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Allocating and Managing Water for a Sustainable Future

Ferguson

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ABSTRACT
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Allocating and Managing Water For a Sustainable Future
July 20-22, 2004

The Montana Water Trust (MWT) was founded in 2001 and is dedicated to working cooperatively with farmers, ranchers, and other landowners in Montana to develop voluntary agreements that enhance and restore tributary flows to benefit fisheries. Using the Oregon Water Trust's program as a model, MWT acquires senior water rights from willing landowners through donation, lease, or purchase and commits them to instream use to benefit fisheries.

In Montana, the watershed movement is beginning to gain significant momentum. In the early 1990's, only a handful of groups working to restore ecosystems at a watershed level existed and, now, such organizations are found throughout the state. Stream flow restoration is an important goal of these watershed groups, though they lack the expertise necessary to complete water transactions needed to achieve instream flow goals. MWT is in a unique position in Montana to use its expertise to provide this important component to watershed restoration through our ability to identify and work with willing landowners to develop and complete voluntary agreements that increase stream flows on dewatered tributaries.

Thus, MWT is working to develop and implement partnerships with watershed groups, landowners, agencies, tribes and others working to restore watersheds to ensure that comprehensive restoration plans for these important systems are implemented, which includes the critical restoration piece of stream flow restoration. MWT coordinates its efforts with these entities to ensure the greatest benefits for fish and wildlife.

This paper will discuss the innovative ways in which MWT is using and developing transactional strategies to increase stream flows and how development of key partnerships with watershed groups, landowners, agencies, tribes and others will lead to the comprehensive restoration of Montana's watersheds and to the collection of scientific data that will be used to demonstrate the effectiveness of our approach throughout Montana and the West.

MWT completed its first five acquisitions in 2003, which emerged as a result of MWT's partnerships and targeted outreach efforts to landowners. MWT has significant flexibility to develop agreements that meet the needs of the specific landowners and was able to restore 7.75 cubic feet per second of flow through agreements with five water right holders. MWT's concentrates its acquisitions on small systems, where our acquisitions have the potential to create significant habitat improvements for fisheries that use these tributaries for spawning, rearing, and migration.

MWT has also worked to develop a streamflow enhancement incentive to the Natural Resources and Conservations Service's Environmental Quality Incentive's Program. As a voluntary program, accomplished under state water law, and with no transfer in

ownership of the water right, this innovative approach to streamflow enhancement has the potential to significantly benefit aquatic habitats that have been stressed by dewatering. This is a particularly timely conservation effort due to the recent successive years of drought in Montana that has stressed aquatic systems statewide.

The oral presentation will be given by John Ferguson, MWT's executive director. John holds a J.D. from the University of Montana School of Law (with a concentration in environmental law), an M.S. in Environmental Studies from the University of Montana, and a B.S. in Communications from Oregon State University. He is a member of the Montana State Bar and Oregon State Bar and was an associate at a Portland, Oregon law firm, Bullivant Houser Bailey, where he worked as pro bono counsel for the Oregon Water Trust and the Columbia Land Trust. He left the practice of law in 2001 to become the Montana Water Trust's first executive director.