

Governor's Upper Yellowstone River Task Force
Meeting Transcription
August 19th, 2003
Yellowstone Inn
Meeting began at 7:00 p.m.

I. Introductions

Members Present:

John Bailey, Chair
 Andy Dana
 Steve Golnar
 Michelle Goodwine

Dave Haug, Vice Chair
 Jerry O'Hair
 Brant Oswald
 Ed Schilling

Rod Siring
 Bob Wiltshire

Robert Ray, DEQ Ex-Officio
 Laurence Siroky, DNRC Ex-Officio

Allan Steinle, Corps Ex-Officio
 Joel Tohtz, FWP Ex-Officio

Others Present:

Liz Galli-Noble, Coordinator
 Kelly Wade, Secretary
 Jacqueline Isaly, Assistant

Tom Arrandale
 Karl Biastoch
 Tom Hallin
 Burt Williams

Tom Hallin
 George Jordan
 Jason Lehmann
 Robert White

Bill Moser
 Peter Schmidt
 Georgine White

II. Prior Meeting Minutes

Dave Haug moved to approve the August 12, 2003 minutes as written. Jerry O'Hair seconded the motion. The motion passed unanimously.

III. Financial Updates

EXPENDED GRANTS			
Grant Name	Completed	Amount	Study Component
DNRC Watershed Planning Assistance Grant	6/30/99	2,100.00	Physical Features Inventory
DNRC HB223 Grant	7/30/99	10,000.00	Aerial photography
DNRC Riparian/Wetlands Educational Grant	6/30/00	960.99	<i>Hydrologic Response to the 1988 Fires Workshop</i>
DEQ 319 Grant (1 st)	9/30/00	40,000.00	Coordinator position
DNRC Watershed Planning Assistance Grant	1/31/01	10,000.00	Watershed Land Use Study
DEQ Start-Up Grant	6/26/01	49,138.00	Coordinator position, Admin secretary, additional cross-sections, operating expenses
DNRC HB223	10/1/01	6,500.00	Riparian Trend Analysis
BLM Funding	10/26/01	10,000.00	Wildlife Study
DEQ 319 Grant (2 nd)	3/21/02	58,000.00	Coordinator position
DEQ 319 Grant (3 rd)	9/30/02	44,000.00	Coordinator position
EPA RGI Grant	12/20/02	30,000.00	Geomorphology study
CURRENT GRANTS			
Grant Name	Amount	Spent	Remaining Balance
DNRC RDGP Grant (expires 7/03)	299,940.00	288,621.63	11,318.37
DEQ 319 Grant (4 th) (expires 3/04)	122,200.00	83,589.95	38,610.05

Liz Galli-Noble: Of the #38,610 remaining, eight percent will be paid to the Park Conservation District as administration fee.

IV. Step 3. Steps for Formal Action on Task Force Recommendations

John Bailey: I want to read this. In Step 3 of our *Steps for Formal Action on Task Force Recommendations* it says:

#3. Adoption of Final Set of Recommendations

- a. *Prior to finalizing its recommendations to be forwarded to the Governor, the Task Force will accept public comment (written only) on the recommendations previously adopted in Step 2.*
- b. *At its last meetings during which the Task Force finalizes the complete set of recommendations to be forwarded to the Governor, Task Force members may not propose new recommendations, but may propose modifications, amendments, or deletion of any of the previously adopted recommendations in Step 2 for any reason, including but not limited to:*
 - i. *To address concerns expressed by a task Force member's constituency or the public about the original recommendation;*
 - ii. *To eliminate potential conflicts between recommendations*
 - iii. *To delete redundant or duplicate recommendations;*
 - iv. *To integrate scientific studies and data more efficiently into the recommendations; or*
 - v. *To correct clerical, typographic, transcription, grammatical, or rhetorical errors.*
- c. *The Task Force will adopt for transmittal to the Governor a complete set of recommendations based on the individual recommendations adopted by consensus pursuant to Step 2 above, as such recommendation may be modified, amended, or deleted by consensus pursuant to Step 3b above.*
- d. *The final set of recommendations must be approved by the Task Force for transmittal to the Governor by consensus.*

So, to the members of the public who are here and may not be aware, it is possible that we'll finish tonight; it is also possible that we won't finish tonight. I'm assuming that we'll be going through the recommendations one by one, or by addressing them as a group because some of them may match up with others. We may reach consensus on those, on changing those, or whatever we do to each one. But before we finish, we have to reach consensus on the total, the full package recommendations. I just want everyone to understand that there is, in a sense, a two-step process here. We have to either accept the recommendation as written, or if we are changing it, we must then reach consensus on the new language, and then at the end reach consensus on the total. My understanding of Step 3, and the reason we asked for written comment, is that in Step 3 only Task Force members can speak. Okay? Do you understand me? Task Force?

Now, I'm assuming that if a Task Force member wants to ask someone in the public for clarification on a particular topic or issue, and we may have someone here that can provide clarification, that will be allowed. Otherwise, I'm very happy members of the public are here, but you will not be allowed to speak at this meeting, unless requested, and the reason for that at some point we need to end and we have to try to come to closure. I want to take a few minutes right now and allow the Task Force members to do one more review of the comments that we have received. There are quite a few new interesting and very good comments that have recently come in and I want to make sure that everyone has had a chance to review them.

Bob Wiltshire: Before we do that, I have a question. I noticed that Steve Golnar (City of Livingston Manager) is sitting here tonight. My understanding is that Jim Woodhull is the member of the Task Force representing the City of Livingston.

John Bailey: My understanding is that the City of Livingston has a seat on the Task Force, and they can put whomever they want in it.

Bob Wiltshire: My question would be, who did the Governor send an appointment letter to?

John Bailey: The City, correct?

Steve Golnar: I think we designated Jim Woodhull as the appointee, but the City has the slot which is identified in the resolution that created the Task Force.

Bob Wiltshire: I would like to go on record then expressing a very strong disappointment in the City for substituting their representative at the last minute. This has been a long, lengthy process and we've all invested a great deal in this, and for the City to have Steve step in at the last minute I feel is very unfair to the rest of us.

Steve Golnar: Could I comment? The reason that I'm here tonight is because I've been here the last couple of times, and the reason for that is that Mr. Woodhull has not been able to attend these meetings because of conflicting meetings with the creation of a new planning board for the City. We thought it would create some consistency and provide some sort of input. We talked about it, and Mr. Woodhull suggested that I attend, versus he. That's why I am here.

John Bailey: Any other comments? We're in Step 3, but I asked for other comments before we break. I think, Bob, if we look at the County, their person resigned, so they appointed a new person.

Liz Galli-Noble: Changing the subject a bit, I just want to remind the Task Force members that Andy Dana just gave you a new handout with his comments concerning the recommendations. When you review the packet of comments received, I would suggest paying particular attention to Andy's new handout and to Public Comment #8, both of which you likely have just received this evening; the others you have already received from me over the past few days. All the other comments that we have received from the public concerning the recommendations are in order in your stack, one through nine, and Andy Dana's is #10.

John Bailey: I'd like to take some time to let people read through these comments. A question I have is are the numbers on all of the public comment in reference to the last set of recommendations, or to some earlier version of the recommendations?

Liz Galli-Noble: Most refer to the present (August 19) set of recommendations. However, Peter Ismert's comments (#6 in your packets) refer to the August 5 meeting recommendations; I specifically typed that at the top of the handout and included those recommendations as an attachment to that handout. I also noticed that Glenn Phillips' comments may also be referring to the August 5th version. I'm sorry for the confusion.

John Bailey: So, numbers referenced here might not agree with the final set that we have? Thank you. That was my understanding, but I wanted to make sure everyone was aware of that.

Took a 15-minute break.

John Bailey: I was very happy to read the minutes from the August 19th meeting to realize that Andy brought up trying to get some standardization into the recommendations, and I appreciate the time that was put into this. For the public, we're going to start with the rewritten, and you'll see them up on the screen behind me, a ~~strikeout~~ means a word has been taken out, an underline means words have been added. These were done by Liz and Andy Dana, so we'll have to either agree to the change or we may want further changes. Do we want to go number by number, is that your choice?

Andy Dana: I think so.

Note: Edits to the original consensus recommendation language were proposed by Andy Dana and Liz Galli-Noble, and are shown as underlined text (new or modified language) or ~~strikeout text (deleted language)~~. Italicized text indicates edits made to proposed recommendations by Task Force members in their discussion during this meeting.

John Bailey: All of these recommendations are preceded by: "The Governor's Upper Yellowstone River Task Force recommendations that..."

Okay, so under the topic Bank Stabilization, recommendation #1. Do I need to read these?

BANK STABILIZATION

Proposed recommendation:

#1. “Crete A local Bank Stabilization Information Clearinghouse should be created to provide information about new and existing methods of bank stabilization, including methods that complement the natural system and methods that might be appropriate for specific individual situations.”

John Bailey: Any comments on this?

Bob Wiltshire: Just to get the ball rolling, I didn’t see any comments from anybody in the public about this one. I personally think the standardization change is fine—and I think that unless somebody from the Task Force wants to speak up, if they have a problem with this one—we’re kind of all nodding that we are fine with it, then we should move onto the next one.

John Bailey: Do we have consensus on #1? We have reached consensus. Thank you.

#1. Recommendation Approved by Consensus:

“A local Bank Stabilization Information Clearinghouse should be created to provide information about new and existing methods of bank stabilization, including methods that complement the natural system and methods that might be appropriate for specific individual situations.”

Proposed recommendation:

#2. ~~“The Task Force recommends that~~ Future decisions be made only after thorough consideration has been given to the geomorphology of particular river reaches and their different inherent characteristics.”

Andy Dana: John, this is one that I had proposed some rewrites on, in the memo that I circulated around; and this is in response to my own thoughts, but also some of the public comments to tie the decisions to regulatory and river management decisions. Some people in the public wanted it just to address bank stabilization, but my recollection of the discussion was that it was a bit broader than that. I also suggested that we tie this to the upper Yellowstone River, and for grammatical reasons, I suggest that we add that decisions “should” be made.

Proposed edits:

#2. ~~“The Task Force recommends that~~ Future *regulatory and river management* decisions *pertaining to the Upper Yellowstone River* should be made only after thorough consideration has been given to the geomorphology of particular river reaches and their different inherent characteristics.”

John Bailey: Wasn’t one of the reasons we made it broader than future bank stabilization is the hope that there might be changes in the permitting process as well? Am I right?

Andy Dana: Yes, I recall that as well, so we don’t want to tie it just to bank stabilization; so I added “regulatory and river management.”

John Bailey: Yes, there were a lot of comments on this one. Any other comments on recommendation #2? Sorry, not from the public.

Bob Wiltshire: Yes, I would just say that we received a couple of written comments that encourage us to expand beyond just geomorphology, and I don’t know if we need to do that or not, but I know that there are people who think we do.

Jerry O’Hair: Well, along with that, what about recommendation #5? I think #5 sort of dovetails into #2. I think it is very similar in what it says, except that it goes a little further.

Proposed recommendation:

#5. "All permitting and/or regulatory management decisions (including the SAMP) must recognize and respect:
(a) the function of the flood plain, including but not limited to: connectivity between the river channel and the flood plain; regeneration of cottonwoods and other riparian vegetation; and maintenance of side channel habitat for spawning and juvenile fish; and
(b) the public and private interest in protecting private property and important social, economic, and natural resources existing on or near the flood plain of the Yellowstone River."

John Bailey: My understanding, if I remember correctly, #2 was that the science showed us that there were different river types, and as I recall we spent a lot of time deciding what river type you're using; and we were just trying to say that it was tied to the different river types. One river type being Yankee Jim, it's entrenched, you don't want to do the same regulatory thing as you do out on the very broad stretches. And as I recall, we spent a lot of time on those words, and obviously we got everyone confused. But that was the intent, I believe, and then #5 is tied to the SAMP. They are similar, I agree Jerry, but I'm not sure they necessarily go together.

Bob Wiltshire: I think there are a lot of similarities, but I think the key difference in my mind is that in #2, we want to talk about the peculiar, unique characteristics of the reaches, that each reach was different; and we don't deal with that in #5. I think we could deal with that by eliminating #2, and putting a letter "c" under #5, along the lines of something recognizing the unique characteristics of each reach, or some sort of reach language in #5, and handle it that way.

John Bailey: Comments on Bob's idea?

Andy Dana: That would be fine with me. I guess Roy isn't here, I think this was Roy's proposal initially, but I think a "c" would be fine with me, 5c.

John Bailey: Are people comfortable? Do we want to move towards eliminating #2 and adding "c" to #5? Is anybody uncomfortable with that?

Jerry O'Hair: John, the change as proposed I didn't like on #2.

John Bailey: I think we are going to have to work it out. What I want to do is see if we want to try to work that out. That is what I was asking. Do we want to go to #5 and try to incorporate #2 into it? If we do #2, it will be in there. I'm not seeing anybody saying no, so I assume that we've reached consensus to try to do that. We haven't eliminated #2 though.

Bob Wiltshire: I would suggest that at #5c, we take #2, as Andy has suggested changed. I'm just trying to get all the grammar straight here in my mind, if possible.

Proposed edits:

#5. "All permitting and/or regulatory management decisions (including the SAMP) on the upper Yellowstone River should thoroughly consider and must recognize and respect:

- (a) the function of the flood plain, including but not limited to: connectivity between the river channel and the flood plain; regeneration of cottonwoods and other riparian vegetation; and maintenance of side channel habitat for spawning and juvenile fish; and
- (b) the public and private interest in protecting private property and important social, economic and natural resources existing on or near the flood plain of the Yellowstone River; and
- ~~(c) Future regulatory and river management decisions pertaining to the Upper Yellowstone River should be made only after thorough consideration has been given to the geomorphology of particular river reaches and their different inherent characteristics."~~

John Bailey: Do we need to go back and tie it to the geomorphic reaches? A lot of people are confused by what we're talking about, because it seems like they don't know what those reaches are; they have no way to determine that. If we tie it to the study, then they can at least have something concrete when we're talking about it. Somebody else can interpret this totally differently.

Andy Dana: I would not be too comfortable with that because we would be tying this recommendation to a static study, and we had some discussion at one point about how the reaches and the definitions of those names and characteristics might change as science progresses. So I think we should keep it broad. That would be my recommendation on that. Joel raised a question (in my ear) and I think it is a legitimate one, that #2 was so broad initially that it—because it just talked about future decisions that that would imply that landowners and anyone else making a management decision along the Yellowstone—that is not a permitting or regulatory management decision, should consider the geomorphology. I think that may be lost in this version, but it may not be, if you read regulatory management decisions broadly.

Bob Wiltshire: If we switched that around and started off with “all upper Yellowstone River”...does that then limit it?

Andy Dana: If we strike the word “regulatory,” that might accomplish it.

John Bailey: Comments? Any more comments on what we are about to do, which is eliminating #2, and accepting #5.

Robert Ray: Just a bit of wordsmithing. You might want to get rid of “Yellowstone” in #2 since you’ve said it at the outset, about the upper Yellowstone River, “flood plain of the Yellowstone River” seems redundant when you’re already talking about the upper Yellowstone River.

John Bailey: Other comments? Are we comfortable with this, Task Force? Okay, this reaches consensus. Recommendation #2 is combined with the following final recommendation #5.

#5. Recommendation Approved by Consensus:

“All permitting and/or management decisions (including the SAMP) on the upper Yellowstone River should thoroughly consider and must recognize and respect:

- (a) the function of the flood plain, including but not limited to: connectivity between the river channel and the flood plain; regeneration of cottonwoods and other riparian vegetation; and maintenance of side channel habitat for spawning and juvenile fish; and**
- (b) the public and private interest in protecting private property and important social, economic, and natural resources existing on or near the flood plain; and**
- (c) the geomorphology of particular river reaches and their different inherent characteristics.”**

John Bailey: Comments on recommendation #3?

Proposed recommendation:

#3. “~~That~~ Studies should be developed which would indicate what types of bank stabilization would work best to achieve particular goals within different geomorphic reaches of the upper Yellowstone River.”

Bob Wiltshire: I guess to break the silence, first of all I like the standardization change, I don’t have a problem with that. As I saw it, we have two written comments that directly address this one. One of them suggested that we expand it to mandate that existing studies be catalogued and where insufficient data exist we propose new studies. I personally have some trouble with that. Existing studies indicated that the work that Jerry did following the 1996 flood was going to protect him forever, and we’re dealing with a unique system here. I don’t think we can take a study that was done in Pennsylvania and say that that is going to work here. It seems to me that the other comments are actually, in my mind, almost addressed, and I like it the way we have it.

Andy Dana: To a certain extent the cataloguing may take place with the Bank Stabilization Clearinghouse too.

John Bailey: Comments? Okay, I’m going to ask if we have consensus on #3 as changed? Are we all comfortable with this? Okay, this reaches consensus.

#3. Recommendation Approved by Consensus:

“Studies should be developed which would indicate what types of bank stabilization would work best to achieve particular goals within different geomorphic reaches of the upper Yellowstone River.”

PERMITTING / REGULATORY / MANAGEMENT DECISIONS

Proposed recommendation:

#4. ~~That~~ The existing streamlined uniform permit application process should be continued among local, state, and federal permitting agencies.”

Andy Dana: I guess my one comment on this might be a concern about whether we’re locking ourselves into the existing application process, without leaving room for improvement.

Bob Wiltshire: The one written public comment that I have actually requests us to ask for a further combination, cooperation, consolidation to further streamline the process. I am very reluctant for us as a Task Force to mandate to the agencies that they have to further streamline—if there are ways to do it, I don’t have a problem with that—but I don’t want to tell them they have to do it, because it could be that they’ve gone through a lot of that already, and I’m not close enough to that process to know.

Jerry O’Hair: If we drop the word “existing,” would that allow for future changes?

Andy Dana: Dave, I’m just wondering if you have any thoughts about this, as somebody who sits in the crosshairs.

Dave Haug: Well, I don’t think it’s bad to improve the efficiency of anything, if you can figure out a way to cover the bases and yet make it a little more efficient for the rancher trying to get a permit. If there is some duplication there and they want that out, I think it’s good to do away with it. That’s one of the things that is supposed to work.

Andy Dana: Maybe if we reword it to “the existing streamlined uniform permit application process,” and then “local, state, and federal permitting agencies should be continued and, if possible, improved.” Or “when appropriate” or “when possible.”

Proposed edits:

#4. ~~That~~ The ~~existing~~ streamlined uniform permit application process ~~should be continued~~ among local, state, and federal permitting agencies should be continued and, when possible, improved.”

Robert Ray: Andy, as an alternative, could I suggest perhaps to just say “a streamlined, uniform permitting application process” might address that as well? In other words, “a streamlined, uniform permitting application process should be continued.” Not to say what that should be, because it could be improved potentially, but perhaps it can’t be; so if we just say that what we’ve got is good, and to continue to use it.

Allan Steinle: I’ll just add that right now we’re going through a revision of the joint application form to try to make it more user-friendly. So if you make that recommendation, it is one that we can actually meet.

Andy Dana: I think the genesis of this recommendation was that we wanted to give a pat on the back to the agencies who developed the existing streamlined permit process, so I would kind of like to keep it the “streamlined, uniform permitting process.” And if we add the qualifier that we can improve it when possible, then that meets Allan’s criteria of actually doing something that they are already doing. I think I would like to leave it like this.

Laurence Siroky: I have a suggestion: between “uniform” and “permit” put “multi-agency,” because that was really the purpose, to have one application that several agencies would utilize.

Andy Dana: I think we’ve covered that by saying “among local, state, and federal permitting agencies” below it.

Brant Oswald: Well, I thought Jerry's first comment was a really good one, that the one thing that might clarify this is the one thing we haven't struck, the word "existing," which to me seems to get at the objection that some people had to the recommendation, which is that it ties us to the existing process.

John Bailey: I'd better read this because I don't even know what it says now. Recommendation #4 reads, "The streamlined uniform permit application process among local, state, and federal permitting agencies should be continued and, when possible, improved."
Any further comments? Are we comfortable with this? It reaches consensus. Thank you.

#4. Recommendation Approved by Consensus:
"The streamlined uniform permit application process among local, state, and federal permitting agencies should be continued and, when possible, improved."

John Bailey: Okay, #5 we've taken care of. We move to # 6. Comments?

Proposed recommendation:

6. "~~To continue~~ Policies should be continued that allow for the removal of large woody debris on a localized basis to protect public and private infrastructure, to assure public safety, and to allow side channel function when necessary."

Bob Wiltshire: John, I didn't see any public comment on this one. I like the revisions that Liz and Andy have suggested, and I like this one now.

John Bailey: Other comments? I'm not hearing any. Are we comfortable with #6 as revised? I don't see any negatives, so we've reached consensus.

#6. Recommendation Approved by Consensus:
"Policies should be continued that allow for the removal of large woody debris on a localized basis to protect public and private infrastructure, to assure public safety, and to allow side channel function when necessary."

John Bailey: Number 7?

Proposed recommendation:

#7. "~~Continue~~ Necessary dredging of sedimentation should be continued to maintain irrigation structures and canals."

Bob Wiltshire: John, I didn't see any comments from the public on this one. I like the changes that Liz and Andy proposed as modifications, and I like this one.

John Bailey: Any further comments? Not hearing any, are you comfortable with #7 as changed? I don't see any negatives, so we've reached consensus.

#7. Recommendation Approved by Consensus:
"Necessary dredging of sedimentation should be continued to maintain irrigation structures and canals."

John Bailey: Number 8?

Proposed recommendation:

#8. "~~That~~ The Department of Fish, Wildlife, and Parks should develop a 'closure' matrix specifically designed for the upper Yellowstone River and its own unique characteristics. This matrix is to be used in the event of any future severe conditions which may necessitate considerations of protection for its fisheries and fish habitat."

Joel Tohtz: Maybe to make this somewhat clearer, it probably should refer to an "angling" closure, so maybe

those words could be inserted, "...should develop an angling closure matrix." And then, in the last sentence, just as a suggestion, "which may necessitate considerations of protection for its fisheries and fish habitat." Being an advocate of always considering protection of fisheries and fish habitat, regardless of how conditions are, maybe we could try, "necessitate additional protections for its fisheries and fish habitat."

John Bailey: Joel, this is one to deal with the issue of how a river gets closed, and now we're going to close it because somebody put their cows on the bank? I'm trying to understand where you're going here. I don't quite know what you are suggesting with this wording at the end.

Joel Tohtz: Make protections plural, with an "s" and strike "considerations of protection" and now see if that works.

John Bailey: Okay, now that you've added that, we're limited only to fishermen.

Joel Tohtz: Because the Department of Fish, Wildlife and Parks has the authority to regulate anglers.

Bob Wiltshire: I would tend to disagree with that, because Fish, Wildlife and Parks is gradually exerting its authority to regulate all boaters, for example on the Smith River.

Joel Tohtz: So, for language, then just say "river closure matrix."

Bob Wiltshire: I'm not suggesting that, per se. I think we need to discuss this a little more. Are we talking about only anglers, or are we talking about a myriad of river users?

Brant Oswald: My only comment is that it seemed like Joel's additional language was assuming that we have protections in place, and that this is just to have that additional protection, the change in language. The way it reads now, is that it's talking about just an angling closure, and there were some written comments that indicated that that did need clarification, that this was a discussion on angling closure. What I understand from John's and Bob's comments were that the way this reads doesn't seem to be more than angling.

John Bailey: ...in severe conditions, you need to add additional protections. Originally, it was we close fishing, and now, under severe conditions, it may necessitate additional protections for its fisheries. If you close fishing, I don't know what your additional protections are, if you can only affect anglers. They aren't there.

Brant Oswald: My understanding of the way Joel introduced this was just that we'd have protections for fisheries and fish habitat already in place, in other forms other than an angling closure in the event of high water temperatures or low flows. It seems to me that most of this is sort of a semantic change.

Joel Tohtz: Exactly. All I'm suggesting in the second sentence is that harsh conditions necessitate additional protections. For example, things that trigger an angling closure. Now the way it read originally was that it didn't necessitate considerations of protection, that just seems to me to be less precise. Now, I'm not wedded to this language.

John Bailey: But doesn't the closure matrix handle all that?

Joel Tohtz: If it were really that clear, you could probably eliminate the second sentence, correct? Okay, that's fine.

Michelle Goodwine: I just wanted to add that all of the information that surrounded this recommendation had only to do with the fish, and I would agree with public comment #8, that we are only going to limit the angling community, and we're not going to limit the tubers and swimmers and rafters, kayakers and all of that. That's my understanding, that it is strictly angling.

Andy Dana: I'm wondering if we can simplify this by a little bit of wordsmithing. "The Montana Department of Fish, Wildlife, and Parks should develop an angling 'closure' matrix specifically designed for the upper

Yellowstone River, to protect its own unique characteristics, including its fisheries and fish habitats.” That eliminates the reference to future severe conditions. We could say, “specifically designed to address future severe conditions on the upper Yellowstone River to protect its own unique characteristics including its fisheries and fish habitat.”

Proposed edits:

#8. ~~That~~ The Montana Department of Fish, Wildlife, and Parks should develop an angling ‘closure’ matrix specifically designed to address any future severe conditions on ~~for~~ the upper Yellowstone River to protect ~~and~~ its ~~own~~ unique characteristics including its fisheries and fish habitat. ~~This matrix is to be used in the event of any future severe conditions which may necessitate additional protections considerations of protection for its fisheries and fish habitat.”~~

Bob Wiltshire: What happens if Fish, Wildlife and Parks determines that the river has reached such a critical state that recreational boating poses a threat to fish or fish habitat?

John Bailey: Then they go to the Legislature and get that authority, I assume. We have another recommendation down here that deals with some of this.

Rod Siring: When I looked at this thing, the first thing that popped into my mind was, if it’s bad enough for them to close the river down for fishing, what about agriculture’s use of it; are they going to take irrigation or water for cattle, or whatever needs that they might have of the Yellowstone?

John Bailey: They have irrigation water rights.

Rod Siring: Doesn’t Fish, Wildlife and Parks have some overriding authority on that?

John Bailey: Only on the in-stream flows, and all previous water rights are golden.

Rod Siring: Okay.

Brant Oswald: The only thing I’m not really sure about, and Andy, maybe you can just clarify this, but the only thing that rewording here seems to do is that we’ve now taken fisheries and fish habitat as some subset of unique characteristics, and I think it seems a little more nebulous than before. A lot of the people that seem worried about the wording, by involving unique characteristics, would this affect a smaller percentage of nonresidents?

Andy Dana: I wasn’t here at the meeting when this was passed, so I can’t speak to the discussion. I was just trying to preserve as much of the original language as possible.

Brant Oswald: It seemed to me that in the discussion, if I remember correctly, Roy wanted to see us have a fishing closure matrix that was specifically designed for the Yellowstone. And that seems to be the thing that we need to make sure that comes through in this recommendation.

John Bailey: My understanding was that the matrix has to be developed to bring in all the criteria, and define what the criteria would be to close the Yellowstone. Who knows, when they build the matrix—matrix is a very broad word—a full moon might close the Yellowstone. That’s why additional wording encouraging specific things seems appropriate to me; we need to send some weight to how to run the matrix.

Liz Galli-Noble: Brant is exactly correct. When Roy originally made this recommendation, it was the unique characteristics of the Yellowstone that were supposed to drive the matrix; that’s what Joel was saying.

Brant Oswald: I don’t object to the language as it’s written now, I just want to make sure that everybody was happy with the way the wording is right now.

John Bailey: Any further comments? Do I need to read this one? Are we comfortable with this Task Force? We’ve reached consensus on the rewording.

#8. Recommendation Approved by Consensus:

“The Montana Department of Fish, Wildlife, and Parks should develop an angling ‘closure’ matrix specifically designed to address any future severe conditions on the upper Yellowstone River to protect its unique characteristics including its fisheries and fish habitat.”

John Bailey: We move to #9.

Proposed recommendation:

#9. “The US Army Corps of Engineers should include in their 205 Study an investigation of widening the channel by resloping the north bank, in a stepped or terraced fashion, around cross sections #55,000 and #56,000 on the floodplain map.”

Dave Haug: Just to start out the comments, is there any way we can consolidate #9 and #10, since they both refer to the 205 Study? Andy, is there any way you think you can reword those, put those together to make things a little more concise?

Proposed recommendation:

#10. “~~That~~ Park County should be asked to join with the City of Livingston to co-sponsor the Section 205 Study in order to develop a comprehensive approach to structural and non-structural solutions to floodplain management issues in and around the City of Livingston.”

Steve Golnar: My reaction would be that they are kind of separate issues, and it would be difficult to combine those two.

John Bailey: Steve, I wanted to comment on the City’s objections to this. You must not have been here the night I proposed this, but the reason for proposing this, and I said it at the time, is that once the study comes in, I may be against doing it, but if we don’t see the options, whether they are good or bad, how do we know whether we’re going to make a good decision? In other words, I won’t be surprised if the study shows that it’s not feasible. Okay, fine, we now know that. If we never had looked at it, I think we’re doing an injustice to the community, because we’re not looking at obvious options.

Steve Golnar: John, I was present when you made this recommendation, and all we’re trying to do is identify that we are concerned about the existence of landfills behind the banks that you are proposing to move back. And we are aware, through conversations with the Corps of Engineers, that if landfills are involved in the projects, that they won’t get involved in co-funding the mitigation of those landfills. I would be amenable to the discussion about moving the channels back, widening them and resloping them, if we could address the issue, or at least acknowledge the issue, of trying to deal with the mitigation of the landfills.

John Bailey: Are we certain that to do it would run into them? I don’t know the boundaries of the landfills, so that’s why I am asking the question.

Steve Golnar: My understanding is that the property where the ball fields are, which pretty much runs above John Long’s property to the bandshell (where the Miles Park area is), is primarily landfill, particularly where the baseball fields are. So the concern there is, if we’re going to move back that section of riverbank, that we’d be into that landfill pretty quickly.

John Bailey: I’m looking at where the cottonwoods are, back from the bank, and they are not that far, and that’s what makes me wonder that we may not have to go back very far to have an influence. Now, I’ve always figured that if we had to go too far, the public would never go for it. That’s always been my thought. I asked the Corps, when they presented us with the floodplain maps, and they said that they were not looking at this as an option.

Steve Golnar: I think one of the reasons they identified that they weren’t looking at it is because of the existence of landfills and the fact that their funding doesn’t include the mitigation of landfills. This is an opportunity, I think frankly, for the City to identify that that issue exists. If we are looking at moving the banks back, we do have to deal with the landfills.

John Bailey: Originally I was going to propose this recommendation, not to the Corps, but for someone to look at that section. Is it feasible to do? Now, the only reason I put in the US Army Corps is that they are doing a study in that area anyway, it seemed kind of logical to get it done just so that the public has a full understanding of the issues that they are dealing with at length.

Steve Golnar: I just question how this would work, and maybe Allan can help us out here. Is there a way the Corps of Engineers could identify funding alternatives outside the Corps structure to assist with mitigation of landfills and so forth?

Allan Steinle: I don't know, Steve, but if that is an issue of concern, and it certainly appears to be, it would be worth asking. If this recommendation is preserved, it wouldn't hurt to add language asking for identifying other options that they are aware of.

Dave Haug: In a way, I don't think there is really too much of a point, because all we are asking for is a study, an investigation, we're not asking for the project to actually be done. Until it is actually done, or proposed to be done, then you don't even really need funding. If it never happens, it's kind of a moot point.

Andy Dana: Maybe we can add some language to the end of this, which would request the Corps of Engineers, if possible, to identify alternative funding for mitigation of old landfills, if necessary.

Steve Golnar: That would really be acceptable to the City. We just need to get that in there if it becomes an issue, where the banks go beyond the existing armored structure, because then you're into landfill.

John Bailey: I've always suspected that, if this goes back very far, the private landowners involved would probably be against it. But it's one of those things, until someone defines what you have to do, nobody makes good decisions. Do you have a word for that?

Andy Dana: It would be, "...floodplain map, and should identify, if possible, funding for mitigation of landfills if necessary." I would also suggest adding, before "floodplain map," isn't it a draft floodplain map currently, Laurence? "Preliminary floodplain map."

Steve Golnar: Well, the other concern—and John I think you are familiar with this, in the discussion we had with the Corps, when we were talking about trying to get the levee certified—is the potential of losing the trees along the Sacajawea Park area. I'd like to put some wording in there that suggests that trees can be saved or replanted to maintain a park-like environment, particularly along the reach identified. I don't know if that is possible, but to maintain some sort of a park-like environment I think would be desirable to the community, just from an aesthetic standpoint.

John Bailey: I asked if they were looking at this concept, and they said no. There are old landfills, so we won't consider it. I told them that I didn't particularly like dikes either, so I wanted to know what those options are. My own feeling is that, if they ever want to take the trees out of the park, they'll be run out of town. That's one thing that I know there is a strong sentiment for in Livingston, and that's trees in Sacajawea Park.

Steve Golnar: And I think that pulling something in there about trees, we'll be letting them know what the community's feelings are.

John Bailey: I have no problem if you want to add something about that.

Steve Golnar: I'm trying to think where to put it though. How about after "necessary," just put "and if trees can be saved or replanted." Then we'll just split it up into two sentences.

Jerry O'Hair: I kind of liked your other idea, where you added "park-like atmosphere" or something like that, rather than just trees.

Steve Golnar: Okay.

John Bailey: My initial reaction on a terrace would be a park-like environment. You see in a lot of communities, where they've done that.

Steve Golnar: Okay, why don't we say this then, instead of "and if trees can be saved or replanted," why don't we just say, "and a park-like environment is maintained."

John Bailey: Does everyone understand this one? Maybe I'll read it since it has changed a lot.

Proposed edits:

#9. "The US Army Corps of Engineers should include in their 205 Study an investigation of widening the channel by resloping the north bank, in a stepped or terraced fashion, around cross sections #55,000 and #56,000 on the preliminary floodplain map, and should identify, if possible, funding for mitigation of landfills if necessary, and a park-like environment is maintained."

John Bailey: Any further questions or comments?

Joel Tohtz: John, one public comment was to get rid of the cross-section references and replace them with easily identified landmarks. I just want to raise that consideration.

John Bailey: If you do that, you're going to use the bandshell and John Long's property, and it's headed downhill. At least the Corps has floodplain maps and those numbers are a definite thing. I tried to keep it narrower, because one of those two cross sections is across the bedrock, which is the control; and also that's the hydraulic model, if they start seeing how water flows, what they'd have to do. But I understand the concern.

Joel Tohtz: This just wouldn't make sense to somebody in Great Falls, but the bandshell and John Long's wouldn't either.

John Bailey: When I expanded it, the control was one of those two.

Bob Wiltshire: John, I would offer a thought on possible wordsmithing. I think that where it reads, "and a park-like environment is maintained" is just kind of hanging there, without being tied in properly. What I'm wondering is, after where we have, "preliminary floodplain map" if we put "while maintaining a park-like environment."

Steve Golnar: Fine. Okay.

John Bailey: Any further comments?

Andy Dana: If you want to add some clarity, just to separate a little bit, you could add an "a" and a "b", so it would be...

Proposed edits:

#9. "The US Army Corps of Engineers should include in their 205 Study (a) an investigation of widening the channel by resloping the north bank, in a stepped or terraced fashion, around cross sections #55,000 and #56,000 on the preliminary floodplain map while maintaining a park-like environment, and(b) should identify, if possible, funding for mitigation of landfills if necessary, and a park-like environment is maintained."

John Bailey: I think that helps, as it was way too long. Any further comments? Are we comfortable with this? We've reached consensus on #9.

#9. Recommendation Approved by Consensus:

"The US Army Corps of Engineers should include in their 205 Study (a) an investigation of widening the channel by resloping the north bank, in a stepped or terraced fashion, around cross sections #55,000 and #56,000 on the preliminary floodplain map while maintaining a park-like environment, and (b) should identify, if possible, funding for mitigation of landfills if necessary."

John Bailey: Number 10.

Proposed recommendation:

#10. "That Park County should be asked to join with the City of Livingston to co-sponsor the Section 205 Study in order to develop a comprehensive approach to structural and non-structural solutions to floodplain management issues in and around the City of Livingston."

John Bailey: Any comments on this one?

Bob Wiltshire: The only public comments I think we got on this one asked us to specifically note the abandoned dump sites contiguous to the river. I think we kind of addressed that in the one before. I don't have a problem adding that, but I'm not sure that we need to.

Steve Golnar: I was actually thinking of something else, but I did catch the suggestion, like Bob did, that the dump site was previously discussed up above, and so it doesn't need to be in this one.

John Bailey: There's another dump site, there's actually two more.

Steve Golnar: Yes, and I think the rule, by identifying it as a separate item, maybe it doesn't become a subsidiary issue—I think you went to with the "a" and the "b." Maybe that makes that a broader statement than just being related to the reach between 55,000 and 56,000, and it is saying that it should identify possible funding for mitigation of landfills if necessary. My thought, when that was split out, was that would read across the entire reach of the river. And if that's what is generally understood here, I'm comfortable with that being identified in #9b.

John Bailey: Comments? Are we happy with the rewrite of #10 now? Hearing no opposition, consensus was reached on #10.

#10. Recommendation Approved by Consensus:

"Park County should be asked to join with the City of Livingston to co-sponsor the Section 205 Study in order to develop a comprehensive approach to structural and non-structural solutions to floodplain management issues in and around the City of Livingston."

John Bailey: Eleven...

Proposed recommendation:

#11. "Analyze An analysis should be conducted to determine the feasibility of relocation and buyout options for property owners who are located or reside in the floodway."

Bob Wiltshire: John, I didn't see any public comment on #11. I like the job that Liz and Andy have done on the rewrite, and I like this one.

John Bailey: Any further comments?

Jerry O'Hair: This one, this buyout option and willing seller, I think that this is another way to put the property owner in a situation that he can't get out of, he becomes a willing seller. They build a line around his property and it becomes in the floodway; this really concerns me.

John Bailey: Didn't this come because of the floodplain map, and the floodway going through town, and that it may be cheaper to buy the houses out than paying to protect them? There is nothing here that states that this has to do with just the City of Livingston. You're concern is that this is up and down the river, right? Am I correct there?

Jerry O'Hair: That is part of it, yes.

John Bailey: This, as I recall, came in late. Did the City ask for this one?

Steve Golnar: Yes, the City did ask for this, and the reason we did is because of the designation of the floodway in east Livingston, and the potential for a lot of properties being located in the floodway, and an effort to try to create some options for property owners in that area, if they need it.

John Bailey: If we added to the end of this, “in Livingston,” would you be comfortable Jerry? Now, that excludes anybody on Ninth Street Island from doing that, because they’re County, and they may not appreciate that.

Robert Ray: Is a way to address that by saying “Livingston area”?

Liz Galli-Noble: Or possibly, “in the urban reach...”

Steve Golnar: You could do it with whatever your numbers are in that area.

Ed Schilling: Well, I don’t know but it seems like, if we are going to spend a lot of money on this buyout, I know the City and County both are in the middle of budgets, and, as far as buyouts, I know the County doesn’t have the money. I don’t know if this proposal is feasible, but I guess that’s what you’re trying to find out.

John Bailey: Laurence, how do the Corps buyouts work? They’ve talked about it down in Glendive, where’s that money coming from?

Laurence Siroky: FEMA has a program for structures that have had multiple claims on flood insurance, right now; and there’s about \$100,000 provided for the State of Montana at a 75/25 percent cost share, and about half of that 25 percent can be in-kind from the owner of the house. Other states pay half of that 25 percent, I forget which states, I think one is Minnesota.

John Bailey: But, when we were talking about Livingston and the floodway, someone was saying that it was going to cost \$18 million to flood proof Glendive, and to buy the houses out was \$12 million. My question is, where did they assume the \$12 million was coming from? If the Corps comes up with a study and gives these numbers, who is going to buy them?

Laurence Siroky: What I understand is that they were looking at project costs, and they were balancing those costs against the levee costs. So I assume that that would come from a similar kind of mix as if you had to fund the levee, and that’s FEMA. On other levee projects, it’s been a multi-agency effort—the Corps of Engineers pays part of the costs, other agencies might participate, the local government, and the individuals.

John Bailey: Other comments? Sorry, just the Task Force participates in Step 3 of this process. If Task Force member wants to ask an audience member a question, then you can answer.

Ed Schilling: Would Burt clarify please?

Burt Williams: I belong to the lower Yellowstone Council, and the Corps just said this last week, they had been seeking a 75/25 percent cost-share situation where the feds would come up with 75 percent and Glendive local sources 25 percent. That was denied in Washington, and it would be a 50/50 percent; so it would be a Corps program for 50 percent and then all other monies would have to come from local and state sources.

John Bailey: Thank you. Other comments? Ed, how are you with this?

Ed Schilling: My only comment would be that if it is only to analyze the feasibility of relocation, I guess I would wonder who is going to do the analysis?

John Bailey: The 205 Study, I think, is going to analyze it.

Ed Schilling: What is the price of all this stuff? I can see a lot of questions arising on how to do it.

John Bailey: I think we are asking the Corps to do it in their 205 Study. We don't specifically say that, but I think that is the assumption here.

Ed Schilling: Do we want to assume?

John Bailey: Good question. Do you want to change it?

Ed Schilling: I don't know if I want the Corps doing it either.

Dave Haug: I think we have one more clarification from the audience that might add to this discussion.

George Jordan: When I spent some time in South Dakota, a lot of the residents there were getting water in their basements along the Missouri River, and they raised enough of a fuss that the then Majority Leader Senator Daschle was able to provide a substantial amount of money in the Corps budget. It was kind of an interesting situation; basically, the Corps would come in and measure elevations in the basements and people who fell within a certain elevation got their homes bought at market value. I know three or four people that basically moved across the street and built a house without a basement. So, in a way, from a taxpayer standpoint, that was kind of a fiasco; but what the Corps did was that they took the square footage of the homes and based it in whatever the current market value was for those neighborhoods, and those people got cut a check and they built new homes, or moved, or whatever. That's my experience with how that happened and each situation is going to be somewhat different, depending on how strong your representation is in Congress. Daschle was able to flow a lot of money into the Pierre area for that.

Allan Steinle: In that example, the Corps was directed to do that because it was a direct consequence of the construction and operation of Owahee Dam. It wasn't a situation like Livingston is experiencing.

Bob Wiltshire: My only comment would be that we're just asking to determine the feasibility. We're not telling anybody they need to do this. We're not even asking anybody to recommend this, we're just asking, "is this feasible?" I don't have any problem with finding out yes or no, it is or is not feasible.

John Bailey: Let's see how we feel. Task Force are we comfortable with this? Do we have consensus?

Jerry O'Hair: No, I don't want to do that.

John Bailey: Oh, I'm sorry, I did not see you. Okay.

Andy Dana: I think I would be comfortable if it were limited to the Livingston area. On the other hand, I'm not sure that that would be very kind to the Livingston folks.

John Bailey: I thought we had added that. I had said to put in just the City, and then that wasn't put on, and then some people thought around the City.

Liz Galli-Noble: Jerry, do you have a preference as to the wording that would make you feel comfortable?

Jerry O'Hair: Well, it has nothing to do with the City of Livingston, this just really goes against my grain. I can picture it—there is even talk of a Buffalo Commons now and all sorts of corridors—and so you become a willing seller to a willing buyer, and all it takes is a line being drawn and you become part of it. So, if it just includes Livingston, well that's okay, that would probably take care of it.

John Bailey: And do you want to exclude Ninth Street Island? That's County. There is a distinction, and that's why we hesitated.

Andy Dana: The reality is that the State and governmental entities have power to condemn anyway; and so if it is a really serious situation, they can use their condemnation right. I tend to agree with Bob that this is a study, it's not a given.

John Bailey: Other comments? Is adding, "the Livingston area" okay?

Jerry O’Hair: Yes.

Proposed edits:

#11. “Analyze An analysis should be conducted to determine the feasibility of relocation and buyout options for property owners who are located or reside in the floodway in the Livingston area.”

John Bailey: Any further comments? Are we comfortable with this? Seeing no one objecting to this, we’ve reached consensus.

#11. Recommendation Approved by Consensus:

“An analysis should be conducted to determine the feasibility of relocation and buyout options for property owners who are located or reside in the floodway in the Livingston area.”

John Bailey: Number 12.

Proposed recommendation:

#12. “Mining and mining-related dredging should be prohibited in the active bankfull bed and banks of the upper Yellowstone River.”

Bob Wiltshire: As I recall, we have one public comment on this, and that was an encouragement that we expand the area in which we prohibit mining and mining-related dredging to include connected and unconnected wetlands and side channels. I think that that probably gets us onto dangerous ground, when we start banning mining in unconnected areas. I like the changes that Andy and Liz have made in terms of standardization and I like the way it was rewritten.

John Bailey: As I recall, there was no consensus until it got within the banks. We were a long way from consensus until we got to the banks. Jerry?

Jerry O’Hair: I tried to get a hold of the correct state agency, but I was unable to find out who to really contact and some of the people I talked to suggested that mining really does include gravel. And it was my thinking that it did include gravel because when I did some gravel excavation in the Yellowstone River, I had to get a permit from I think it was State Lands, at that time, and they considered that mining. So, I’d like to see this clarified so that gravel excavation be excluded.

John Bailey: Comments? I know we have a recommendation to allow taking gravel out for headgates and those things. So, we may have a problem with that on our hands.

Brant Oswald: As the person who originally offered this recommendation, with regard to the suggested changes made by the EPA, I would concur with Bob that we barely reached consensus the first time and I don’t want to see us lose this one. So I think that adding unconnected wetlands, I would not try to make that change. I think if we can come up with language that would make Jerry comfortable. Changing the current permitting and maintenance of irrigation diversion and that sort of thing, was obviously not the idea behind this recommendation. Maybe this is a point of clarification for me, if you do need to do maintenance and address a problem of keeping an irrigation diversion open, does that normally require a separate permit from a permitting agency?

Dave Haug: It does actually. You’ve got to get one from State Lands, actually purchase a permit from them. A possible word change might be, right after “dredging,” and you put, either in parentheses or commas, “with the exception of gravel.” Would that work?

Bob Wiltshire: The problem I would have with that would then be that we could be interpreted as saying that commercial gravel mining would be allowed. How about if we started by something like “revenue generating mining and mining-related dredging?”

Andy Dana: We’re really getting into a black hole here. With revenue generating, what if you produce gravel as a byproduct of another beneficial activity and then want to sell the gravel? It’s a byproduct, but you 17

generate revenue by getting rid of it. You're sort of in a black hole there. As a practical matter, if we include Dave's amendment, the risk of a commercial sand or gravel extraction operation in the active bankfull bed and banks of the upper Yellowstone River is likely to be small. I won't say that it is nonexistent, because there is so much more sand and gravel that is more easily accessible outside of the active channel for a much cheaper price that it doesn't worry me too much. I won't say it is nonexistent, because I guess there was that Eggar's dredging operation at one point; but I think the practical matter of this, given the current state of river regulations, it is very unlikely that there is going to be a commercial gravel mining operation in the river.

Dave Haug: The other thing with the revenue generating, it may not stop the little guy from going in and wanting to suction dredge just for recreation, and maybe never produce any money out of it. That, I think, is part of what this is supposed to cover.

John Bailey: Are we after heavy metals? Is that what we are talking about with mining? Can we define heavy metals? Mining is, in a sense, very broad, and State Lands basically owns the bottom of the river, or at least that is my understanding why you're going to State Lands; I could be off. Am I off Laurence? Isn't that why they have the regulation?

Laurence Siroky: On a navigable stream the Department of Natural Resources and Conservation regulates the activities that go on over that state land—mining and all other types of activities; it is a right-of-way question. Then you also have the Department of Environmental Quality addressing water quality, and you've got the Mine Reclamation Departments; there are at least two or three agencies involved.

Dave Haug: But when you get up at the upper end of the river, like when we dealt with Mr. Beede's permit, he is above the navigable point and that was a different situation there again. So we may want to cover our bases on that too.

Bob Wiltshire: Let's add the gravel exclusion and move on.

Proposed edits:

#12. "Mining and mining-related dredging (*except for sand and gravel*) should be prohibited in the active bankfull bed and banks of the upper Yellowstone River."

John Bailey: Any further discussion? Are we comfortable now? Seeing no negative responses, we have reached consensus.

#12. Recommendation Approved by Consensus:

"Mining and mining-related dredging (except for gravel and sand) should be prohibited in the active bankfull bed and banks of the upper Yellowstone River."

John Bailey: Number 13. This came at the last meeting, right?

Proposed recommendation:

#13. "The US Army Corps of Engineers should conduct a public scoping process prior to the development of the Special Area Management Plan for the upper Yellowstone River."

John Bailey: No comments? Were there any public comments on this one?

Bob Wiltshire: John, I didn't see any public comment addressing our request that the scoping process be held in the SAMP preparation, and I like this one.

John Bailey: Other comments?

Steve Golnar: I just reviewed this one with Mr. Woodhull and he did comment that there will be a public process during the SAMP process anyway. Is this proposal to go before the public SAMP process begins?

Andy Dana: This was, as I recall the discussion, endorsed by the Task Force because of concerns that the

Corps of Engineers has indicated that they would be using some of the Task Force proceedings as their public scoping process. We wanted to make clear that they should conduct their own public scoping process, whether it is before or after, I don't know.

Allan Steidle: I guess I would recommend changing it to, instead of "prior to development of the SAMP" say "during development of the SAMP." The reason I recommend that is that the SAMP process began when we began the work of the Task Force.

Proposed edits:

#13. "The US Army Corps of Engineers should conduct a public scoping process ~~prior to~~ during the development of the Special Area Management Plan for the upper Yellowstone River."

John Bailey: Any further comments? Are we comfortable with this? Okay, we've reached consensus on #13.

#13. Recommendation Approved by Consensus:

"The US Army Corps of Engineers should conduct a public scoping process during the development of the Special Area Management Plan for the upper Yellowstone River."

John Bailey: Number 14.

FINANCIAL INCENTIVES

Proposed recommendation:

#14. "~~Establish~~ Financial incentives should be established to help landowners on a voluntary basis, to remove structures that no longer function properly or are obsolete."

John Bailey: And there are comments.

Andy Dana: In my memo, I have changed this on #14 and #17, because they are similar, and these address, I think, the public comments by clarifying that the financial incentives should be established to help landowners remove flood control and bank stabilization structures, and then, on the upper Yellowstone River. Those changes would apply to both #14 and #17.

Proposed recommendation:

#17. "~~Establish~~ Financial incentives should be established to help landowners, on a voluntary basis, to modify or replace existing structures, provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system."

Dave Haug: There again, can we consolidate those two, they are kind of similar?

Andy Dana: I sort of like the distinction between the removal, and modify or replace. We could do an "a" and a "b." That was another suggestion, if people are amenable to that. So that would be a new #14. The same change should be made to "b" that we made before, instead of "existing structures" it should be, in "b", "modify or replace flood control and bank stabilization structures," strike "existing." I did actually have "on the upper Yellowstone River" after "structures", but I think what we should do is strike that phrase, and insert it after "landowners" up above.

Proposed edits:

#14. "~~Establish~~ Financial incentives should be established to help landowners on the upper Yellowstone River, on a voluntary basis, (a) to remove flood control and bank stabilization structures ~~on the upper Yellowstone River~~ that no longer function properly or are obsolete; and (b) to modify or replace existing flood control and bank stabilization structures, provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system."

John Bailey: Any further comments? Do I need to read this? Are we comfortable? We've now taken #14 and #17 and combined them. Seeing no objections, we have reached consensus.

#14. Recommendation Approved by Consensus:

“Financial incentives should be established to help landowners on the upper Yellowstone River, on a voluntary basis, (a) to remove flood control and bank stabilization structures that no longer function properly or are obsolete; and (b) to modify or replace flood control and bank stabilization structures, provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system.”

John Bailey: Number 15.

Proposed recommendation:

~~#15. “Propose~~ **A Park County Bond Issue should be proposed** to protect and preserve agricultural lands, scenic views, socially desirable riverscapes, and important riparian habitats along the Yellowstone River; and ~~establish~~ **a representative Citizens’ Advisory Council should be established** to develop criteria, to recommend expenditures, and to facilitate approval of projects funded by public monies.”

Bob Wiltshire: John, I didn’t see any public comments on #15, and I think that Andy and Liz did a great job.

Michelle Goodwine: Yes, there is one from Peter Schmidt.

Bob Wiltshire: You are absolutely right, and I did mean to address that. There was a public comment. He wrote very strongly that, for the next two items, #15 and #16, that he would like us to remove “scenic views and socially desirable riverscapes.” I don’t think that there is anything here that mandates anything about any of that; it is trying to make money available if there is a desire to do that kind of stuff.

Andy Dana: As far as I’m concerned, I wouldn’t really care if “scenic views and socially desirable riverscapes” were removed. As you were saying, they are *soft terms* anyway; but I’d also endorse it if it were in. My guess is that, if this bond issue idea ever floats, there is going to be a lot of discussion about what it should focus on. So this sends a general message about what the Task Force thinks is important.

John Bailey: The other thing is that there was a lot of discussion on that topic. So I think we have some recommendations trying to do something specifically with viewsheds. This proposal came about by saying that if the people of Park County feel so strongly about this issue, then go vote on it. I think that is the clincher in the recommendation we talking about right now. For this to ever take place, the citizens of Park County would have to vote for it. It is somewhat a you-can’t-buy-something-unless-somebody-wants-to-sell-it thing. That’s where this came about. We spent a lot of time on another proposal that addressed setbacks and viewsheds, and this was a way to say, “okay, if people really feel strongly, go vote.” I think our County Commissioner had grave concerns about this, but he did go along with it; so I want to at least propose that as part of the discussion, in order for this one to go through, there are a lot of hoops to go through. But, if society has changed so much that they really want to put money into preserving a viewshed, they can do that. Do we want any further discussion on #15? Any changes? How do we feel about this? Seeing no negatives, we’ve reached consensus on #15.

#15. Recommendation Approved by Consensus:

“A Park County Bond Issue should be proposed to protect and preserve agricultural lands, scenic views, socially desirable riverscapes, and important riparian habitats along the Yellowstone River; and a representative Citizens’ Advisory Council should be established to develop criteria, to recommend expenditures, and to facilitate approval of projects funded by public monies.”

John Bailey: Now on to #16.

Proposed recommendation:

~~16. “Establish~~ **A fund should be established** with the State of Montana, to match on a dollar-for-dollar basis, all projects that have been funded by the Citizens’ Advisory Council pursuant to a Park County Bond Issue to protect and preserve agricultural lands, scenic views, socially desirable riverscapes, and important riparian habitats along the Yellowstone River.”

Andy Dana: I had a change to this, and I think it addresses Glen Phillips' comment. What I'd like to add after "the State of Montana" is some language that reads, "to receive legislative allocations, agency grants, and private donations for the purpose of matching," and then strike "to match." That hopefully gets to the point that we may need a legislative allocation for this, or maybe there is some agency grant money that would be available, or if groups want to make donations, then that would be great.

Proposed edits:

#16. ~~Establish~~ A fund should be established with the State of Montana *to receive legislative allocations, agency grants, and private donations for the purpose of matching, to match* on a dollar-for-dollar basis, all projects that have been funded by the Citizens' Advisory Council pursuant to a Park County Bond Issue to protect and preserve agricultural lands, scenic views, socially desirable riverscapes, and important riparian habitats along the Yellowstone River."

John Bailey: Any further comments? Are we comfortable with this? I see no objections. Okay, we've reached consensus on #16.

#16. Recommendation Approved by Consensus:

"A fund should be established with the State of Montana to receive legislative allocations, agency grants, and private donations for the purpose of matching, on a dollar-for-dollar basis, all projects that have been funded by the Citizens' Advisory Council pursuant to a Park County Bond Issue to protect and preserve agricultural lands, scenic views, socially desirable riverscapes, and important riparian habitats along the Yellowstone River."

John Bailey: Number 17 was added to #14, so we will move on to #18.

Proposed recommendation:

#18. "State, Federal, and private sources should be developed to increase the funding available for conservation easements on lands in close proximity to the upper Yellowstone River."

Bob Wiltshire: I would comment on #18 that, as near as I can tell, we didn't receive any public comment on this one, I think that Liz and Andy did a good job of changing and standardizing the language.

John Bailey: Any further comments? I don't see anybody reaching for the microphone. Are we comfortable with 18? We reach consensus on #18.

#18. Recommendation Approved by Consensus:

"State, Federal, and private sources should be developed to increase the funding available for conservation easements on lands in close proximity to the upper Yellowstone River."

John Bailey: Number 19.

Proposed recommendation:

#19. ~~To~~ A study should be conducted to determine the feasibility of creating a voluntary, market-based program to remove, relocate, or redesign bank stabilization structures by allowing trade in, state and federal bank stabilization permits."

Andy Dana: There was lots of public comment on #19, and I do have a minor change to this also. What I would like to do is, after the word "allowing" add "transfers of, and" and then "trade in," and then at the end add "between willing parties." I'm hesitant to address this in more detail because I don't know what sort of a program might be developed. But I am thinking that a group of people should get together and look at this issue about whether there is an ability to create a tradable permit system, similar to other permit systems that have developed similar tradable permit systems. I'm not smart enough to know what that would look like, but I think if we have a bunch of economists and others in the same room they might come up with some creative ideas.

Proposed edits:

#19. ~~Te~~ A study should be conducted to determine the feasibility of creating a voluntary, market-based program to remove, relocate, or redesign bank stabilization structures by allowing transfers of, and trade in, state and federal bank stabilization permits between willing parties."

John Bailey: Comments? Are we comfortable with this?

Jerry O'Hair: John, I guess I'm not really comfortable with it, because I don't understand it; so that's the situation. I don't have a problem with it, but I'm not comfortable with it because I don't understand it.

John Bailey: As I recall the discussion we had that night, Andy was saying, "let's think out of the box for a minute." And he got out of the box. He threw out an idea, but didn't want to put limits on it, because he thought people would really have to come up with something innovative. So, I guess the question is, do we want that kind of thing in here or not?

Ed Schilling: I'm not sure what Andy was thinking, but I would presume it is something like the carbon credits, something of that same sort. I don't know, Jerry, if you understand what carbon credits are either. Let's say GM Motors is putting so many carbons into the air, you could get paid for raising hay, for every acre of hay would equal those carbon units, sell those carbon units to General Motors. It's kind of that same theory, I don't know if this would work, but the carbons are working.

John Bailey: Are we comfortable with this? No one indicates that they object, so this reaches consensus.

#19. Recommendation Approved by Consensus:

"A study should be conducted to determine the feasibility of creating a voluntary, market-based program to remove, relocate, or redesign bank stabilization structures by allowing transfers of, and trade in, state and federal bank stabilization permits between willing parties."

Proposed recommendation:

#20. ~~That~~ A grant writer should be engaged by the Montana Department of Fish, Wildlife and Parks, the Governor's Office on Economic Development, City of Livingston, and Park County to pursue funding for projects of joint interest related to the upper Yellowstone River. ~~That~~ The grant writer should be paid on a percentage basis of grants secured and that the effectiveness of this approach should be tested on a trial basis."

Andy Dana: I also had a comment on #20. I'm uncomfortable with the last sentence dictating what the payment to the grant writer should be. I was struggling with this the other night when this passed, and I couldn't seem to put my finger on the problem. But I know in the private fundraising arena, it is totally bad form and completely beyond the ethical to have grant writers for museums or other charitable organizations be paid on a percentage basis of the grants that they secure. This is primarily because the funders can't figure out whether that's going to enrich the grant writer or actually serve the public. There is an argument that the grant writer gets some incentive to do a better job this way, but the ethical issues, in my mind, outweigh the benefits. Furthermore, I'm uncomfortable with the Task Force telling the State and local entities how to pay their people. So I would suggest striking the last sentence.

Steve Golnar: The reason that that percentage basis for paying the grant writer was proposed was actually trying to create a way of funding that position. I guess, without that, I'm kind of curious, how does a grant writer get paid?

Andy Dana: If you and the Department of Fish, Wildlife and Parks, and the County, want to try to do it, and write grants that way, I don't see anything that would prevent you from doing it if we eliminate that clause. But I also think that we shouldn't bind you to that procedure.

John Bailey: I had a question. I have no problem with the Department of Fish, Wildlife and Parks, but why isn't Department of Natural Resources and Conservation in here? I wasn't here for the discussion, but they are the ones that seem to have access to money for river and conservation districts.

Steve Golnar: It was my suggestion. The only reason for that was that these are the ones we started with. The suggestion was that it be a multi-agency group supporting the employment or the engaging of a grant writer, and those were the ones we could identify as participating. If you wanted to add an additional one or two, that would probably be fine. The other concern was that you don't want to get too many organizations involved in overseeing one position. So, if you want to add DNRC, I don't care.

John Bailey: I was simply curious about it.

Steve Golnar: They would probably give a little more breadth to the representation.

Andy Dana: Just to clarify my comment. If the last sentence is included, I won't oppose this; I'll probably stand aside.

John Bailey: What do you see as projects of joint interest? What are those?

Steve Golnar: I think that some of those projects of joint interests are some of the issues that have been identified through the recommendations. The other ones might be specifically relating to particular bridge or stabilization of a particular reach, or something of that sort.

John Bailey: So we're recommending bank stabilization?

Steve Golnar: No, I think what we're recommending are projects of joint interest, that could even be studies, as far as that goes, and funding those. That would probably be more appropriate from this group of organizations.

John Bailey: So, you would agree to changing "projects" to "studies?"

Steve Golnar: I think "studies" is more limiting. I think that there may be situations where a project may work, or it may be in the interest of these various groups to cooperate on a project. A study is a project, and so that would be just more flexible. A question I have had, John, is did you want to put DNRC in there?

John Bailey: I was just curious as to the choice of agencies; I had no problem with it. Other comments? Are we comfortable with #20?

Proposed edits:

#20. ~~That~~ A grant writer should be engaged by the Montana Department of Fish, Wildlife and Parks, the Governor's Office on Economic Development, City of Livingston, and Park County to pursue funding for projects of joint interest related to the upper Yellowstone River. ~~That The grant writer should be paid on a percentage basis of grants secured and that the effectiveness of this approach should be tested on a trial basis.~~

John Bailey: Are we comfortable with it? Okay, Number 20, as amended, has consensus.

#20. Recommendation Approved by Consensus:

"A grant writer should be engaged by the Montana Department of Fish, Wildlife and Parks, the Governor's Office on Economic Development, City of Livingston, and Park County to pursue funding for projects of joint interest related to the upper Yellowstone River."

John Bailey: Now we're in to Public Structures, #21.

PUBLIC STRUCTURES

Proposed recommendation:

#21. ~~“Modify or replace~~ Existing public structures that have undesirable impacts on the riparian system should be modified or replaced, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities.”

Andy Dana: I have another comment. What I suggest on #21 is to identify the geographical reach by inserting “upper Yellowstone River’s” between “the” and “riparian,” just before “riparian system.”

Bob Wiltshire: We had a comment, I believe, from the EPA on this one, that I think we should at least consider. The gist of it was that our current language says, “has undesirable impacts on the riparian system,” and they recommended that we reword to “impacts to riparian system functions.” I think that in some respects that makes a lot of sense because what we are really concerned about is the function of the riparian system, and not the system itself. You could theoretically say you’ve impacted the system when you cut down a tree.

John Bailey: Any further comments?

Steve Golnar: I do have a couple of questions. One is, “existing public structures,” is there a better way to define that? The other one focuses on the riparian system as revised and the concern that the City wanted to emphasize is that property protection, both public and private, is also a concern, particularly in the urban area and certainly along the reaches that are holding the bank. I think that is addressed with the existing “with no significant adverse effects on existing public or private entities.” Is that what that section was intended to read? So, existing public structure is just anything that is owned by the public? Is it a bridge or a dam, well there are no dams there, but barbs, it is all that stuff?

Bob Wiltshire: I’ll take a crack, Steve. As I remember this, I think we were primarily talking about bridges as structures. Structures is one of those words we’ve gone around and around and around, and round again.

Steve Golnar: I think that’s an advantage to me about being here, because it is really quite difficult to get your arms around.

Bob Wiltshire: As I recall, we were originally talking about bridges...

John Bailey: And if they replace them... We may have some recommendations in the Bridge section where this is addressed.

Bob Wiltshire: But then somebody said, “Well, what if there are other structures, don’t we want to encourage that?”

John Bailey: Are you okay with this?

Steve Golnar: Well, I do think it probably does include levees also, doesn’t it? I’m not sure what the impact on the riparian system is, and how that would be mitigated, given the second part of that sentence. I’m just trying to clarify what public structures we’re talking about. It could be buildings, school buildings, and things like that also.

Proposed edits:

#21. ~~“Modify or replace~~ Existing public structures that have undesirable impacts on *the upper Yellowstone River’s* riparian system function should be modified or replaced, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities.”

John Bailey: Okay, any further comments on #21? Are we comfortable with it? I’m not seeing any “No’s” so we’ve reached consensus on #21.

#21. Recommendation Approved by Consensus:

“Existing public structures that have undesirable impacts on the upper Yellowstone River’s riparian system function should be modified or replaced, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities.”

John Bailey: Next is #22.

Proposed recommendation:

#22. ~~That~~ Direction should be asserted that any structural or non-structural improvements to the river corridor through Livingston must blend with the environmental, cultural, and historic themes of the community.”

Jerry O’Hair: I guess my only question is “direction to whom?” “Direction should be asserted that any structural or non-structural improvements to the river corridor,” to whom?

John Bailey: Wasn’t that your recommendation?

Steve Golnar: Yes, it was, I accept that. Well, I was thinking particularly to the Corps of Engineers, or somebody like that who would be either helping us to develop any changes to structural or non-structural improvements along the river corridor through Livingston.

Andy Dana: I do want to put out that this may be the most proactive change relative to those that I’ve made, because I inserted that word, “must” in this, “must blend with the environmental, cultural, and historic themes of the community” and I am not sure that that was the goal of the Task Force. But that’s how I read it. To sidestep the issue of “Direction should be asserted,” I think we can eliminate that first phrase, and just begin with “Any structural or non-structural improvements to the river corridor.” This is a recommendation to the Governor, and the Governor presumably will act on that.

Bob Wiltshire: The only thing I would add is that we did receive one public comment on this, from the EPA, who has suggested that we replace the word “improvements” with “modifications.” I don’t know how the Task Force feels about that.

Ed Schilling: So we would be talking about everybody on Ninth Street Island? Anybody across the river from Livingston?

Steve Golnar: The way it is written right now, it does address the corridor through Livingston.

John Bailey: What’s the corridor?

Steve Golnar: We were trying to limit it to the urban reach, right on the river.

John Bailey: River corridor, is that the flood plain? Is that the viewshed? I don’t know that we’ve been using corridor as a word and I don’t know what that means. I could interpret it to mean no more houses on the hill.

Steve Golnar: I think what we were trying to do is identify improvements along the river in the corridor alley through Livingston as applied. Would “river bank” be more descriptive?

John Bailey: It is much more limiting. Corridor is not a word we’ve been using because I don’t know that there is a definition that we’ve used as a Task Force for river corridor.

Liz Galli-Noble: We used the word “corridor” in several of our studies, the watershed land use study for example. And in that study the corridor was defined as the flood plain, valley bottom and up to the Pleistocene terraces. So your point is well taken, we’ve bumped out of the flood plain and floodway using the term corridor in some of our studies.

John Bailey: Right. It’s peak to peak.

Liz Galli-Noble: Well, it's Pleistocene terrace to Pleistocene terrace, not peak to peak. Peak to peak is for the full watershed.

John Bailey: Okay.

Andy Dana: As I think about this, I am somewhat uncomfortable with the word "must" that I inserted in there. I don't know how you make a riprap bank consistent with the historical theme of this area. I would suggest changing that to "should blend..." and then, at the end, add "to the extent possible" or something like that.

John Bailey: Steve, I thought one of the things you were trying to do was to maintain the parks. Maybe I'm wrong, and maybe it was a different recommendation. Now, if we move to the bank, the parks aren't included.

Steve Golnar: I guess I was really thinking about, say for example, the land structure beside Sacajawea Park in particular. That any change to that area, if there is a change made, that it blend with the park. I'm open to going beyond the bank, but I'm not sure how far the Task Force would be comfortable.

John Bailey: Maybe you want this to be dealing with Sacajawea Park because the certified dike could do what the original dike did, and no one used the park. Was that the intent? I have something in my mind that that is what you were driving at, and maybe we ought to be clear up what you're driving at; this is a little vague, I think you've lost what you want with "bank".

Steve Golnar: Okay, so, why don't we just put something in there about "park-like environment," kind of like what we did for #9?

Liz Galli-Noble: Are you talking about the flood plain?

John Bailey: I don't think he is talking about all the houses in the floodway, I think he is talking about Sacajawea Park and Miles Park. That if the Corps is to certify a dike, that we don't lose those. I may be off base here, but I thought that was the gist of this.

Steve Golnar: The idea is also that if there is going to be something, maybe it's going to be a structural solution, that it blend in, that it not be a concrete monolithic structure, but it be more appropriate, and fit in with the things that are in the history to the extent possible, and to the environment. So that was the whole idea, to try to, if there is going to be a structural solution, that it blend with those things up there.

Note: The tape recorder malfunctioned at this point and the second side of Tape 2 is unintelligible. The remainder of the August 19, 2003 meeting minutes only address the edits made to the proposed recommendations, and documents the approved recommendations; no dialogue is provided.

Proposed edits:

#22. ~~That Direction should be asserted that~~ Any structural or non-structural ~~improvements~~ modifications to the river ~~bank corridor~~ through Livingston ~~must~~ should blend with the environmental, cultural, and historic themes of the community to the extent possible.

#22. Recommendation Approved by Consensus:

"Any structural or non-structural modifications to the river bank through Livingston should blend with the environmental, cultural, and historic themes of the community to the extent possible."

Proposed recommendation:

#23. ~~That~~ Construction of a flood control dam and impoundment on the main stem of the Yellowstone River ~~should~~ not be considered as a potential management alternative."

#23. Recommendation Approved by Consensus:

"Construction of a flood control dam and impoundment on the mainstem of the Yellowstone River not be considered as a potential management alternative."

NINTH STREET ISLAND SOLUTION

Proposed recommendation:

#24. ~~Implement~~ A solution should be implemented to achieve hydraulically-balanced water surface elevations, with little or no backwater, in the channels separated by Ninth Street and Siebeck Islands.”

Proposed edits:

#24. ~~Implement~~ Implement a solution ~~should be implemented~~ that minimizes cumulative impacts to achieve hydraulically-balanced water surface elevations, with little or no backwater, in the channels separated by Ninth Street and Siebeck Islands.”

#24. Recommendation Approved by Consensus:

“Implement a solution that minimizes cumulative impacts to achieve hydraulically-balanced water surface elevations, with little or no backwater, in the channels separated by Ninth Street and Siebeck Islands.”

Proposed recommendation:

#25. ~~To encourage~~ Park County should be encouraged to develop a free-span bridge to Ninth Street Island and to pursue such a bridge through the Department of Transportation’s Adopt a Bridge Program or any other funding source.”

#25. Recommendation Approved by Consensus:

“Park County should be encouraged to develop a free-span bridge to Ninth Street Island and to pursue such a bridge through the Department of Transportation’s Adopt a Bridge Program or any other funding source.”

BRIDGES

Proposed recommendation:

#26. ~~Recommend that~~ When the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology Study should be lessened: Emigrant Bridge; Carter’s Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge.”

#26. Recommendation Approved by Consensus:

“When the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology Study should be lessened: Emigrant Bridge; Carter’s Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge.”

Proposed recommendation:

#27. ~~Develop~~ Solutions should be developed to remove abandoned bridge abutments and piers, and to reclaim abandoned approaches.”

#27. Recommendation Approved by Consensus:

“Solutions should be developed to remove abandoned bridge abutments and piers, and to reclaim abandoned bridge approaches.”

Proposed recommendation:

#28. “All new and refurbished bridges should be designed to ~~mitigate~~ minimize upstream and downstream negative impacts of sedimentation and gravel deposition.”

#28. Recommendation Approved by Consensus:

“All new and refurbished bridges should be designed to minimize upstream and downstream negative impacts of sedimentation and gravel deposition.”

Proposed recommendation:

#29. ~~That~~ Bridge design considerations on the upper Yellowstone River should include examination of the costs and benefits of zero backwater standards at any scheduled reconstruction. As an initial project, that a zero backwater design at the US Highway 10 Bridge over the Yellowstone (east of Livingston) should be evaluated to increase the flow capacity of the river through town, and ~~that~~ the cooperation and support of the railroad to build a parallel zero backwater bridge north of the Highway 10 East Bridge should be secured.”

#29. Recommendation Approved by Consensus:

“Bridge design considerations on the upper Yellowstone River should include examination of the cumulative impacts and the costs and benefits of zero backwater standards at any scheduled reconstruction. As an initial project, that a zero backwater design at the US Highway 10 Bridge over the Yellowstone (east of Livingston) should be evaluated to increase the flow capacity of the river through town, and the cooperation and support of the railroad to build a parallel zero backwater bridge north of the Highway 10 East Bridge should be secured.”

NOXIOUS / INVASIVE PLANTS

Proposed recommendation:

#30. ~~That~~ Additional studies should be designed and conducted to document the proliferation of noxious or invasive plants along the river corridor, and to evaluate the impacts on fish, wildlife, water quality, soil and bank stability, and economic productivity.”

#30. Recommendation Approved by Consensus:

“Additional studies should be designed and conducted to document the proliferation of noxious or invasive plants along the river corridor, and to evaluate the impacts on fish, wildlife, water quality, soil and bank stability, and economic productivity, and programs that monitor and reduce invasive plant infestations should be supported.”

VI. Schedule next Task Force meetings.

Monday, August 25th, 2003—Continue with recommendation #31 and Step 3 of the *Process for Formal Action on Task Force Recommendations*
Location: Yellowstone Inn

VII. The meeting was adjourned at 10:15 p.m.

**Governor's Upper Yellowstone River Task Force
Meeting Transcription
August 25th, 2003
Yellowstone Inn
Meeting began at 7:00 p.m.**

I. Introductions

Members Present:

John Bailey, Chair
Dave Haug, V. Chair
Roy Aserlind

Andy Dana
Steve Golnar
Michelle Goodwine

Jerry O'Hair
Brant Oswald
Rod Siring
Bob Wiltshire

Tom Olliff, YNP Ex-Officio
Laurence Siroky, DNRC Ex-Officio
Allan Steinle, Corps Ex-Officio

Stan Sternberg, MDT Ex-Officio
Joel Tohtz, FWP Ex-Officio

Others Present:

Liz Galli-Noble, Coordinator
Kelly Wade, Secretary
Jacqueline Isaly, Assistant

Margot Aserlind
Karl Biastoch
Chuck Dalby

Tom Hallin
Bill Mose

II. Continue Step 3. Steps for Formal Action on Task Force Recommendations

Note: Edits to the original consensus recommendation language were proposed by Andy Dana and Liz Galli-Noble, and are shown as underlined text (new or modified language) or ~~strikeout text (deleted language)~~. Italicized text indicates edits made to proposed recommendations by Task Force members in their discussion during this meeting.

John Bailey: Tonight is a continuation of the August 19th Task Force meeting. Under Step 3 of our *Steps for Formal Action on Task Force Recommendations*, only Task Force members may speak. There have been some concerns about some of the recommendations that we went through at the last meeting. Tonight we will start with recommendation #31 and we will continue through the last recommendation. Once we've come to the end, I will then ask for any further concerns on any recommendation. If one of these recommendations needs to be merged or we need to do something with an earlier one, we will do that; but once we've gone through them all once, doesn't mean everyone is satisfied, because we still have to reach consensus on the whole package. For anyone who has come here to bring up concerns on any of the ones we've gone through, you'll have to wait until we get through the first batch in total; then we will go back to that. The first one tonight is #31.

FLOODPLAIN DEVELOPMENT

Proposed recommendation:

#31. ~~That~~ No additional Livingston schools should be constructed on McLeod Island [also known as Livingston Island].”

John Bailey: I believe there is some written comment on this.

Steve Golnar: The City of Livingston objects to the way it is written right now. It seems very specific, and also the definition of McLeod Island is kind of nebulous. Our suggestion is that the wording be changed to “that the local jurisdiction should enforce State and Local Floodplain Regulation in accordance with the adopted maps.”

Bob Wiltshire: This was my recommendation originally. I would be happy to redefine McLeod Island, if that

would satisfy the City's concerns. In terms of the recommended change, I don't see where that has anything to do with the school recommendation, and I would consider that to be offering a new recommendation in Step 3, but that is just me. I don't have a problem with what that says. I would like to just say though that I think it is imperative that we do not build any new schools on that piece of property. I don't think we should be building any significant community-owned infrastructure on that property. I don't think it matters if we build a certified dike, I think that someday the river is going to do its thing, and we're going to be left, and if we raise those schools up, and put them out there so they are above the floodway, flood plain, they are going to be left sitting on an island, and who is going to pay the bill for bridges to be built to the new island? Now, I realize that's a doomsday scenario, but it's going to happen, probably not in my lifetime, I doubt in my lifetime, but it's going to happen, and I'd rather look toward the future.

Steve Golnar: A couple of questions. One would be "No additional Livingston schools", would that include additions to existing Livingston schools?

Bob Wiltshire: That was all discussed when this recommendation was passed; and no, it means additional schools, new schools being constructed. It would not have precluded the addition of the Special Services Building that the school district put on the High School.

Steve Golnar: Could you define what McLeod Island is?

Bob Wiltshire: McLeod Island on the older maps is known as Livingston Island. It's basically that piece of property that's defined by what we now call Fleshman Creek, because that Fleshman Creek channel historically was a high water channel of the Yellowstone River, and if you look at all the old maps, that's clearly identified as an island area, and not part of the mainland in Livingston.

Steve Golnar: So the definition of McLeod Island would go pretty much from Sacajawea Park, where Fleshman Creek comes in, all the way down to the main channel of the Yellowstone River.

Bob Wiltshire: That's correct.

Steve Golnar: I know that I have received some concerns from the school district and also from St. Mary's about maintaining some of their structures.

Bob Wiltshire: I think St. Mary's was something we addressed directly as we talked about this. That is not a Livingston public school, that's private property, that's private development, and I'm not recommending in any fashion that we tell private landowners what they should or should not do. In terms of Livingston schools, I see a day when those schools are obsolete and they're closed. I recognize that we just built those fairly recently, but, I said this before, when they built the West Side School, the North Side School, the East Side School, the Lincoln School, they never envisioned a day that those schools would all be abandoned, and yet they are today. I think if we can look 100 years or 150 years in the future, those schools are not going to be active schools, and I would prefer to see them located somewhere else when they are rebuilt.

Steve Golnar: So your comment doesn't really address the potential of expanding onto an existing school, it addresses the potential for the creation of a new school entirely.

Bob Wiltshire: Absolutely. That's why the word additional is very pointedly in there. If they wish to add onto Sleeping Giant Middle School, it is still the Sleeping Giant Middle School, it's not an additional school.

Steve Golnar: And this is a recommendation and this will be part of the package of recommendations from the Task Force?

Bob Wiltshire: Yes, this will be a recommendation from the Task Force, it would go to the Governor, and to be a pragmatist, Steve, I would say that the recommendation will totally be ignored by the School Board and the people of Livingston. But does that mean we shouldn't make the recommendation? No. There is no statutory authority behind this, it's just purely a recommendation.

John Bailey: Bob, should we say Livingston “public” schools? I can see where some people would assume that any school is a Livingston school.

Bob Wiltshire: I have no problem with that. At one point, one of the drafts on this, I had public schools, and I have no problem with that. My agenda is not to tell St. Mary’s what to do, in this one.

John Bailey: Other comments?

Jerry O’Hair: I sat on the Livingston School Board, the High School Board, and the Livingston School District did purchase property up behind the Armory, which is high and dry. And the proposal at that time was that they were going to build a new High School up there. I’m not exactly sure where they are with that right now, but that was the proposal. They bought the land, so they have been making some preparations for future expansion and it would be out of the flood plain.

John Bailey: Other concerns? Are we happy with this Task Force?

Bob Wiltshire: I would like to ask Tom Hallin if he could add some clarification on this.

Tom Hallin: I’d like to say that I like it just as it is, except that I’d like to see you change the rotation of the name of the island, because it is officially “Livingston Island,” and it could say “also known as McLeod Island”.

Bob Wiltshire: Yes, I think that is a good point, because I initially recommended this based on it being called McLeod Island, and Tom pointed out to us, he knows these old maps, that it was actually on the maps as Livingston Island as the primary name.

Tom Hallin: That’s correct. It was when the Township passed, and also the USGS flood sheets.

Proposed edits:

#31. ~~That~~ No additional Livingston *public* schools should be constructed on Livingston Island (also known as McLeod Island).”

John Bailey: Any further questions? Are we happy with it now? Okay, we’ve reached consensus on #31.

#31. Recommendation Approved by Consensus:

“No additional Livingston public schools should be constructed on Livingston Island (also known as McLeod Island).”

John Bailey: Number 32, now we’re moving into Fish and Fisheries.

Steve Golnar: Could I just clarify one thing? Would it be possible to describe what Livingston and McLeod Island is in some sort of narrative form, or does everybody just understand what that is? That it is Fleshman Creek down to the main channel of the Yellowstone and how far up does it go? Does it go to Fleshman Creek where it comes in? Technically that’s part of it, so it probably doesn’t matter; so we wouldn’t see a school developed there. I’m just wondering if it would be easier to understand that if it were described in some way.

Liz Galli-Noble: Would it help to include a map when this is forwarded on?

Steve Golnar: Well, something that could describe it I think would be useful, and as far as, if you’re going to put a map in there, it would be nice to know what the map looks like before we pass the recommendation.

John Bailey: We did reach consensus, and you’re trying to bring it back up, which is fine. If you don’t want consensus to be reached, you need to be nodding “no”.

Steve Golnar: I will leave it the way it is.

John Bailey: We can still come back to this before the night is over.

Steve Golnar: Okay, thank you.

John Bailey: Okay, #32.

FISH / FISHERIES

Proposed recommendation:

#32. ~~That~~ Annual fish population surveys should be conducted on all sections where they have historically been made. If indications of a declining population are detected, additional studies must be implemented to identify potential causes and recommend actions that will restore populations.”

John Bailey: Anything on this one, anybody?

Bob Wiltshire: I'll take a stab because this was originally my recommendation. I believe the only public comment that I saw was from Glenn Phillips, and I think that we pretty well covered it already, that we all discussed the fact that populations fluctuate naturally. We're looking for, basically, an unnatural trend line in this. That was his only question, more than a comment, and I don't see much need to change it.

John Bailey: Any further discussion?

Andy Dana: I guess the only thing that concerns me about this is, I don't think I was present when this was debated, "if indications of a declining population are detected," do we want to specify a time period? Because you can have declining populations over a very short period and do we want to trigger immediate studies be implemented for that decline and recommended actions for restoration. I apologize to the Task Force if this has already been debated.

Bob Wiltshire: I think that the recommendation might benefit from a little bit of wordsmithing. That was basically the same sort of thing that Glenn was getting at. Our intention was never for this to be that one year of bad population would trigger it. What would you think if we change it to "if indications of a declining population trend are detected?"

Andy Dana: That sounds good to me. Joel, do you have any thoughts about that? When studies should be triggered?

Joel Tohtz: What I don't have is a specific number of years. Adding "trend" would probably help clarify. Actually, what I'm looking for is room to operate outside of sideboards that this thing might produce unintentionally. So, for example, when it is referring to historically sampled sections, of course there are many times you would want to look at other places. And when it refers to declining populations only, there are other reasons why you might want implement studies to see what is going on among fish population. We've had increases that are artificial as a result of drought for example, that have triggered looks at other things, just to see how this is going to operate. No, I don't really have a comment.

Andy Dana: Well, I think I would like to see declining population "trends" are detected, because that does imply a time period to detect the trend.

Proposed edits:

#32. ~~That~~ Annual fish population surveys should be conducted on all sections where they have historically been made. If indications of a declining population trend are detected, additional studies must be implemented to identify potential causes and recommend actions that will restore populations.”

John Bailey: Any further comments? Are we comfortable? Okay, we have reached consensus on #32.

#32. Recommendation Approved by Consensus:

“Annual fish population surveys should be conducted on all sections where they have historically been made. If indications of a declining population trend are detected, additional studies must be implemented to identify potential causes and recommend actions that will restore populations.”

John Bailey: Number 33.

Proposed recommendation:

#33. ~~That~~ Further investigations into the production and rearing of juvenile fish should be conducted, particularly to determine the relative importance of lateral side channels, mainstem habitats, overflow habitats, and spring creeks.”

Bob Wiltshire: This one was also mine. We did, as I saw, have one public comment on this; Peter Ismert with the EPA commented. They would like to see, in addition to the habitats and items that we've identified, groundwater discharge added, they say “groundwater discharge influences and other flood plain.” I think groundwater influences are important. They do have a bearing on where fish choose to spawn and rear, and I have no problem either adding that or leaving it out.

Jerry O'Hair: Well, are you looking at TMDL?

Bob Wiltshire: No, just groundwater.

Andy Dana: Jerry, I'm curious about that comment, and what prompted it. You probably know more about TMDL's than I do, and I was just curious what raised your concern, particularly after we added that language?

Jerry O'Hair: Well, there's been considerable concern among the agricultural community over TMDL amounts, or what triggers a TMDL search. So I was just concerned that when you say groundwater, that might be, for instance, irrigation systems or irrigation water coming into the river, if that might trigger some sort of a problem.

Andy Dana: I've got one just technical clarification that might help. After “juvenile fish” can we add “in the upper Yellowstone River,” just to be consistent with some of the other recommendations?

John Bailey: Bob, did you want to add some of Peter's comments, or not?

Bob Wiltshire: Personally, I think that if we added something about the groundwater, it would help this. On the other hand, if anybody has a problem with it, I'd have no problem leaving it out. I'm feeling very cynical tonight. My realist hat says we're not going to do any of these studies anyway. Does anybody have a problem if we put “groundwater” in along with overflow, mainstem and spring creeks?

Jerry O'Hair: That kind of bothers me.

Bob Wiltshire: All right, I have no problem leaving it out.

John Bailey: Any further comments? We have one change, “in the upper Yellowstone River.”

Proposed edits:

#33. ~~That~~ Further investigations into the production and rearing of juvenile *fish in the upper Yellowstone River* should be conducted, particularly to determine the relative importance of lateral side channels, mainstem habitats, overflow habitats, and spring creeks.”

John Bailey: Are we comfortable? Seeing no negatives, we've reached consensus.

#33. Recommendation Approved by Consensus:

“Further investigations into the production and rearing of juvenile fish in the upper Yellowstone River should be conducted, particularly to determine the relative importance of lateral side channels, mainstem habitats, overflow habitats, and spring creeks.”

John Bailey: Number 34.

Proposed recommendation:

#34. "New irrigation projects should consider fish-friendly construction and management in their design."

Bob Wiltshire: This was another one of mine, and as far as I can tell, we didn't have any public comment on this one at all.

Dave Haug: I guess I was one of your biggest opponents on this back in time, and I read and reread it and just don't see any problem with it. I think it is good that we look at the fish-friendly construction, but also I want to reiterate my statement that I don't want to devastate the economics of any of the canals, and I think this covers both sides of that. So I'll be the first one to support it.

John Bailey: Other comments? Are we okay with this one here? We've reached consensus again, on #34.

#34. Recommendation Approved by Consensus:

"New irrigation projects should consider fish-friendly construction and management in their design."

John Bailey: Number 35. Comments?

FUTURE SCIENCE / MONITORING / RESEARCH

Proposed recommendation:

35. ~~Encourage~~ The US Geological Survey-Helena and the US Geological Survey-Biological Resources Division should be encouraged to monitor and measure the effects of instream structures on the river over time."

Bob Wiltshire: I'll just say that it seems like we had one public comment, the EPA commented on this one. They commented that, if we were to identify the effects that are of most interest to the Task Force, it might help them in the future. I'll give my personal opinion on that. I think what we're getting at here is, we have a tough time saying, "this is a good structure, this is a bad structure," because we don't have the long-term follow up; and I think that that was what was behind all of this. I think it would be premature of us to identify any effects, because what we want to know is what are the effects, period.

John Bailey: Yes, I would agree with that. Good ones would help facilitate people putting things in that worked better, and that is certainly one of the things we've heard, "let's get some information, so we can do a better job." Other comments?

Jerry O'Hair: Looking at this again, I have a bit of a problem with it, in the fact that this could include irrigation structures and irrigation devices that are put in the river. And there again, we have another regulatory agency looking at it, and trying to pass some sort of a judgment. It could become quite cumbersome.

John Bailey: But they are not regulatory, they only get data. They don't give you a permit to do anything in the river. That's one of the reasons for picking the USGS, they collect data, and then disseminate it to people.

Jerry O'Hair: Okay.

John Bailey: When I proposed this, that was one of the reasons I chose the USGS. They don't want to tell you that you can or can't do something; they collect data, that's their job and that's what we need.

Jerry O'Hair: But you don't think that would be just one more hoop that we're going to have to jump through in order to do a project? To do a project is broadly connected to study and monitor and measure and so on and so forth, before we can get a project underway?

John Bailey: I think some of these will take 25 years to have any data. It has sort of been that what we keep hearing is, "How can we do a better job when there is no data right now showing how anything performs?" It is the lack of data, we seriously lack the data on how anything in the river is performing; and it makes it harder for

you to minimize your costs when you're doing something. If somebody had looked at rootwads in the Yellowstone, it may not have been proposed to you. I just see such a lack of data, if I'm against something, I don't really have something to base that on; or if you're trying to propose something, it's hard to know how well it was done. I had hoped, when we started this process that we would address this issue. We've gotten a lot of data and we had to probably get that before we could move to the narrower. That's my sense of this. I would hope that this would help you, if it shows you where things failed; it doesn't say you can't do projects. Then you might be able to use that data, if you needed to do a project, to design a better project or not do what failed somewhere else, because it will fail with you.

Jerry O'Hair: Okay, well, with your clarification, then I don't have a problem with it.

John Bailey: Any further comments on this? Are we okay? We've reached consensus on #35.

#35. Recommendation Approved by Consensus:

"The US Geological Survey-Helena and the US Geological Survey-Biological Resources Division should be encouraged to monitor and measure the effects of instream structures on the river over time."

John Bailey: Number 36.

Proposed recommendation:

#36. "That The Natural Resource Information System (NRIS) should house all Task Force Geographic Information System (GIS) information."

Andy Dana: The only comment I have is whether we want to at least open the door for the NRIS housing the fruits of whatever the Task Force has developed in terms of GIS systems. In other words, whatever has been defined as Task Force's GIS information. All this says is that NRIS should house the Task Force's GIS information, without looking to the future, without the expectation that there will be more data developed. I don't really have a strong feeling about that, but I just wonder if we should open that door.

John Bailey: Comments? Do you want to propose that, Andy?

Andy Dana: No, if nobody else feels strongly about it, no.

John Bailey: Okay. Any further comments? Are we okay with #36? Okay, we've reached consensus on #36.

#36. Recommendation Approved by Consensus:

"The Natural Resource Information System (NRIS) should house all Task Force Geographic Information System (GIS) information."

John Bailey: Number 37.

Proposed recommendation:

#37. "That A study should be conducted to understand the river dynamics and hydrology related to sloughing of river banks at Deep Creek, the Weeping Wall, and Mallard's Rest."

John Bailey: Any comments here? Andy?

Andy Dana: I like this one.

John Bailey: Other comments? Hearing none, are we okay with this? Okay, we've reached consensus on #37.

#37. Recommendation Approved by Consensus:

"A study should be conducted to understand the river dynamics and hydrology related to sloughing of river banks at Deep Creek, the Weeping Wall, and Mallard's Rest."

John Bailey: Number 38.

Proposed recommendation:

#38. “~~Fund~~ An immediate study of the social carrying capacity of the Yellowstone River should be funded—to be conducted by researchers within the state university system with the cooperation of the Montana Department of Fish, Wildlife and Parks and other state and federal agencies—to quantify the current conflicts and potential future conflicts among recreational users and property owners, and impacts to fish and wildlife.”

Andy Dana: This is one that I proposed, and there were significant public comments on this. I distributed a memo at our last meeting that had some proposed changes, but since I made the changes in the memo, I received the City’s comments about what does “social carrying capacity” mean, and their point is that it is jargon. So I would propose to whittle this down substantially by amending it to read, “An immediate study should be funded to identify the current conflicts and potential future conflicts arising from changing uses of the upper Yellowstone River.” The reason for proposing this initially, just to remind people, was that the Socio-Economic Study really focused, by Ed Harvey’s admission, on economic uses of the Yellowstone River, and there was not a heck of a lot of meat to their analysis of social conflicts, and how people value the various attributes of the Yellowstone River. In proposing this, that was my goal, was to try to get at the conflicting uses on the river, and how people might view those conflicts and potentially develop a framework to discuss those and analyze them, and to solve them.

Bob Wiltshire: Andy, I assume that you’re talking primarily about on-water use?

Andy Dana: On-water use, and of-water use, so it could potentially include irrigation.

John Bailey: Other comments?

Steve Golnar: I think the changes certainly narrow it down. I guess I’m wondering if this provides enough direction to define the scope of the study.

Andy Dana: I think the key phrase is “changing uses of the upper Yellowstone River,” “conflict from changing uses.”

Steve Golnar: The City is fine with it, as written.

Andy Dana: It is broader, but the intent is really to try to recognize that there are changing uses, and that does create a flashpoint of conflict and potential problem.

Roy Aserlind: Well, from my perspective, I think the future conflicts will come not from a changing usage, but from increased usage. If everything that is currently being used now, we’ve all seen through studies, the potential for increased usage; and I see nothing that would preclude this increase from stopping.

John Bailey: I have a comment, and that is the word “immediate.” When I read through all our recommendations, this should be number one, because it says we will do this immediately, nothing else says that. Is that what the Task Force wants, for this to be THE recommendation of the Task Force?

Andy Dana: I have no problem striking that, I think that prompts insertion; but I think we should hear from Bob.

Bob Wiltshire: I don’t have any problem softening it, what I don’t want to see is that six years from now they finally decide, “Oh, gee, didn’t somebody ask for a social study?” Recreational use of the Yellowstone is skyrocketing, and if they don’t implement this fairly soon, the horse is out of the barn. I don’t mean to make it our top priority, no, but it is a more imminent need than a 30-year study on whether three-foot rock holds better than three-foot-two-inch rock. We could put in something like “as soon as possible,” but that doesn’t carry a whole lot of weight either. I guess as long as I am talking, I’ll just respond to Roy. Roy, I had that same concern that you did, about increased use, but as I read this, that is a changing use, the level is increased, and that is a change from where it was.

Roy Aserlind: I'll buy that.

Andy Dana: I guess my feeling is that we can strike "immediate" and each constituent group around the table can take a recommendation and lobby to make that the highest priority after we're done with the work, and we'll see where the cards fall. I think, Bob, you'll have a fair bit of sympathy getting a lot of public support for this type of study, as well as resistance.

Bob Wiltshire: The change I wonder about would be inserting "quickly" after "should," "a study should quickly be funded." If the Task Force is happy just removing "immediate," I'm not going to stand on that.

John Bailey: I would say, if someone asked me about our recommendations, and they say, "Well, how come #38 has the highest priority," I can't answer that, from the Task Force point of view. I have no idea why that is.

Andy Dana: I agree. We're looking toward striking "immediate".

John Bailey: I think then it's in balance with everything. The night we talked about it, and then when Liz put them together, I went "Whoa," this one just stands out above everything. We haven't had a discussion as to whether it should be number one on our list, which is what I think some people will think.

Bob Wiltshire: I'm willing to strike "immediate" if everybody else wants to. I was wondering, though, Bill Moser had some very pointed comments about this, and I'd like to ask him if these changes in any way satisfy his concerns.

Bill Moser: No. Thank you.

John Bailey: Other comments?

Proposed edits:

~~#38. "Fund A n immediate study of the social carrying capacity of the Yellowstone River should be funded to be conducted by researchers within the state university system with the cooperation of the Montana Department of Fish, Wildlife and Parks and other state and federal agencies — to quantify identify the current conflicts and potential future conflicts arising from changing uses of the upper Yellowstone River among recreational users and property owners, and impacts to fish and wildlife."~~

John Bailey: Any further comments? Are we okay with this? We've reached consensus on the changed version of #38.

#38. Recommendation Approved by Consensus:

"A study should be funded to identify the current conflicts and potential future conflicts arising from changing uses of the upper Yellowstone River."

John Bailey: Number 39.

Proposed recommendation:

~~#39. "Encourage The maintenance of a long-term database of macroinvertebrate populations should be encouraged to monitor water quality in the Yellowstone River."~~

Andy Dana: On #39 we may want to also encourage the development of a long-term database on macroinvertebrate populations, because to my knowledge there isn't one.

Liz Galli-Noble: There is one.

Andy Dana: There is? Joel?

Joel Tohtz: Probably good to insert it.

Brant Oswald: This was originally my recommendation, so I do think, even if there is some data out there now, it probably is in the macroinvertebrate development, so I think that is good language. So “development and maintenance...”

Bob Wiltshire: We had two public comments on this, and in some respects, they seem to be similar. The EPA comment suggested that we may want to include references to working with DEQ to establish adequate monitoring protocols. I don’t know if we want to do that or not. We also had another comment that some macros can adapt to heavy metals over a period of time, and that therefore that could have an influence on a macro study as well. So, I guess the question is, do we want to start getting into protocol to a greater extent than what we have?

Dave Haug: I personally am opposed to including DEQ in there.

John Bailey: Other comments? That happened on a lot of the other recommendations, we’ve sort of stayed out of protocol, because we didn’t want to hamstring them?

Bob Wiltshire: Right. I’m offering the public’s comment.

John Bailey: Other comments?

Brant Oswald: John, since we have a comment from the public, I’d like to ask Karl to clarify.

Karl Biastoch: The only other thing I would say is to have them run a chemical water analysis, there again, every five years, along with the macroinvertebrate study.

Brant Oswald: I’m not sure if I remember all of the discussion we had, but it seemed to me that there is currently some water chemistry testing that is being done, and it seemed to me that this was one in particular that—again even addressing the concerns you gave about other criteria—it seemed our discussion at the time was that this might only be a piece of the puzzle, but it would be an important piece. And that these indicators might not be the only indicators, but they might at least point us toward the need for other kinds of testing. So, this might only be a piece of what’s being done, but it’s an important one.

Proposed edits:

#39. “~~Encourage~~ The *development and* maintenance of a long-term database of macroinvertebrate populations should be encouraged to monitor water quality in the Yellowstone River.”

John Bailey: Other comments? Are we okay with this now? We’ve reached consensus on it.

#39. Recommendation Approved by Consensus:

“The development and maintenance of a long-term database of macroinvertebrate populations should be encouraged to monitor water quality in the Yellowstone River.”

John Bailey: Number 40.

Proposed recommendation:

#40. “~~That~~The drilling site known as Hobbs Well should be thoroughly investigated to determine what, if any, impacts it has created, or may create, on subterranean and surface water flows.”

John Bailey: Any comments on this, Hobbs Well? Are we okay with this then? We’ve reached consensus on #40.

#40. Recommendation Approved by Consensus:

“The drilling site known as Hobbs Well should be thoroughly investigated to determine what, if any, impacts it has created, or may create, on subterranean and surface water flows.”

John Bailey: Number 41.

Proposed recommendation:

#41. ~~That~~ Montana State University should serve as the lead organization to coordinate efforts by the scientific community and agency personnel to develop and implement a long-term research and monitoring program in the upper Yellowstone River study area.

John Bailey: Any comments on #41?

Brant Oswald: John, my comment here is that we actually drafted at the last meeting, when we did new recommendations, I actually drafted #45 to replace #41, so I would ask that we withdraw Recommendation #41.

John Bailey: Do we have consensus on withdrawing #41? We have no objections. Okay, we've eliminated #41.

Proposed recommendation:

#42. ~~To encourage~~ People should be encouraged to study different techniques or ways to alleviate the flooding damage through the upper Yellowstone River study area."

John Bailey: Any comments on #42?

Bob Wiltshire: John, there was a public comment, EPA commented. They say the recommendation could be reworded to explore the potential for innovative land-use management techniques that will lessen or minimize disruption of economic stability by flood events. I think that we've been very reluctant to deal with land-use management and I'm not sure we'd be receptive to addressing that here. I would be interested in what anybody else has to say.

Andy Dana: I'm not responding directly to Bob's concern, but I wonder whether this is a candidate for combining with #3? Number 3 deals with encouraging studies to indicate what types of bank stabilization would work best to achieve the goals. Number 42 is different, but it has the same sort of thrust to study different techniques or ways to alleviate flood damage, and in the interest of trying to consolidate, that is the only reason I would raise that. If they are too distinct and separate, then I think that #42 can stand on its own.

John Bailey: Who proposed #42?

Andy Dana: I think it was Jerry, but I'm not certain about that. A combined proposal might be, for example, "studies should be developed which would indicate what types of bank stabilization would work best to achieve particular goals within different geomorphic reaches of the upper Yellowstone River, and to identify different techniques or ways to alleviate the flooding damage through the upper Yellowstone River study area." It just grabs that last clause. They are different, so maybe we don't want to combine them.

Jerry O'Hair: My opinion is that they are really different, and I would be opposed to combining them.

John Bailey: Other comments on #42? Hearing none, are we okay? Andy, are you okay? Over here? Number 42 reaches consensus.

#42. Recommendation Approved by Consensus:

"People should be encouraged to study different techniques or ways to alleviate the flooding damage through the upper Yellowstone River study area."

John Bailey: Number 43.

Proposed recommendation:

#43. "Regulatory program modifications for activities that affect the upper Yellowstone River should be considered in the context of the Governor's Upper Yellowstone River Task Force scientific investigations."

Bob Wiltshire: There was no public comment.

John Bailey: Are we okay with this? Jerry, are you okay? We've reached consensus on #43.

#43. Recommendation Approved by Consensus:

“Regulatory program modifications for activities that affect the upper Yellowstone River should be considered in the context of the Governor’s Upper Yellowstone River Task Force scientific investigations.”

John Bailey: Number 44.

Proposed recommendation:

#44. ~~That~~ A river migration study should be undertaken to measure ~~ing~~ the potential for river channel avulsion between the Livingston Ditch headgate and Interstate 90, and to identify ~~ing~~ measures which could be implemented to prevent flood damage to the Livingston urban area.”

John Bailey: Comments on #44? Hearing none, are we okay with this? We've reached consensus on #44.

#44. Recommendation Approved by Consensus:

“A river migration study should be undertaken to measure the potential for river channel avulsion between the Livingston Ditch headgate and Interstate 90, and to identify measures which could be implemented to prevent flood damage to the Livingston urban area.”

John Bailey: Number 45.

Proposed recommendation:

#45. ~~That~~ The State of Montana, along with federal sources, should fund an Upper Yellowstone Research and Monitoring program at Montana State University to enable MSU to serve as lead organization to coordinate efforts by the scientists, agency personnel, and the community to develop and implement a long-term research and monitoring program in the upper Yellowstone River study area.”

Brant Oswald: John, I'd offer a couple of comments here. Again, just to bring us back to the discussion when we drafted and approved this one, the main change from #41 to #45 was to recognize that there was no mention of funding in the #41 and that was the main thing that was added. There were a couple of public comments on this recommendation, one was a suggestion that we change the lead organization from MSU to another candidate, and I'd certainly welcome other comments. But I'm not sure I see the value in moving it to a different university. I think there were also some public comments, something along the lines that campus politics can have effects on things. As a campus politics survivor, I would acknowledge that is an important issue, but again, I don't think moving the lead agency from MSU to a state agency would necessarily eliminate political problems either. I think there is also one comment that spoke to the fact that they didn't want to see management along the river to be tied up in endless studies; but I think, again, this simply recognizes that long-term monitoring and additional research will be important in the future and this will give us an avenue to try to accomplish that.

Andy Dana: At the risk of biting the hand that feeds, over half of our income comes from MSU, I have to say that I really wonder why we need to identify a lead agency at all. There is a certain, I think, healthy aspect to having competing organizations. Rather than setting up a Yellowstone River Research Czar, it might be more appropriate to have a number of agencies or universities. Why do we want to endorse MSU as opposed to anyone else? Do we really have the knowledge to know that MSU is going to do the best job? I'm not particularly comfortable with this recommendation for that reason.

Roy Aserlind: Well, I would have to speak in support of MSU's being the lead organization. The reason for that being that almost immediate access to a wide, wide, wide variety of professions in a number of different fields, in chemistry, agronomy, hydrology, that I think no other single entity has such a wide variety as a university has. You find motivation, and, in fact, you have that clientele, the graduate students, who will carry out most of the studies, do it well, do it under the supervision of a major professor. I think the university has

one of the greatest communication systems, and just within the individual personnel at a university, I have to say, that one of the greatest motivators is the “publish or perish.” The publication that is essential to existence in a university situation, which, to me, would almost guarantee that these projects would be carried out, they would be monitored, there would be adequate peer review. Again, I’m just stating the purpose that I think universities such as MSU would serve well as the lead organization.

Jerry O’Hair: I kind of feel like Andy, and I’ve had some dealing with the School of Mines in Butte, and they’ve been doing some research in the area. So to tie it up with one organization, I think is tying our hands, and I would like to see it open.

Bob Wiltshire: I just wonder how this jibes with #35, where we just asked USGS-WRD and USGS-BRD to conduct long-term monitoring of instream structures.

Brant Oswald: I guess the only response I would have to the most recent comments is that it seemed to me that we weren’t trying to set up a czar of all this information, but just that there would be some body that would coordinate. It’s not suggesting that USGS don’t do research, because I think there should be probably a whole bunch of entities that end up doing research. The question is whether we needed to have someone coordinating those efforts. So this wasn’t intended to set MSU up as a monopoly, we’re doing monitoring and research, sort of like our clearinghouse for information coming from the Task Force, that there be some central place where all that information gets disseminated; not that they are the only entity working on these things. I guess I would certainly like to see us come out of this, even if we don’t endorse MSU, that we certainly suggest that there be one entity that serves as the coordinator.

Andy Dana: What are we coordinating, though? I mean we have the Technical Advisory Committee coordinating the studies that we endorsed, and that was a very useful project; but we don’t know what we’re recommending will be coordinated. I guess a long-term research and monitoring program, but that’s pretty vague. I won’t oppose this, I think I’ll stand aside.

Steve Golnar: I remember, last meeting, Duncan was saying that MSU would coordinate those efforts, but it wouldn’t be limited to MSU researchers, and I’m just proposing maybe a change in the fourth line, after “personnel,” maybe you could put “other universities and researchers.” Maybe that would allay some people’s fears about tying it to one university.

Brant Oswald: We actually, again, we’ve used a general term to start that, where it just says “the scientists” and maybe we can even change that too. It seems to me that what you’re identifying there is the scientific community at large. I think, you probably can delete “the scientists” and replace it with that language, but I’m not sure if that gets at the objections he brought up.

John Bailey: I thought one of the reasons we were suggesting MSU was that so many of the researchers were there, so it was somewhat of a basis of people in one locale that had some knowledge of what we’ve done; not necessarily that it is the best or only university.

Andy Dana: My fear about this is, to be honest, is that this is a carte blanche for Duncan, or someone else at the university, to go to the Board of Regents and say, “We now need a program, an Upper Yellowstone River Research and Monitoring Studies, and I just am uncomfortable with the Task Force endorsing a program like that, an academic program at MSU. I just don’t think that we have the knowledge or the business to know what that’s going to look like, and it is going to get wrapped up in campus politics. It is no slight against Duncan at all, I mean I have great respect for what he does, and I have great respect for all of the researchers at MSU. It’s just that this does insert the Task Force into academic politics. There is just no way around it in my view.

Jerry O’Hair: I’m going to add onto that too, I think that it’s human nature to be territorial and that’s exactly what universities tend to do, to be territorial, and I’m concerned about it.

John Bailey: So, would you two be okay with “...Yellowstone Research and Monitoring Program”, and just take out “Montana State University,” “...to enable MSU to serve as the lead organization to coordinate efforts by scientists.” Does that satisfy it, or is it the whole concept?

Andy Dana: I don't understand why we need a lead organization, per se.

Roy Aserlind: I'm looking at it from an entirely different way, Andy. I'm saying that if it is just out there, sitting in limbo out in space, it will drop through the cracks. And I don't see a university czar developing. If it doesn't come under the aegis of a university, as I had mentioned before, with the plethora of highly trained, highly motivated people, who will do it? Who will take the time and the energy to do peer reviewed studies? That is essential, I think, for the university structure, and you take it out of that, and I don't care if somebody somewhere out there, starts doing a study, peer review is not an essential part of their paradigm. Anyway, I'm just going on record as saying I think it should be housed within a university, that's my personal bias.

Andy Dana: For the record, I'm not going to oppose, I'll stand aside on this.

Steve Golnar: Just alternate suggested wording, just for consideration, would be, instead of going strictly with MSU, would you consider "within the State University System?"

Roy Aserlind: I would say that is good. I'd support that.

Brant Oswald: I think my primary concern is that we come out of this reaching consensus, that someone should serve as the lead organization to coordinate these efforts. I would vote for language that we can reach consensus on.

Bob Wiltshire: I've had a real problem with this all along, for a very different reason than what I've heard anybody expressing so far. I will probably stand aside on this because this is a personal observation, but I think that the administrative overhead fees that are charged by the university system are highway robbery, and I can't, in good consciousness, support state funding for a program when I know that 30 percent is going to be taken off the top, and given to the university administration. I know darn well, we talk about university politics, they are going to be screaming really loud that we need more state funding for this program because they know they are getting 30 percent off of the top.

Liz Galli-Noble: John, is it all right if I comment?

Bob Wiltshire: I would like to have Liz comment.

Liz Galli-Noble: It's interesting that you bring up the funding, because I think one of the things that spurred this whole idea on was that we've gotten a lot of federal funding through cooperative agreements that we have at MSU. I see people from the lower Yellowstone group here tonight and they're actually hoping to move lots of federal funding through a cooperative group at MSU, and that Coop only takes a 15 percent administrative fee, which is a great deal. The federal government won't take anything higher. So, this is really multi-leveled and I think in fairness to Duncan, look how many people have already done projects with MSU being the lead. The USGS was obviously the best candidate for some studies, and so they led those studies. Where we had local people, with local expertise, we used those people at MSU. So, I think that our project is a great example of how that same thing could happen through MSU in the future.

John Bailey: Other comments? It doesn't look like we are even close to consensus.

Andy Dana: I'm not sure about that. I think we had some stand-asides. I'm not sure we have a block.

John Bailey: Jerry?

Jerry O'Hair: Well, I'm not real sure how I'm going to vote on this, but when you go back to recommendation #1, we set up, or wanted to set up, an information clearinghouse, and we didn't specify who there, did we?

John Bailey: We said a local bank stabilization information clearinghouse. I think we thought with local, it was within this community.

Jerry O'Hair: Okay.

John Bailey: Well, you had said that you didn't like this one, so I was wondering, are you blocking this one?

Jerry O'Hair: Well, like I say, I think there are some other parts of the university system that sure need to be included in some of the research and monitoring. I think they are better able to handle it than MSU, but I'll stand aside on this.

John Bailey: I have a question. Is there an issue with "research and monitoring?" I guess when I originally thought about this, I was thinking of research, I'm not so sure about monitoring, and I'm not sure that, necessarily, the university is the place where monitoring is going to take place. I don't know if the combination of those two words are causing some of the problem now. I just ask that as a question.

Jerry O'Hair: Well, I have some great respect for the research work that has gone on at Montana State, but I also know that in the agricultural program, there's been a tremendous amount of politics that goes on. So I've got some reservations about this, but like I said, I will stand aside.

John Bailey: What part do you have a reservation about, or is it the whole thing?

Jerry O'Hair: The research and the monitoring.

John Bailey: Okay. Thank you.

Andy Dana: I guess I don't have a problem with the concept of research and monitoring, that's what half of our recommendations are. This sets up a framework in which that will take place, and a process, and I'm unwilling at this point to state—based on what I know and without the consideration of other alternatives—to endorse MSU as the organization that should coordinate these efforts. Again, it's no knock against MSU, or Duncan, or any of the scientists there; but it just sets up a process, and endorses a program within a certain agency, the State University as an agency, which we really haven't done before.

John Bailey: Then reword it, taking them out.

Andy Dana: "The State of Montana, along with federal sources, should fund an Upper Yellowstone Research and Monitoring program to coordinate efforts by the scientists..." That's a totally different proposal than where this initially came from.

John Bailey: Well, that's okay, but we have a lot of people on the Task Force that are uncomfortable with the way it is.

Brant Oswald: Jerry, does that address your concerns, if MSU is taken out? I just want to comment, John, it did seem at the time that we discussed this, the only reason that we had set up MSU as the leading organization was sort of like your comments, that we were already partially there, that a lot of the research had been done there and it seemed to make practical sense to leave them housed there. But I think MSU could probably, if this program comes into being, be in a pretty strong position to try to lobby to have it housed at MSU, so I'm perfectly comfortable with the deletion as it is now.

John Bailey: Any further comments?

Steve Golnar: This is just an editorial comment. I think you can take "other" out, since you don't have MSU as the lead university.

Proposed edits:

#45. ~~That~~ The State of Montana, along with federal sources, should fund an Upper Yellowstone Research and Monitoring program ~~at Montana State University to enable MSU to serve as lead organization~~ to coordinate efforts by ~~the scientists~~, agency personnel, other universities and researchers, and the community to develop and implement a long-term research and monitoring program in the upper Yellowstone River study area."

John Bailey: Thank you. Are we comfortable with this now? We have reached consensus on #45. Thank you.

#45. Recommendation Approved by Consensus:

“The State of Montana, along with federal sources, should fund an Upper Yellowstone Research and Monitoring program to coordinate efforts by agency personnel, universities and researchers, and the community to develop and implement a long-term research and monitoring program in the upper Yellowstone River study area.”

John Bailey: Number 46. I think the City has something to say about this one.

NEW STAKEHOLDER GROUP

Proposed recommendation:

#46. “A stakeholder group should be developed to continue to monitor the status of the upper Yellowstone River, to make recommendations about river related issues, to encourage long-term monitoring of river related projects, to promote the completion of identified research needs, and to examine the implementation of the Task Force recommendations.”

Steve Golnar: I’m just curious, on the stakeholder group, who the stakeholders are? I think other people had some comments about this also, and I just identified a number of them that I’m aware of in Livingston, and I’m sure there are many outside the city limits that are out there also.

Bob Wiltshire: I think that, in our discussions, we did not feel we were the people to determine who and how any of those people should be selected. That’s why it just says a stakeholder group. We are certainly not in a position to form such a thing, and if that’s going to happen, it’s going to be a genesis of something that starts within the community because there is a need that needs to be filled.

John Bailey: I think we also thought that there could be several groups that might form, because there is an issue that brings them together.

Steve Golnar: Can I ask another question? If there is going to be several, or there may be several, maybe instead of “a” stakeholder group, you might say “stakeholder groups.” I’m still concerned about how they’d be developed, and then if there’s an opportunity, my main concern is the ability to voice concerns and participate in debate on issues addressed by the stakeholder groups. My question is who belongs to that stakeholder group, and who is included and who isn’t?

Bob Wiltshire: Do you have suggestions, Steve, to offer, on what this group should look like and how those people should be selected? How we make sure it’s representative, that we can include that stuff in the recommendation?

Steve Golnar: I can give it a try. I would just put “stakeholder groups” instead of “a” stakeholder group. My suggestion about who would be included in stakeholders is pretty broad; it gets pretty difficult, doesn’t it?

Bob Wiltshire: Could I offer this: “stakeholder group” and then the “s” put in parentheses, so it could be one or multiple.

Steve Golnar: That’s fine.

Bob Wiltshire: And then I would follow that with a comma and “with full public participation,....” .

Steve Golnar: Okay, I can live with that. Thank you.

Kelly Wade: May I make a comment?

John Bailey: Yes.

Kelly Wade: You want to develop the group with public participation, so you want to put that phrase after “developed,” “should be developed, with full public participation.”

Bob Wiltshire: Well, we want to develop it with full public participation, but we also want full public participation once the group is developed.

Roy Aserlind: I have to make at least one facetious comment tonight. But I can see the development of a Floodway Group, of a Noxious Weed Group, of a Riprap Group. Is this possible? As I said, facetious.

Andy Dana: I don’t think that is so facetious. I think that that is a real risk, to get competing stakeholder groups and they cancel each other out, and you don’t get anything productive out of it. Who is the authority?

Dave Haug: I think, when you look at some of these other groups, I think you’ll get a group that will cover some needs in a region, maybe in just one section of the river, and they will go through, hopefully, riprap, weeds, a bunch of things that are in their area. These landholders or property owners or interested parties or whatever, form together because they have problems within their region and hopefully they’ll address all of those, instead of just one idea.

John Bailey: Who proposed this one? This was when I was gone. I don’t know who proposed this one, to get back to them about how we’re changing it.

Andy Dana: I’d like to suggest that we do move the “full public participation” after “developed” as Kelly suggested. I think that is what we mean.

Bob Wiltshire: The only problem I have doing that is that it can sound like once the groups are developed, the full public participation is over.

Andy Dana: Yes, except that if the stakeholder group is developed with full public participation, the stakeholders theoretically are representative.

Bob Wiltshire: It’s fine with me.

Jerry O’Hair: Is this suggesting something like a watershed group, or something similar to what we have?

John Bailey: It could be. I assume any group that forms is going to have a broader issue than what we’ve been doing. A watershed group could go up and get into forest issues, I would assume, among others. Whether they are going to narrow in on the things we’ve done, any of these groups, is questionable; or it can be splintered into a bunch of groups. I think one of the problems with this kind of recommendation is that we can’t dictate to the future group. Because unless they have an issue that brings them together, they aren’t going to come to meetings for six years. It’s kind of a chicken-and-egg thing. Other comments? Are we okay with this then?

Proposed edits:

#46. “A-Stakeholder group(s) should be developed, *with full public participation*, to continue to monitor the status of the upper Yellowstone River, to make recommendations about river related issues, to encourage long-term monitoring of river related projects, to promote the completion of identified research needs, and to examine the implementation of the Task Force recommendations.”

John Bailey: Okay, we’ve reached consensus.

#46. Recommendation Approved by Consensus:

“Stakeholder group(s) should be developed, with full public participation, to continue to monitor the status of the upper Yellowstone River, to make recommendations about river related issues, to encourage long-term monitoring of river related projects, to promote the completion of identified research needs, and to examine the implementation of the Task Force recommendations.”

John Bailey: We've now gone through all of our recommendations once. I know that we have some comments, which we need to address. I have one, from the Montana Department of Transportation. Stan, do you want to address this?

Stan Sternberg: My comments are on Recommendations #26, #28, and #29. Some of our people saw some original drafts and commented on them, and we didn't get the comments to you soon enough, for whatever reasons. I'll look at #26 here first.

#26. Recommendation Approved by Consensus:

"When the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology Study should be lessened: Emigrant Bridge; Carter's Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge."

I think the Task Force members have a copy of this memo, but on #26, essentially, I think what they're saying is that the hydraulic impacts may not be able to be lessened, and this is at any number of bridges, not just the one east of town here. Can you take it to the engineer and determine what is feasible and not feasible? And there may be factors outside our bridges that may be impacting the site, hydraulic impacts to the site, not just the bridge itself.

I'll skip down here to #28, and I think this was addressed.

#28. Recommendation Approved by Consensus:

"All new and refurbished bridges should be designed to minimize upstream and downstream negative impacts of sedimentation and gravel deposition."

Originally, it had the word "mitigate," that "all new and refurbished bridges should be designed to" originally it was "mitigate" and now it is changed to "minimize" and that's fine with us. There was also some concern about the word "refurbished," and sometimes we do minor deck rehabs or guardrail replacement, which could be considered refurbished. That is mainly just a word choice. I don't think the Task Force meant to consider minor things like deck rehab as affecting the stream one way or another. On #29, they're talking a lot about some Highway 10 route east of town here.

#29. Recommendation Approved by Consensus:

"Bridge design considerations on the upper Yellowstone River should include examination of the cumulative impacts and the costs and benefits of zero backwater standards at any scheduled reconstruction. As an initial project, that a zero backwater design at the US Highway 10 Bridge over the Yellowstone (east of Livingston) should be evaluated to increase the flow capacity of the river through town, and that the cooperation and support of the railroad to build a parallel zero backwater bridge north of the Highway 10 East Bridge should be secured."

My notes here say make Highway 10 East Bridge as hydraulically efficient as practical. However, we will not be replacing the existing railroad bridge, that's not part of our package. If both bridges are lengthened, our engineers feel that the impacts upstream would be negligible. For example, longer bridges won't necessarily lower the water surface level through town. Comments indicate that we look at the backwater issue on a site-specific hydraulic study. Another note here says the current bridge configurations of both the highway and railroad bridges with associated embankments may be protecting the City's sewage treatment plant. I don't know if you want to talk about that or not. If the highway and railroad bridges are significantly lengthened, and that would be to the south, the treatment plant may be susceptible to a flooding event. I don't know if anybody thought about that, but I imagine they may think it's important to protect that. And the comment in here on soliciting the support of the railroad; who is supposed to do that? The Department of Transportation, the Task Force, or the Governor's office, or somebody else? Those are some of our comments, and you can read through this narrative here too, but I think that is kind of the gist of it. They do talk about, in the bullets there on the second page, those are some of the scenarios and things that they look at when they are in the process of doing hydraulic studies on proposed bridges, and also the public participation process that's involved with any bridge project. That's all I have. It's kind of late in the process here, you've already put your nod on these. In some ways, I think that these recommendations don't have the full effect of a statute; although we do respect, obviously, the Task Force's work, and these efforts, and we do need to look at the recommendations.

John Bailey: Okay, let's take one at a time, #26.

Previously approved:

#26. "When the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology Study should be lessened: Emigrant Bridge; Carter's Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge."

John Bailey: "...should be lessened," that doesn't mean you have to do it. Are those words too strong for the Highway Department? What this does is go back to the Geomorphology Study that has a table in it addressing impacts of bridges—some are moderate, some are high. We were just trying to tie our recommendation that study and hopefully the Highway Department would look at the study, and see if they could lessen the impacts that it shows.

Stan Sternberg: I think that what we're looking at here may be that in practicality they can't be lessened. We've looked at that—we consider these things any time we do a bridge project—but maybe there are some reasons why they can't be lessened. We wouldn't avoid the issue.

John Bailey: Do we need to change this to satisfy your needs?

Stan Sternberg: I should have come with some word suggestions here. "...should be lessened if feasible and practical."

John Bailey: Task Force members, are you comfortable with that change or not?

Andy Dana: I guess my sense of what the Task Force is trying to accomplish with some of these is to suggest a change in thinking, that maybe we can help MDT move in a direction toward improving bridge designs to enhance the geomorphic function of the river. I don't know if other Task Force members feel that way, so I would be somewhat disappointed if we inserted that language, "if practical or feasible," because that opens the door to do nothing, in my mind.

John Bailey: Other comments? Let's talk just about #26.

Bob Wiltshire: I would echo that on #26. I think the door is already open to do nothing, because our recommendation says that they "should." Well, that's not a mandatory recommendation of any sort. And this one is also specifically tied to the geomorphology studies that said the bridges that are there right now are having an impact, a hydrologic impact. I think it is totally appropriate that we say that they "should be lessened."

John Bailey: Other comments? Does any Task Force member want to make a change to this?

Stan Sternberg: Bob, what you're saying here is that "should" is not mandatory?

Bob Wiltshire: Yes.

John Bailey: We've used that throughout, in a lot of our recommendations, that that is a sort of a non-mandatory word.

Stan Sternberg: In other words, it is not a "must".

Bob Wiltshire: It is not a "must," it is specifically not a "must".

Stan Sternberg: I think our people took it as a "must".

The decision was made not to change the wording of Recommendation #26.

John Bailey: Okay, on #28, I believe you suggested "minimize" be changed; we fixed that. Then you have a problem with "refurbished" and what that means, am I correct?

Previously approved:

#28. "All new and refurbished bridges should be designed to minimize upstream and downstream negative impacts of sedimentation and gravel deposition."

Stan Sternberg: Yes. I mean I don't think you mean bridge deck rehabs and guardrail replacements.

John Bailey: I think we talked about that, is there a better word we can use?

Stan Sternberg: When we're doing bridge deck rehab, we're really not effecting the undercarriage, the underneath portion of the bridge. I suppose if we're trying to shore up some riprap around a pier, that would be something that we'd look at the effect on the river, and the Task Force would be involved with, and the Department would have to address that, study the impacts of what that would mean. But if we're keeping our work on the surface, and not touching anything below, we're not effecting the flow of the river.

Bob Wiltshire: Would it work to insert "All new and floodplain refurbished...?" What I'm trying to get at is away from this deck thing, because that is not at all what we intended.

Andy Dana: How about "All new bridges and structural modifications to existing bridges"?

Stan Sternberg: I think "structural modifications" would be fine.

Proposed edits:

#28. "All new and refurbished *structural modifications of existing* bridges should be designed to minimize upstream and downstream negative impacts of sedimentation and gravel deposition."

Steve Golnar: How about if we use, as they identified in their first page, "substructure piers and abutments." Put that in, "All new and substructure (pier and abutment) construction on bridges" and you just go from there.

Stan Sternberg: I think if I understood you, that sounded kind of like what I was saying. From my perspective, I think that is fine.

Dave Haug: This is a little different, going back to your bullets down there, were you here last week when Bill Moser said that he found your highway bridge completely works with the existing railroad bridge, and there's a dry span there that, with some modification, could be utilized without changing the bridge. Have you guys looked at that alternative? If you lengthened the existing bridge to the south, it would put everything more in line with the river, and also would utilize that other span of railroad bridge; although I think you'd have to do some work in the channel to do that.

Stan Sternberg: Well, I imagine that that's an area that's been brought up to our bridge designers and hydraulic engineers to look at. I don't think they close their eyes to any options that are offered.

John Bailey: That's on #29, right now we're on #28.

Dave Haug: But it kind of carries over.

John Bailey: Well, I know, but we're working with this one. We haven't moved into the Highway 10 Bridge one yet. So, are there any other comments on #28, before we go to #29? Are we comfortable with this new wording?

Bob Wiltshire: I'm very comfortable with what we're saying. I'm not real comfortable with what the words say, because when I read it, it just sounds awkward. "All new bridges and substructure reconstruction..."

Steve Golnar: Do you want to say "substructure bridge reconstructions?"

Bob Wiltshire: Do you see the problem with the wording? It just seems a little awkward.

Steve Golnar: I'd put "bridge" before "substructure."

Bob Wiltshire: That would make it flow a lot better.

Steve Golnar: And put an “s” at the end of “reconstruction.”

Andy Dana: If we go with it, I would like to insert “e.g.” before “piers and abutments” just so that it is not necessarily limited only to those. It means “for example”.

Proposed edits:

#28. “All new *bridges* and *refurbished bridge substructure reconstructions (for example, piers and abutments)* ~~bridges~~ should be designed to minimize upstream and downstream negative impacts of sedimentation and gravel deposition.”

John Bailey: Other comments? Are we okay now? Okay, we’ve reached consensus on a new #28.

#28. Recommendation Approved by Consensus:

“All new bridges and bridge substructure reconstructions (for example, piers and abutments) should be designed to minimize upstream and downstream negative impacts of sedimentation and gravel deposition.”

John Bailey: Now, #29.

Previously Approved:

#29. “Bridge design considerations on the upper Yellowstone River should include examination of the cumulative impacts and the costs and benefits of zero backwater standards at any scheduled reconstruction. As an initial project, that a zero backwater design at the US Highway 10 Bridge over the Yellowstone (east of Livingston) should be evaluated to increase the flow capacity of the river through town, and the cooperation and support of the railroad to build a parallel zero backwater bridge north of the Highway 10 East Bridge should be secured.”

Dave Haug: I would just like to go back to the comments I made before, and also I’d like to put in there that somewhere MDT will work with the railroad, because I think that’s the party that needs to initiate the action there.

Stan Sternberg: We do work with the railroad any time we have a bridge parallel to an existing railroad bridge. There would even be a bridge agreement, because we’re not going to do anything that’s going to affect their bridge. We might line up our piers up to match theirs. In this one east of town here, even the length we may have to coincide with the railroad on that existing bridge. My answer to your question is that we do work with the railroad.

Bob Wiltshire: I think, Dave, on this one, to some extent, I personally would rather see the Governor’s Office initiate the action, assuming that the Governor would have that interest in getting involved. I think the railroad would listen a lot more carefully if the Governor’s Office called up and said, “We want you to work with our Highway Department.”

John Bailey: You know, Stan, when the bridge people were down looking at the bridge, several of us certainly got the impression that they could use some help dealing with the railroad people. So I think that’s where this language came from; however, we can emphasize that maybe the railroad should take a stronger look at this.

Stan Sternberg: I don’t think we would reject any influence from any other group, this group included and the Governor’s Office, if that’s what it would take to promote dual construction projects. It all kind of comes down to money. I don’t think the railroad is going to want to throw in any more money on an existing bridge that is serving their purposes, by their own choice.

John Bailey: Will they object if you make that bridge wider, and then that puts theirs in jeopardy?

Stan Sternberg: They may.

John Bailey: So this recommendation might help encourage them.

Stan Sternberg: Kind of the bottom line is, will the longer bridges help the hydraulic conductivity through the opening there?

Bob Wiltshire: And I think that that's what we're asking the MDT and others to determine. We're asking that it should be evaluated.

Stan Sternberg: I think that is a fair proposal, and I think that that, as I understand it, the bullets there on their comments, what they'd do is they'd look at the scenario—a longer highway bridge with a longer railroad bridge. I think that's something that they would consider as part of the design and environmental review process.

Steve Golnar: The Department of Transportation mentioned, the potential that the Highway 10 East Bridge may protect the sewage treatment plant, and I did think about that, and that's one reason we put the cumulative impacts in front of the statement there, "examination of cumulative impacts and costs and benefits of zero backwater..." So I do think that that is covered in this recommendation as it is stated. We could certainly hear if there's a concern about that, if you went too broad with the zero backwater solution.

Andy Dana: I'd like to propose an addition before the word "cooperation." It should be "and the Governor should enlist the cooperation and support of the railroad..." Then I'd like Tom Hallin to comment.

Tom Hallin: Highway 10 is now Highway 89. I think it was changed in 1935, I was just a baby.

Andy Dana: I would propose we change "Highway 10" to "Highway 89".

John Bailey: We need to go back to #26 now too. It says Highway 10 as well.

Stan Sternberg: Yeah, you'd think working for the Highway Department I would know the numbers of the routes. Their memo here about the hydraulics are calling it Highway 10. It is Highway 89. I can clarify this, I think it's just a small issue.

Andy Dana: Well, it's not a small issue if we're going to pass the full package. I guess I would propose that we all know what we're talking about here, and let Liz be delegated the authority to make a positive identification of that structure, what Highway route it is, that they were talking about, and make that change in the final recommendations.

John Bailey: Does everyone agree with that? Okay, so Liz you have that authority.

Liz Galli-Noble: Okay, thank you.

John Bailey: Okay, now we're back to #29. It has been changed. It may or may not be Highway 89 when we get done. Any further discussion on #29?

Allan Steinle: I think after Andy's change, "should be secured" needs to be dropped from the end of the last sentence.

Proposed edits:

#29. "Bridge design considerations on the upper Yellowstone River should include examination of the cumulative impacts and the costs and benefits of zero backwater standards at any scheduled reconstruction. As an initial project, that a zero backwater design at the US Highway ~~10~~ 89 Bridge over the Yellowstone (east of Livingston) should be evaluated to increase the flow capacity of the river through town, and the Governor should enlist the cooperation and support of the railroad to build a parallel zero backwater bridge north of the Highway ~~10~~ 89 East Bridge ~~should be secured.~~"

John Bailey: Thank you. Any further comments? Hearing none, are we okay with the revised version? Okay, we've reached consensus on a new #29.

#29. Recommendation Approved by Consensus:

“Bridge design considerations on the upper Yellowstone River should include examination of the cumulative impacts and the costs and benefits of zero backwater standards at any scheduled reconstruction. As an initial project, a zero backwater design at the US Highway 89 Bridge over the Yellowstone (east of Livingston) should be evaluated to increase the flow capacity of the river through town, and the Governor should enlist the cooperation and support of the railroad to build a parallel zero backwater bridge north of the Highway 89 East Bridge.”

John Bailey: Any additional comments?

Michelle Goodwine: I guess, regardless of what the maps say, to me the 89 Bridge is the one right there at Claude Nead's. So if we're changing all of these to be the 89 Bridge, then we need to clarify, either at KPRK or east of town or something; so that there's no confusion because the 89 Bridge at Claude Nead's also has a railroad bridge right next to it.

John Bailey: I would agree.

Michelle Goodwine: So, Liz, when you do make that clarification, that if this was in fact another 89 Bridge that we identify it differently.

Liz Galli-Noble: It might be a good idea if I add a small a footnote in there that very clearly states the location. Obviously, all of you will see this in print, and if it is not really, really clear, I'll just add more language.

Andy Dana: I'll like to ask Karl for his clarification.

Karl Biastoch: Actually, the road is called Highway 10/89, it is both routes.

Steve Golnar: Perhaps if the MDT has a way of identifying these bridges by a separate number or something, maybe we should put that number in parentheses where you're describing it.

John Bailey: Possibly, yes. Any comments about any other recommendations, before we move to the adoption of all of them?

Andy Dana: Yes. I have heard from at least one person and one other member of the Task Force expressing some discomfort over #12, because it suggests that the Task Force is endorsing sand and gravel mining and dredging. I don't think that was the intent, I think the intent was to focus on mining and mining-related dredging related to removal of valuable minerals. I hesitate to bring this up because it was passed by consensus, but we did insert that language at the last minute. I guess I would just ask the Task Force to consider modifying #12 to strike "except for sand and gravel" and insert "for valuable minerals."

Previously approved:

#12. "Mining and mining-related dredging (except for gravel and sand) should be prohibited in the active bankfull bed and banks of the upper Yellowstone River."

Dave Haug: I think one of the reasons we put that in there was for a situation like cleaning irrigation canals. If we wind up not putting that wording in there, we might negatively impact the Park Branch Canal situation, that could stop them from periodic dredging.

Andy Dana: I know, and I understand the intent, the problem is the way it reads. It may read as if there is an endorsement of mining and mining-related dredging for sand and gravel, and I'm not sure that that's what we wanted. Clearing out, dredging to clear out a headgate or an irrigation ditch is not mining-related dredging, as far as I can tell.

Dave Haug: Probably not as far as you're concerned, but when you go back to the State department where you take out over so many yards of gravel during the operation—whether it is for an irrigation project or even some river realignment or riprap project or something to do with flood control—all of a sudden you'll wind up with a problem. If this is enacted, that could be restricted and that may restrict some of the future things as far as flood control to take out some sand and gravel in the area.

Andy Dana: I don't think this change would restrict removal of sand and gravel, unless you define sand and gravel as a valuable mineral. We could add a definition that the Task Force, for the purposes of the recommendation, does not define sand and gravel as a valuable mineral.

Dave Haug: That might help because sand and gravel does have a value to it, in that you can go out and buy it, and then you can say it is worth \$6.00 per yard or "x" amount of price at that time that they're looking at. So if you exclude that, that probably would help.

Brant Oswald: I'm just wondering if there's a more straightforward way, now that we've added Andy's language, but then still have an exception. The thing that we were after here was not to restrict maintenance of canals or irrigation diversions, but that we did want to restrict mining within the active bed and banks of the river.

John Bailey: Number 7 says necessary dredging of sedimentation should be continued to maintain irrigation structures and canals. Haven't we taken care of it there?

Brant Oswald: Maybe we can combine those two recommendations then.

John Bailey: That's a possibility, to have the mining thing, and then this exclusion for irrigation.

Dave Haug: And also, I would kind of like to leave it open down the road as far as some kind of mediation to flood control deals, because maybe it's necessary to take out a sandbar. We've seen those things done in the past, and they'll probably need to be done in the future again. So I don't know if we want to limit it just to irrigation projects, to some flood control deals, where they're possibly not taking sand and gravel for a commercial use.

Andy Dana: But what I'm having problems with here, is that this addresses mining and mining-related dredging, as opposed to production of gravel for a secondary purpose, or production of gravel as a secondary activity of a primary purpose; like bank stabilization, where you, to do the bank stabilization project, you have to do some dredging, but that's a by-product of the overall primary project. It's not mining, and it's not mining-related dredging. It's dredging, no question, but not mining-related.

Dave Haug: But, what if, for example, the only way to get rid of it is to market it to a sand and gravel business?

Andy Dana: I wouldn't have any problem with that. Why would you put a restriction on selling a by-product? That's not the primary activity, but you can still sell it to offset the costs of the primary activity. To me, mining and mining-related dredging is a different activity than the production of sand and gravel as a by-product or the production of sand and gravel for its own end in the river, just as a commercial extraction activity. But we don't have to make this change, I just raised it as something that I have heard from people. I don't feel too strongly about it, or we could define valuable minerals as not including sand and gravel.

John Bailey: Then it reads like it did before we changed it.

Dave Haug: Which I'd be more comfortable with, going back to that, I guess, or adding that with the valuable minerals...

John Bailey: Are valuable minerals heavy metals?

Andy Dana: I should have reviewed the Statute, but I do believe that valuable minerals has a specific definition in the Montana Code; and that is, essentially, gold, silver, it doesn't include sand and gravel, but I couldn't swear to that.

Jerry O'Hair: Well, I've had experience with State Lands, and they do consider that as mining, in the strictest sense. And so I think that they could say that it is mining, and so I'm uncomfortable with this the way it is written now.

Andy Dana: That's fine. We'll go back to the original, as far as I'm concerned.

Bob Wiltshire: Well, I spoke against this and didn't object, I mean say "No." I'm just uncomfortable because it reads like we are putting an endorsement on commercial sand and gravel mining, the way it is written right now. I, in no way, want to try to stop what Dave and Jerry are talking about. If there is some way we can massage the words to get to the fact that what we're talking about is people who want to go out and actively mine the riverbed, and I think we're all in agreement that we don't want that. We're all in agreement that we do want to allow agriculture to continue historic uses of sand and gravel movement. I'd feel a lot more comfortable if there were some slightly different words we could put in.

John Bailey: And they are?

Bob Wiltshire: I'm not quite sure. One, and I'll just toss this out quickly, they're Andy's words but a little bit different. If we started off with "Valuable mineral mining and the associated mining-related dredging," and then I would strike "except sand and gravel".

Proposed edits:

#12. "Valuable mineral mining and the associated mining-related dredging (~~except for sand and gravel~~) should be prohibited in the active bankfull bed and banks of the upper Yellowstone River."

Andy Dana: I wonder if we should leave that in.

John Bailey: I think taking that out, we'll be right back to Jerry's concerns.

Bob Wiltshire: Except that here we totally change the intent, because we're putting in "valuable mineral mining".

Andy Dana: Jerry's point, though, is that sand and gravel, and Dave's too, are valuable minerals according to some folks.

Roy Aserlind: As a point of clarification, would Recommendation #9 involve movement of considerable sand and gravel?

John Bailey: Do you mean #12?

Roy Aserlind: No, I mean Recommendation #9.

#9. Recommendation Approved by Consensus:

"The US Army Corps of Engineers should include in their 205 Study (a) an investigation of widening the channel by resloping the north bank, in a stepped or terraced fashion, around cross sections #55,000 and #56,000 on the preliminary floodplain map while maintaining a park-like environment, and (b) should identify, if possible, funding for mitigation of landfills if necessary."

John Bailey: US Army Corps of Engineers should include in their 205 Study an investigation of widening the channel by resloping the north bank..."

Roy Aserlind: Wouldn't that require a lot of dredging or scraping?

John Bailey: Oh, correct.

Roy Aserlind: The question then is, this would not preclude anything like that?

John Bailey: Well, that's why we have the exception, but it does sound like Eggars could start getting all their gravel from behind your house again. The people who brought that up, it does read that way.

Andy Dana: I think maybe one way to address this is to go back to the original wording, and then add a new sentence, which would read something like "Production of sand and gravel as a by-product of bank stabilization or flood control should not be prohibited by this recommendation." "Production and sale...should not be prohibited under this recommendation" or "is not prohibited." There are two sentences, and it just goes back to the original recommendation, but strike "except sand and gravel." "Mining and mining-related dredging should be prohibited in the active bankfull bed and banks of the upper Yellowstone River," and then strike "except for sand and gravel."

John Bailey: Jerry, are you comfortable with that?

Jerry O'Hair: No, that's just bank stabilization or flood control, so that still doesn't recognize my concern.

Andy Dana: But we have #7, "Necessary dredging of sedimentation should be continued to maintain irrigation structures and canals."

Jerry O'Hair: But, if you have to go to State Lands to get a mining permit, and they don't know anything about this #7; they don't know anything about that, that isn't in their rules and regulations.

John Bailey: Well, #12 won't be in there either, unless they've read all this.

Bob Wiltshire: What would happen if we took #7 as is written, and just include that as the next sentence in this one?

Andy Dana: Okay.

Proposed edits—Added Recommendation #7 into Recommendation #12:

~~#12. "Valuable mineral mining and the associated Mining and mining-related dredging (except for sand and gravel) should be prohibited in the active bankfull bed and banks of the upper Yellowstone River. Production and sale of Mining and mining-related dredging and sale of sand and gravel as a byproduct of bank stabilization or flood control is not prohibited under this recommendation. Necessary dredging of sedimentation should be continued to maintain irrigation structures and canals."~~

John Bailey: But your concern still is that we're talking mining, and State Lands considers gravel to be mining.

Jerry O'Hair: Yep.

Andy Dana: Mining of sand and gravel as a by-product of bank stabilization or flood control is not prohibited under this recommendation. Strike "production and sale of" and add "mining and mining-related dredging of sand and gravel."

Dave Haug: I'd still like to see you leave that "and sale of" in there too, because of the reasoning that they have "x" amount of yards, and all of a sudden they can get Eggars to pick it up for \$1.00 per yard.

Andy Dana: So, it would read, "Mining and mining-related dredging and sale of sand and gravel." That makes it pretty clear that the sale isn't the purpose of the sand and gravel extraction, it's a by-product.

John Bailey: Jerry, does this satisfy your needs?

Jerry O'Hair: Is there some way that you could make that "Mining and mining-related dredging of sand and gravel as a by-product of bank stabilization, flood control, and the dredging of sedimentation of irrigation

structures and canals are not prohibited under this recommendation.” I guess what you’ve got in there said essentially the same thing, except that this makes it a little cumbersome; I guess it essentially says the same thing.

John Bailey: Other comments? Do we want to put #7 with this one? Are we comfortable putting #7 into #12? I don’t see any negative hands, so okay. Jerry?

Jerry O’Hair: I hope I’m looking at this in the right light. I hope I’m not going to live to regret this.

John Bailey: But are you okay moving #7 to #12, combining these two, or do you want a separate one that says “necessary dredging of sedimentation should be continued to maintain irrigation structures and canals?” I want to ask, does it have more impact as a stand alone on the irrigation issue, versus tying it in with the mining one?

Jerry O’Hair: Again, I’m kind of on the spot because I really don’t know. In what I’ve had to deal with, things have got to be pretty straightforward or, by god, you get in trouble. When we did our diversion dam up there, we thought we had all the permits, and then the State decided that we didn’t need a permit from them, and then, when we finished the project, well then they decided that, yes, we did need a permit. And really all it amounted to was sending \$250.00 and that was the end of it, but there we were.

John Bailey: I guess I’m personally wondering if we need to put #7 now, the way it reads.

Andy Dana: I think we can leave #7 where it was and if you want to add language which allows sale of the by-product, I would say, maybe modify #7, “Necessary dredging of sedimentation, and sale of the by-product, should be allowed to maintain irrigation structures and canals.” I guess the fallacy of all of this is that, if the State of Montana claims the bed of the Yellowstone River, if you’re trying to sell what they claim as their own, you might get in trouble, but I don’t know that we need to go there.

Bob Wiltshire: What I’m wondering, Andy, so then if I have this right, you’re proposing we take #7 out of here, put it back as a stand alone #7, and then amend #7. Okay, before we start amending two at once, what I’m wondering is if we put #7 back in #7, and make a minor change to #12 here, where we have “bank stabilization or flood control.” What I would do is put “bank stabilization, flood control, or irrigation maintenance...”

Brant Oswald: Bob, I’d like to clear up a word, “maintenance of irrigation structures and canals,” rather than just irrigation.

Bob Wiltshire: That’s fine. Okay.

Andy Dana: I would wordsmith this to say instead of “flood control or maintenance” I would say “and maintenance” “are not prohibited.”

John Bailey: Jerry?

Jerry O’Hair: Yeah.

Proposed edits:

~~#12. “Valuable mineral mining and the associated Mining and mining-related dredging (except for sand and gravel) should be prohibited in the active bankfull bed and banks of the upper Yellowstone River. Production and sale of Mining and mining-related dredging and sale of sand and gravel as a byproduct of bank stabilization, flood control, or and maintenance of irrigation structures and canals is are not prohibited under this recommendation. Necessary dredging of sedimentation should be continued to maintain irrigation structures and canals.”~~

John Bailey: Any further comments on #12? It has been changed many times. Hearing none, are we in agreement on #12? Are we comfortable? This recommendation reaches consensus so modified.

#12. Recommendation Approved by Consensus:

“Mining and mining-related dredging should be prohibited in the active bankfull bed and banks of the upper Yellowstone River. Mining and mining-related dredging and sale of sand and gravel as a byproduct of bank stabilization, flood control, and maintenance of irrigation structures and canals are not prohibited under this recommendation.

John Bailey: Now do you want to modify #7?

Andy Dana: I don't. Jerry, do you?

Jerry O'Hair: No.

The decision was made to leave Recommendation #7 unchanged.

John Bailey: Any further changes to any recommendation, before I ask for consensus on the whole package? While you are thinking, I was called by a reporter from the *Livingston Enterprise* today. He didn't get me, but he left me a message, and suggested that he wanted to get all the recommendations in Wednesday's paper, but that was too long, and so he wanted to rewrite them and have me okay them. I called him back and said that he can write them anyway he wanted, but I wouldn't okay it. And then he decided that maybe he'd only list some of them on Wednesday, and not rewrite them. I told him, "You've been here. We spend hours on given words, and I am not going to take that wrath, if you start to rewrite them." He wanted to condense them, but we couldn't condense them as a Task Force, but we tried hard. We will not see all of the recommendations, but they might be calling you, Liz, for the current list.

Joel Tohtz: John, at some point I want to ask about the subheadings that are being used here to break out the recommendations.

John Bailey: Thank you. One evening after a meeting, I asked Liz to put some subheadings to group these; just so they were somewhat together and we could find them. Thank you for bringing it up tonight. Task Force, do we want those headings in there, or to take them out? They are Liz's, and they certainly helped us find this stuff, as we've been working, but we haven't, as a Task Force, we've never adopted them. Do you have an issue with them? And, if so, what?

Joel Tohtz: I don't have an issue with them. I like them for this purpose, they seem to break away from prioritizing any particular recommendation, and they just group them into conceptual categories. That part I like, but I really was just asking because we never did approve them as a group.

Andy Dana: I guess related to that, I would encourage us to drop the numbering, in case someone believes that #1 is more important than #36. We could use bullets.

John Bailey: Do you recommend keeping these headings?

Andy Dana: Yes.

John Bailey: Okay. So, I want to ask first, I think we have a proposal here to accept the headings and get rid of the numbers. Any comments?

Roy Aserlind: If you get rid of the numbers, you're going to have to have some way to separate them.

John Bailey: Bullets, or something.

Bob Wiltshire: I'm just thinking the same way Roy is. People are going to want to refer to, "What was that recommendation they had about bridges?" I think the numbering helps in that fashion, but I had the same concern Andy does about people thinking our #1 meant our top recommendation, and I think we need to put very strong language throughout everywhere that there is no priority, that each recommendation has equal

weight with every other recommendation. I don't care if it is numbers or not, but I like being able to have everybody turn to the same recommendation at the same time.

Tom Olliff: John, I was thinking the same thing. I was thinking we could letter them but when you get to the A.a. and B.b.; there would be more than 26. It would be nice to have something to refer to them.

Andy Dana: We could keep the numbers, but in the preface, this is all prefaced by "The Governor's Upper Yellowstone River Task Force recommends that..." You could say "The Task Force recommends, without prioritizing, the following recommendations," something like that.

Michelle Goodwine: Another suggestion is that we could just alphabetize the subheading, distinguish them with roman numerals, with an a, b, c, d, under each one; so they can reference Section I, Subsection a, whatever.

John Bailey: I like that.

Michelle Goodwine: And if we alphabetize the subheadings, then it is very obvious that that is just the order in which we're doing on bank stabilization and bridges and so on.

John Bailey: That would be very good. I can envision someone saying, "Oh, that's your priority," but with your suggestion we're careful to make sure there was not a priority.

Bob Wiltshire: I like that real well. The only topic heading that I'm not sure that I support, and I'm not sure I oppose, is the one that's titled "Ninth Street Island Solution."

John Bailey: How about just "Ninth Street Island"?

Bob Wiltshire: Because the second one that we have under there could very easily be under Bridges, as opposed to Ninth Street Island.

John Bailey: Should we just make it "Ninth Street Island"?

Bob Wiltshire: Yeah, I guess. I'm not sure where we put the "equalization," "hydraulically balanced," although I forget how we changed that.

John Bailey: It's under Ninth Street.

Bob Wiltshire: Right.

John Bailey: If we take "Solution" out, are we okay? "Solutions" leaves the title. Are we in agreement? Okay, we've reached consensus. Any further changes to any of the recommendations before I ask for complete consensus for the whole thing? Okay, I am now going to ask for consensus on the package of 43 recommendations, as we've gone through tonight and the meeting before. So, Task Force are we comfortable with the recommendations as stated up to now?

The Task Force has reached consensus on the entire package of 43 recommendations.

Task Force, I thank you very much. I'd like to thank all of you for putting in so much time and I'm extremely excited about how far we've gone. To the State agency people, the amount of effort you've put in and the dedication you've put in, it's unbelievable, and you've been a huge help to get us here. We will probably have a meeting some time in late September or early October, to try to go over and finalize our Final Report, which we have to put together. Liz will probably be contacting various people to work on various parts. She has a concept that she wants to do, and I think as she gets that laid out, she will get that out to Task Force members. If the Cumulative Effects Study actually gets put together sometime, we hope to have a public meeting addressing it. We might do that in November or something. Other than that, I don't see anything that we will be doing, except the Governor's Conference in October. I hope all of you can come.

Bob Wiltshire: On that topic, there are still minor decisions that need to be made about the Governor's Conference. Does the entire Task Force wish us to schedule a Task Force meeting to discuss those things, or do you want to empower the subcommittee to make decisions?

John Bailey: Any comments?

Bob Wiltshire: We have some minor decisions to make in terms of a few speaker slots that need to be filled and some minor tinkering with the agenda, I don't think we ever ran the final agenda by the full Task Force.

John Bailey: And everything may change, depending on funding. It may or may not happen.

Bob Wiltshire: So, there's just these things, and I don't anticipate any significant anything, but there are some minor decisions that represent the group and I think Roy and I and Liz and Duncan are perfectly willing to assume that responsibility. But I want to be sure that everybody knows that, if we're doing that, we're doing it.

Michelle Goodwine: Go for it.

Roy Aserlind: This is a question, probably entirely unnecessary, but for instance, this Watershed Land Use final report that you handed to us tonight, I am very impressed with it. I am impressed with every single one of these reports, the final reports, the handouts. We have a tremendous mass of very valuable information, and if it is not being done, I would suggest that copies of every single one of these reports be sent to the magnificent Livingston Public Library, and housed in a separate collection; because I think this will be a valuable resource for future persons. Just a suggestion, I don't know if it needs any action, but I would like to see a permanent collection there.

John Bailey: Right, and I think when we get to a Final Report, we'll have a complete set of everything with a beginning that ties together what the Task Force was done; that's paraphrasing somewhat what I think Liz wants to do, but we've had Annual Reports, now we have to do a Final one, that puts the thing together. Any other comments?

Michelle Goodwine: When is our next meeting?

John Bailey: There is no meeting.

Michelle Goodwine: Okay, just checking.

John Bailey: There will be one sometime, to go over what we're doing with the Final Report.

Bob Wiltshire: Is it true that we're planning annual reunion cleanups at the Aserlind's?

John Bailey: No, it's not true.

Andy Dana: I think we should thank Liz, and Jackie, and Kelly for great support.

John Bailey: Anything further? Then we are adjourned as a Task Force. Thank you very much.

III. The meeting was adjourned at 9:30 p.m.

Note: See *Attachment A* for listing of final Task Force recommendations.

Attachment A. Final Task Force Recommendations

August 25, 2003

Note: The following 43 recommendations are in no order of priority.

The Governor's Upper Yellowstone River Task Force recommends that:

I. BANK STABILIZATION

(a) "A local Bank Stabilization Information Clearinghouse should be created to provide information about new and existing methods of bank stabilization, including methods that complement the natural system and methods that might be appropriate for specific individual situations."

(b) "Studies should be developed which would indicate what types of bank stabilization would work best to achieve particular goals within different geomorphic reaches of the upper Yellowstone River."

II. BRIDGES

(a) "When the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology Study should be lessened: Emigrant Bridge; Carter's Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10/89 South¹; Highway 10/89 South Bridge¹; Highway 89 North Bridge¹ (near the Shields River); Railroad Bridge at Highway 89 North¹ (near the Shields River); and Springdale Bridge."

(b) "Solutions should be developed to remove abandoned bridge abutments and piers, and to reclaim abandoned bridge approaches."

(c) "All new bridges and bridge substructure reconstructions (for example, piers and abutments) should be designed to minimize upstream and downstream negative impacts of sedimentation and gravel deposition."

(d) "Bridge design considerations on the upper Yellowstone River should include examination of the cumulative impacts and the costs and benefits of zero backwater standards at any scheduled reconstruction. As an initial project, a zero backwater design at the Highway 10/89 South Bridge¹ over the Yellowstone (east of Livingston) should be evaluated to increase the flow capacity of the river through town, and the Governor should enlist the cooperation and support of the railroad to build a parallel zero backwater bridge north of the Highway 10/89 South Bridge¹."

III. FINANCIAL INCENTIVES

(a) "Financial incentives should be established to help landowners on the upper Yellowstone River, on a voluntary basis, (1) to remove flood control and bank stabilization structures that no longer function properly or are obsolete; and (2) to modify or replace flood control and bank stabilization structures, provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system."

(b) "A Park County Bond Issue should be proposed to protect and preserve agricultural lands, scenic views, socially desirable riverscapes, and important riparian habitats along the Yellowstone River; and a representative Citizens' Advisory Council should be established to develop criteria, to recommend expenditures, and to facilitate approval of projects funded by public monies."

(c) "A fund should be established with the State of Montana to receive legislative allocations, agency grants, and private donations for the purpose of matching, on a dollar-for-dollar basis, all projects that have been funded by the Citizens' Advisory Council pursuant to a Park County Bond Issue to protect and preserve agricultural lands, scenic views, socially desirable riverscapes, and important riparian habitats along the Yellowstone River."

(d) "State, federal, and private sources should be developed to increase the funding available for conservation easements on lands in close proximity to the upper Yellowstone River."

¹ Present day US Highway 89 (east of Livingston) was formally called Highway 10, and sections of that road still retain the Highway 10 designation. There are two sets of side-by-side bridges (public and railroad) crossing the upper Yellowstone River on Highway 89 within a short distance of each other; to avoid further confusion the following descriptive bridge information has been provided: The Highway 10/89 South Bridge and its parallel railroad bridge are located near KPRK Radio Station at T2S R10E Section 7. The Highway 89 North Bridge and its parallel railroad bridge are located near the Shields River at T1S R10E Section 26.

(e) "A study should be conducted to determine the feasibility of creating a voluntary, market-based program to remove, relocate, or redesign bank stabilization structures by allowing transfers of, and trade in, state and federal bank stabilization permits between willing parties."

(f) "A grant writer should be engaged by the Montana Department of Fish, Wildlife and Parks, the Governor's Office on Economic Development, City of Livingston, and Park County to pursue funding for projects of joint interest related to the upper Yellowstone River."

IV. FISH / FISHERIES

(a) "Annual fish population surveys should be conducted on all sections where they have historically been made. If indications of a declining population trend are detected, additional studies must be implemented to identify potential causes and recommend actions that will restore populations."

(b) "Further investigations into the production and rearing of juvenile fish in the upper Yellowstone River should be conducted, particularly to determine the relative importance of lateral side channels, mainstem habitats, overflow habitats, and spring creeks."

(c) "New irrigation projects should consider fish-friendly construction and management in their design."

V. FLOODPLAIN DEVELOPMENT

(a) "No additional Livingston public schools should be constructed on Livingston Island (also known as McLeod Island)."

VI. FUTURE SCIENCE / MONITORING / RESEARCH

(a) "The US Geological Survey-Helena and the US Geological Survey-Biological Resources Division should be encouraged to monitor and measure the effects of instream structures on the river over time."

(b) "The Natural Resource Information System (NRIS) should house all Task Force Geographic Information System (GIS) information."

(c) "A study should be conducted to understand the river dynamics and hydrology related to sloughing of river banks at Deep Creek, the Weeping Wall, and Mallard's Rest."

(d) "A study should be funded to identify the current conflicts and potential future conflicts arising from changing uses of the upper Yellowstone River."

(e) "The development and maintenance of a long-term database of macroinvertebrate populations should be encouraged to monitor water quality in the Yellowstone River."

(f) "The drilling site known as Hobbs Well should be thoroughly investigated to determine what, if any, impacts it has created, or may create, on subterranean and surface water flows."

(g) "People should be encouraged to study different techniques or ways to alleviate the flooding damage through the upper Yellowstone River study area."

(h) "Regulatory program modifications for activities that affect the upper Yellowstone River should be considered in the context of the Governor's Upper Yellowstone River Task Force scientific investigations."

(i) "A river migration study should be undertaken to measure the potential for river channel avulsion between the Livingston Ditch headgate and Interstate 90, and to identify measures which could be implemented to prevent flood damage to the Livingston urban area."

(j) "The State of Montana, along with federal sources, should fund an Upper Yellowstone Research and Monitoring program to coordinate efforts by agency personnel, universities and researchers, and the community to develop and implement a long-term research and monitoring program in the upper Yellowstone River study area."

VII. NEW STAKEHOLDER GROUP

(a) "Stakeholder group(s) should be developed, with full public participation, to continue to monitor the status of the upper Yellowstone River, to make recommendations about river related issues, to encourage long-term monitoring of river related projects, to promote the completion of identified research needs, and to examine the implementation of the Governor's Upper Yellowstone River Task Force recommendations."

VIII. NINTH STREET ISLAND

(a) "Implement a solution that minimizes cumulative impacts to achieve hydraulically-balanced water surface elevations, with little or no backwater, in the channels separated by Ninth Street and Siebeck Islands."

(b) "Park County should be encouraged to develop a free-span bridge to Ninth Street Island and to pursue such a bridge through the Department of Transportation's Adopt a Bridge Program or any other funding source."

IX. NOXIOUS / INVASIVE PLANTS

(a) "Additional studies should be designed and conducted to document the proliferation of noxious or invasive plants along the river corridor, and to evaluate the impacts on fish, wildlife, water quality, soil and bank stability, and economic productivity; and programs that monitor and reduce invasive plant infestations should be supported."

X. PERMITTING / REGULATORY / MANAGEMENT DECISIONS

(a) "The streamlined uniform permit application process among local, state, and federal permitting agencies should be continued and, when possible, improved."

(b) "All permitting and/or management decisions (including the SAMP) on the upper Yellowstone River should thoroughly consider and must recognize and respect:

1. the function of the flood plain, including but not limited to: connectivity between the river channel and the flood plain; regeneration of cottonwoods and other riparian vegetation; and maintenance of side channel habitat for spawning and juvenile fish; and
2. the public and private interest in protecting private property and important social, economic, and natural resources existing on or near the flood plain; and
3. the geomorphology of particular river reaches and their different inherent characteristics."

(c) " Policies should be continued that allow for the removal of large woody debris on a localized basis to protect public and private infrastructure, to assure public safety, and to allow side channel function when necessary."

(d) "Necessary dredging of sedimentation should be continued to maintain irrigation structures and canals."

(e) "The Montana Department of Fish, Wildlife, and Parks should develop an angling 'closure' matrix specifically designed to address any future severe conditions on the upper Yellowstone River to protect its unique characteristics including its fisheries and fish habitat."

(f) "The US Army Corps of Engineers should include in their 205 Study: (1) an investigation of widening the channel by resloping the north bank, in a stepped or terraced fashion, around cross sections #55,000 and #56,000 on the preliminary floodplain map, while maintaining a park-like environment; and (2) should identify, if possible, funding for mitigation of landfills if necessary."

(g) "Park County should be asked to join with the City of Livingston to co-sponsor the Section 205 Study in order to develop a comprehensive approach to structural and non-structural solutions to floodplain management issues in and around the City of Livingston."

(h) "An analysis should be conducted to determine the feasibility of relocation and buyout options for property owners who are located or reside in the floodway in the Livingston area."

(i) "Mining and mining-related dredging should be prohibited in the active bankfull bed and banks of the upper Yellowstone River. Mining and mining-related dredging and sale of sand and gravel as a byproduct of bank stabilization, flood control, and maintenance of irrigation structures and canals are not prohibited under this recommendation."

(j) "The US Army Corps of Engineers should conduct a public scoping process during the development of the Special Area Management Plan for the upper Yellowstone River."

XI. PUBLIC STRUCTURES

(a) "Existing public structures that have undesirable impacts on the upper Yellowstone River's riparian system function should be modified or replaced, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities."

(b) "Any structural or non-structural modifications to the river bank through Livingston should blend with the environmental, cultural, and historic themes of the community to the extent possible."

(c) "Construction of a flood control dam and impoundment on the mainstem of the Yellowstone River not be considered as a potential management alternative."