duties described in this agreement, the other party may serve a written notice specifying the default. The defaulting party shall have thirty (30) days from the date written notice of the default is received to correct the default if it is correctable. If the default is not correctable or is not corrected within thirty (30) days, then the non-defaulting party may terminate this agreement without further notice.
- 9. Reimbursement for Early Termination.** If, after payment of the amount described in section 3(c), the Stitts or its successor in interest terminate this lease for any reason, they shall reimburse Trout Unlimited a pro rata share of the lease payment based on the difference between the term of the lease and the time completed before termination.
- 10. Notice.** Any notice given under this agreement must be in writing and must be served on the party to receive it by registered or certified mail, return receipt requested and sent to the party's address as set forth below. A party wishing to change its designated address must do so in a writing sent to the other party. Notice served under this provision shall be complete when deposited in the United States mail. Refusal to accept or failure of delivery because of a changed address for which no change-in-address was given shall be considered receipt of notice. Trout Unlimited's liaison address is:

Pat Byorth
Montana Water Project

Trout Unlimited
321 East Main Street, Ste. 411
Bozeman, MT 59715

The Stitt's Address is:

Wade and Diana Stitt
1604 Lower Braziel Creek Road
Helmville, MT 59843

- 11. Pending adjudication.** Trout Unlimited leases the Stitts water right claims subject to the statewide adjudication. The Stitts are responsible for pursuing the Water Court adjudication of the water right claim being leased. If the water right claim is not upheld, or is reduced significantly, in the adjudication, the Stitts are entitled to use a greater portion of the waters rights subject to this lease so that his irrigation need will be met.
- 12. Abandonment of Water Rights.** Nothing in this agreement shall be interpreted to express an intent to abandon the water right claim leased in this agreement, or the underlying rights to maintain and use the ditch which has previously conveyed the water that is the subject of this lease. Pursuant to 85-2-404(4), MCA, the parties affirm that the lease of the water right claim hereunder does not constitute an abandonment of that water right claim, and cannot serve as evidence that could be used to establish an abandonment of any part of that water right claim.
- 13. Indemnification.** Trout Unlimited shall indemnify and hold harmless the Stitts against any claim or action by third parties challenging the use of the water leased under this agreement by Trout Unlimited, challenging the validity of the statutes allowing the lease of water for instream purposes, or challenging the validity of this lease agreement on any grounds.

14. Binding Effect. The provisions of this lease are binding on the heirs, personal representatives, administrators, and successors of the parties to the same extent as on the original parties, except as otherwise provided by mutual written consent.

15. Cooperation. The parties to this agreement shall cooperate fully and shall provide such assistance and information as may be necessary to implement this agreement.

16. Attorney Fees and Costs. If legal action is brought to enforce this agreement, the prevailing party shall be entitled to recover reasonable attorney fees and costs incurred in bringing or defending the action.

Wade Stitt

Wade Stitt
1604 Lower Braziel Creek Road
Helmville, MT 59843-9141

Date: 2-19-2015

Diana Stitt

Diana Stitt
1604 Lower Braziel Creek Road
Helmville, MT 59843-9141

Date: 2-18-15

Marjorie Stitt

Marjorie Stitt by Wade Stitt POA
1604 Lower Braziel Creek Road
Helmville, MT 59843-9141

Date: 2-19-2015

Trout Unlimited

By Scott Walls
311 East Main Street, Ste. 411
Bozeman, MT 59715

Date: 3-4-2015

ATTACHMENT D

2009-2014 flow comparison Braziel Creek

<u>Date</u>	<u>Abv Diversion</u>	<u>Blw Diversion</u>	<u>Diversion</u>
5/19/09	11.10	9.02	2.08
5/26/09	9.40	5.55	3.85
6/3/09	5.25	3.81	1.44
6/3/09	4.00	4.00	0.00
6/18/09	2.14	0.93	1.21
7/6/09	1.15	0.67	0.48
8/10/09	0.950	0.36	0.59
8/31/09	0.487	0.34	0.15
5/5/11	5.33	5.33	0.00
5/13/11	16.20	16.2	0.00
5/31/11	10.90	10.9	0.00
6/15/11	11.90	11.9	0.00
6/20/11	7.13	7.13	0.00
7/5/11	2.85	1.61	1.24
4/23/12	16.60	16.60	0.00
5/10/12	8.44	8.44	0.00
6/7/12	6.42	6.42	0.00
7/13/12	1.42	0.45	0.97
7/20/12	1.24	0.23	1.01
7/27/12	1.13	0.23	0.90
8/10/12	0.92	0.23	0.69
8/20/12	0.71	0.34	0.37
8/28/12	0.71	0.41	0.30
5/3/13	1.28	1.28	0.00
5/16/13	2.27	1.28	0.99
5/30/13	2.75	2.48	0.27
6/8/13	3.66	2.37	1.29
6/12/13	2.47	1.41	1.06
6/13/13	3.5	2.48	1.02
6/18/13	1.93	1.700	0.23
6/25/13	2.2	1.930	0.27
7/1/2013	1.02	0.44	0.58
7/5/2013	0.81	0.41	0.40
7/19/2013	0.48	0.34	0.14
8/5/2013	0.3	0.27	0.03
8/21/13	0.34	0.34	0.00
4/14/14		3.14	
5/5/14		13.43	
5/20/14		10.3	
6/2/14		3.27	

6/12/14				0.89		
7/24/14				0.48		

