



MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

THE **OUTSIDE** IS IN US ALL.

Meeting Date: February 4, 2022

Agenda Item: Rock Creek Lease Renewal

Action Needed: Final Approval

Time Needed on Agenda for this Presentation: 5 Minutes

Background: FWP seeks Commission approval to renew a water right lease on Rock Creek near Garrison, MT in the Upper Clark Fork River Basin. In 2000, FWP and others contributed to a water conservation project on Rock Creek that involved a flood to pivot irrigation conversion including a fish screen, pipeline and two center pivots. The conversion project made available up to 27.22 cubic feet per second (cfs) of water to be leased for purposes of instream flow. The term of the original lease was for 20 years. During that time, Bighorn Cattle Ranch LLC purchased the irrigated ground and water rights from the original lessor. There are a total of six water rights in this lease, including the second and third priority rights on Rock Creek. This project has effectively re-watered 1.5 miles of Rock Creek that were often dewatered due to historic irrigation practices. At the time the project was first considered, the value of the water leased was estimated to be \$3.00 per acre-foot per year. In the water rights change process, DNRC found a total volume of 6,831.76 acre-feet. FWP is proposing to pay the owner \$4.76 per acre foot, which is the original \$3.00 rate adjusted for inflation using the Consumer Price Index. The annual cost would be \$32,520, payable in one lump-sum of \$325,200 for the term of the 10-year renewal. Bighorn Cattle Ranch has tentatively agreed to this amount. FWP has not yet fully identified funding, but if approved by the commission would request an Upper Clark Fork remediation fund grant from the Natural Resource Damage Program. If successful, FWP would match NRD funding with Department funding appropriated for these purposes.

Public Involvement Process & Results: If approved by the commission renewal of the lease would be contingent upon a 90-day notice period, issued by the DNRC, which allows other water uses to assert that their water rights would be adversely affected by the change to instream flow. If a viable objection is filed, FWP would work with the objector and DNRC to address the concern.

Alternatives and Analysis: If FWP does not renew the water right lease, the water rights involved in the lease would revert to their historic uses. The owner would have options available under the Water Use Act including possibly marketing the salvaged water for mitigation or putting it to other beneficial use. It is unlikely but possible that the owner would convert back to flood irrigation.

Agency Recommendation & Rationale: FWP recommends the commission authorize the Department to renew the water lease on Rock Creek near Garrison, MT for a term of ten years.

Proposed Motion: I move the commission approve the renewal of the water lease on Rock Creek near Garrison, MT for a ten-year term.