



FROM OUR MOUNTAINS TO OUR LAKE

Hope

Montana Supreme Court Upholds Decision Invalidating Construction Permit

Rock Creek deemed “Ecologically Unique” due to its importance for Bull Trout

In 1998, the US Fish and Wildlife Service listed bull trout as threatened in the Columbia River Basin, an area that includes the Clark Fork River and Rock Creek. Considered crucial to bull trout conservation in the Lower Clark Fork River, Rock Creek provides important spawning and rearing habitat. It also will serve as an essential bull trout migratory corridor once efforts to create fish passage around the Cabinet Gorge Dam are successful in re-connecting the lower portion of the Clark Fork River with Lake Pend Oreille.

According to Montana Fish, Wildlife and Parks, Rock Creek and Bull River are the only tributaries in the Cabinet Gorge Reservoir with enough individuals to avoid a significant risk of extinction. Unfortunately, if the bull trout population in Rock Creek were extirpated by the mine’s construction, it is unlikely that the creek would be re-colonized. Like other bull trout populations, Rock Creek’s population is uniquely adapted to the conditions in its natal stream.

Rock Creek bull trout play a pivotal role in protecting the Clark Fork-Pend Oreille Watershed from the impacts of the proposed mine. They have become key to our legal efforts, with recent favorable rulings resulting from the need to protect Rock Creek’s habitat and its unique population.

On July 21, 2011, Helena District Court Judge Kathy Seeley issued a favorable decision in our case challenging Montana DEQ’s issuance of a general storm water permit authorizing construction of the first stage of the mine. The construction phase for the exploratory phase would generate from 400 to 1,400 tons of sediment per year destined for Rock Creek. Approximately three miles of Rock Creek have been designated as “critical habitat” for spawning, rearing, feeding, and migration. These activities would be greatly impaired from the introduction of massive amounts of sediment. Construction-generated sediment would degrade habitat and impair reproductive success by smothering and burying eggs and fry in fine materials.



Rock Creek photo by Woods Wheatcroft

The general storm water permit issued by Montana DEQ is intended for ordinary construction activities, but the generic permit is not allowed where the “point source (discharge) is located in an area of unique ecological or recreational significance.” Due to its importance as bull trout habitat, the court agreed with us that Rock Creek is “ecologically unique.” Under Montana’s water quality laws, construction activities that impact unique ecological resources must go through a more extensive permitting process that allows public comment. Accordingly, the district court revoked the storm water construction permit.

Revett Minerals appealed the district court’s findings to the Montana Supreme Court. In late October, the higher court issued a decision, affirming the district court’s conclusion that the more extensive MPDES permit is required because Rock Creek is “ecologically unique.”

This win is significant for several reasons. Foremost, it prevents construction activities from commencing and requires a more thorough analysis of the impacts. The decision also recognizes the importance of Rock Creek for bull trout recovery in the region. Finally, it upholds the right of the public to have input on any discharge permit issued in the future.

Revett Minerals is currently applying for the MPDES permit that was mandated by both the district court and Montana’s Supreme Court. The draft permit will likely be available for public comment late winter or early spring. Please stay tuned and make sure you don’t miss your opportunity to submit comments.



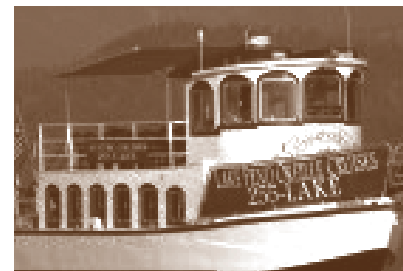
Rock Creek Alliance Holds Successful Events

The Alliance recently held its annual party, followed by a cruise on Lake Pend Oreille. The support of local businesses and individuals helped make these events both enjoyable and successful. Many folks turned out for our annual event hosted by Pend d' Oreille Winery. It was a beautiful evening and guests mingled outside while enjoying the music of Wild Honey. Photographers Tim Cady and Jerry Pavia gave an informative slide presentation on the International Selkirk Loop, and Alliance staff provided an update on the organization's work. The winery served its Bistro Rouge wine accompanied by some mouth-watering hors d' oeuvres.

We couldn't have asked for a more perfect evening for our cruise on Lake Pend Oreille. Lake Pend Oreille Cruises generously donated the two-hour cruise and guests were treated to a wonderful evening on our beautiful lake. DiLuna's catered a delicious dinner for an evening that went by all too fast.



Wild Honey



NEPA: The National Environmental Policy Act

The US Forest Service (USFS) and Montana Department of Environmental Quality will be making documents available to the public that will influence the future of the proposed mine. The USFS will issue a Supplemental Final Environmental Impact Statement (SFEIS), required as a result of our 2010 win in federal court. Also expected this winter is a Montana Pollution Discharge Elimination System (MPDES) permit, mandated by our recent win in Montana Supreme Court.

The SFEIS is administered under a 42-year old law that is the backbone of environmental protection in the United States, the National Environmental Policy Act (NEPA).

What is NEPA?

Congress enacted NEPA in 1969, and President Nixon signed it into law in 1970. NEPA was the first major environmental law in the U.S. and is often called the "Magna Carta" of environmental laws. Importantly, NEPA established this country's national environmental policies.

With few exceptions, all federal agencies must comply with NEPA before making decisions about projects significantly affecting public lands. The law requires agencies to consider various alternatives in which a project could move forward, or not move forward (the No-Action Alternative), and the environmental impacts associated with each alternative. Of significance is NEPA's mandate to federal land managers to do

more than just list alternatives—they must "take a hard look" before issuing an approval.

NEPA also directs federal agencies to assist the public in understanding what a proponent of a project on federal land is proposing, and what "actions" the agency is considering. Under NEPA, we have an opportunity to offer our input on the various alternatives, and to critique the agency's analyses of the environmental effects of the proposed action. The public often has valuable information about places and resources they value, and the potential environmental impacts that proposed federal actions might have.

Recently, legislation was passed by the House of Representatives to limit NEPA's authority. The "National Strategic and Critical Minerals Production Act of 2012," would weaken NEPA by limiting or eliminating environmental review and public participation on proposed mining projects. The authors of this legislation intend to return to the days when environmental impacts were considered secondary to an accelerated permitting process. The proposed legislation, if passed by the Senate, would circumvent your right to have a say in projects such as the Rock Creek mine, and allow industrial interests to decide the fate of places like the Cabinet Mountains Wilderness and Lake Pend Oreille.

Please stay tuned for information about these important comment periods. We encourage you to provide us with a current email address so we can quickly alert you to your opportunity to have a say in the Rock Creek mine proposal. Your input is critical because the Forest Service must consider all substantive comments submitted by the public on the mine plan.



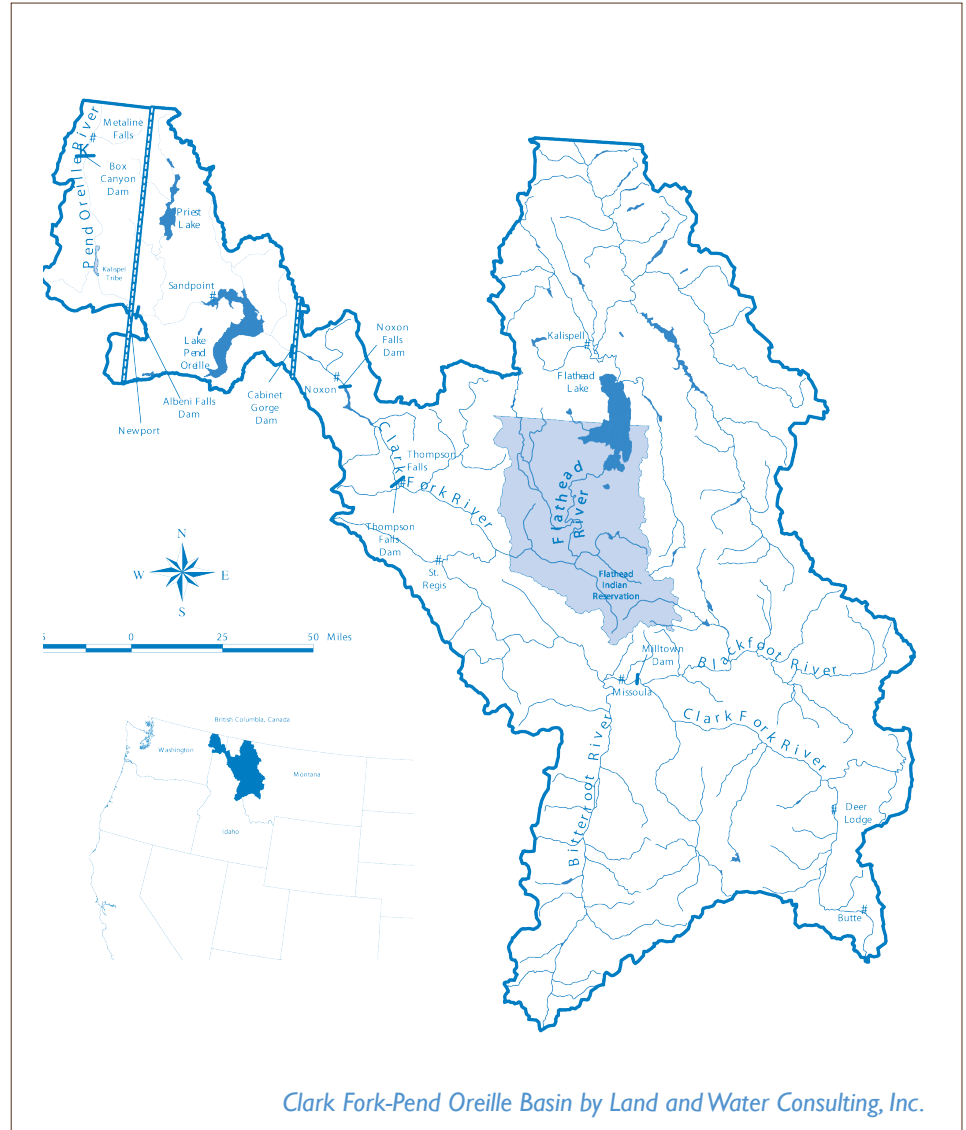
The Clark Fork River

The Clark Fork River provides 92% of the water entering Lake Pend Oreille, making it the most important source of recharge water for our lake. The river is 320 miles long and over 300 of those miles are located in Montana. In order to keep Lake Pend Oreille clean and healthy, it is paramount that we protect the water quality of the Clark Fork River in Idaho and Montana. While cleanup efforts are under way to remedy past environmental impacts to the river, it is equally important that decisions on new sources of degradation are made with due diligence.

The largest Environmental Protection Agency (EPA) superfund site in the western United States is located in the Clark Fork Basin. The complex stretches from the headwaters near the mining community of Butte to the recently removed Milltown Dam east of Missoula. The superfund site was designated in 1983 because of the toxic pollution created by historic copper mining in Montana.

The Milltown Dam at the confluence of the Blackfoot and Clark Fork Rivers is part of that superfund site. The dam was removed in 2010 because 6.6 million cubic yards of sediment contaminated with arsenic, lead, zinc, copper, and other metals had accumulated behind the 100-year old structure, and many feared the dam would eventually breach. Three million tons of sediment were removed and transported by rail to Anaconda Smelter Superfund Site in Montana.

Abandoned mines will continue to plague the water quality of the Clark Fork River because the perpetual nature of mining pollution means that the environmental impacts don't



stop at the cessation of a project. It is also new sources of degradation like the proposed Rock Creek Mine that require the attention of those who work to keep the river clean.

While significant progress has been made in cleaning up the Clark Fork River, there is yet more to be done. The geography of our region dictates that all those who appreciate a clean Lake Pend

Oreille and Clark Fork River need to be actively involved in Montana politics and environmental policy. Idaho can diligently and effectively work toward protecting Lake Pend Oreille from local pollution sources, but all could be for naught without an equal commitment from Montana. The Clark Fork River knows no borders.



Timothy Preso—Champion of Wildlife and Wild Places

The Rock Creek Alliance is extremely fortunate to be represented by several top-notch attorneys in our challenges in federal and state court. We have featured two of our federal attorneys in prior newsletters. In this issue, we are profiling Timothy Preso. Tim is the managing attorney in Earthjustice's Northern Rockies regional office headquartered in Bozeman, MT.

Tim first fell in love with wilderness as a teenager growing up in northeastern Oregon. Places like the Eagle Cap and Hells Canyon wilderness areas helped inspire the appreciation for wild places that ultimately led him to a career focused on protecting special places and their native wildlife.

After graduating from Oregon State University, Tim took a job as a reporter covering environmental issues. While reporting on the plight of the Northern Spotted Owl from the logging of old-growth forests, he became convinced that legal challenges, brought by firms like Earthjustice, are key to bringing about positive change and protection of wild places and wildlife. This realization led Tim to a new direction in his career path.

After earning a law degree from Georgetown University, Tim became a law clerk in the U.S. Court of Appeals for the District of Columbia Circuit. His next job was as an attorney with a private law firm, but his passion for wild lands and wildlife drew him to take on an even larger caseload when he began representing Defenders of Wildlife in their quest to protect red wolves that had been reintroduced to North Carolina. The litigation was successful and red wolves remain part of the natural ecosystem in that state.

Tim's destiny to work as an attorney in an environmental law firm dedicated to the protection of wildlife, public lands, and natural resources, ultimately led him to become an attorney with Earthjustice. In 2000, while contemplating his career move from a private firm, Earthjustice was looking to fill a vacancy in their Bozeman, Montana regional office. Tim returned to the West and landed the job as a staff attorney. Tim became managing attorney of the Bozeman Earthjustice office in April 2012.

The wild places that Tim now calls home are part of the Greater Yellowstone Ecosystem, and he has worked tirelessly to protect this area and other wild ecosystems throughout the West. Tim

has represented the Rock Creek Alliance in our federal litigation on behalf of threatened grizzly bears. He has successfully argued that the Rock Creek Biological Opinion for grizzly bears is based on flawed science, resulting in federal court rulings that remanded the opinion back to the Fish and Wildlife Service on two different occasions.

The Alliance is indebted to Tim for his commitment and passion in protecting the imperiled grizzly bears and their habitat in the Cabinet Mountains Wilderness and surrounding public lands from the Rock Creek mine.



photo by USFWS





Give-Away Spurs New Sense of Urgency for Mining Reform

Profits for hard-rock mining companies extracting ore from public lands have reached record levels, soaring into the billions of dollars annually. Under current regulations, the mining companies operating hard-rock mines on federal land are not required to quantify the amount or value of the minerals they extract.

A new report, requested by Rep. Raul M. Grijalva (D-Ariz.) and Sen. Tom Udall (D-N.M.), will spur a renewed push to reform the 1872 Mining Law. Federal agencies generally don't collect data on the value of hard-rock minerals taken from public land because hard-rock mines are exempt from paying royalties. The oil, natural gas, and coal industries do pay royalties for production on federal land, and contributed \$11.4 billion dollars to the federal treasury last year.

"This should be front and center of the natural resource agenda for this next administration," Udall said in an interview. "These hard-rock minerals belong to the American people, and today we're quite literally giving our gold and silver away."

Instead of recognizing the need to reform the antiquated mining law, the industry is pushing legislation to make it easier for mining companies to obtain permits for projects by truncating the environmental evaluation process.

Grijalva, who called mining firms "outright arrogant" for failing to disclose what they're taking from public lands, said at a minimum these companies should report the volume and value of what they're extracting.

2012 Board Of Directors Candidates

The Rock Creek Alliance is governed by a board of directors, which is elected by its members. As a member, your vote is very important to the operation of the organization. We ask that you please cast your vote and return your ballot to us NO LATER THAN January 22, 2013. We recommend that you vote for the individuals listed below.

TWO-YEAR TERM

John Edwards:

I attended the University of Idaho from 1983 to 1988. After graduation, I moved to the Garfield Bay area in Sagle. One of the main reasons for moving here was the big, beautiful pristine lake called Pend Oreille. Over the past twenty years, I have seen Sandpoint and the surrounding areas prosper and grow. This growth has been based in recreation, retirement, and tourism. I know my business, Misty Mountain Furniture, would not exist without Lake Pend Oreille and its beautifully forested watersheds. The water quality of our lake is the lifeblood of our

economy and a direct indicator of our quality of life. Clean water is worth more than gold (and copper and silver for that matter). The precedent set by allowing "under wilderness" mining has huge implications not only for the Cabinet Mountains Wilderness, but also for the rest of our wilderness areas and national parks. My family and I have contributed to the Rock Creek Alliance for many years and applaud RCA's hard work and victories. I would be honored to serve on the board and look forward to working with Rock Creek Alliance and the Board of Directors in finding ways to engage the public and our politicians to stop this outrage.

Diane Mosley:

I reside in Heron, MT, downstream from the proposed Rock Creek mine site. I have been involved in the Rock Creek mine campaign for the past 15 years. My family and I relocated to the Clark Fork River Valley back in '94, drawn to this special place by its incredible natural beauty, clean environment, outdoor

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recreation and quality of life. I served on RCA's Board many years ago, and have continued to serve as its bookkeeper since it's incorporation. I feel the threat from this precedent setting mine to be far-reaching. It not only seriously endangers the pristine high mountain lakes of the Cabinet Mountain Wilderness, the Clark Fork River and Lake Pend Oreille, but all of our national parks and wilderness areas, since its permitting would set a precedent allowing tunneling under a federally protected area. These areas are unique and vital to maintaining clean water and the rich diversity of wildlife dependent on them. Prior generations identified their incredible value and set them apart to be protected for us. We have a responsibility to do the same for the generations that will follow.

ONE-YEAR TERM

Linda Olson:

I have lived in Bonner County for over 20 years, and protecting Lake Pend Oreille has always been one of my biggest priorities. I take great pleasure in observing the birds and other wildlife that frequent its shores, and cannot imagine our beautiful lake polluted with mining waste. I served as secretary for the Lake Pend Oreille Idaho Club for 20 years, helping to promote the club's mission of conserving Lake Pend Oreille's water quality and its vital fishery. For over ten years, I did the layout and graphics for the Rock Creek Alliance newsletter. I would like to continue my commitment to the organization, and help further its goal of stopping the Rock Creek mine, by serving on the board.

Rich Del Carlo:

My motivation for serving on the board comes from my knowledge and love of the outdoors. Whenever I enter into the

Cabinet Mts. for hiking, backpacking or huckleberry picking, I always have a new spiritual experience and see something even more beautiful than before. I have two passions that motivate me as an environmentalist; birds and trees. Birding is a hobby, and the love of trees fits into my career as an arborist. These have given me an understanding and appreciation of the ecology of the local forest. I read extensively about environmental issues, and firmly believe that a mine anywhere in the Cabinet Mts. will degrade the alpine environment and ultimately ruin water quality and the ecology of the pristine fresh waters we are fortunate to have in this part of the world. I believe that the Rock Creek Alliance has done, and continues to do, great work, and that the ultimate goal of keeping the mine out of Rock Creek is obtainable. My time is valuable, so being involved in an organization that works hard and is productive is exciting and encouraging.

Shakura Young:

As a resident of Bonner County, I am very concerned about the impacts of the Rock Creek mine on Lake Pend Oreille, and our local economy. I believe that the mine's perpetual pollution would be disastrous for our community. I have been a member of the Alliance and a volunteer for over ten years because I believe in the goals of the organization. I am proud of the accomplishments that all of us as supporters of Rock Creek Alliance have achieved over the years and believe we can continue to make great strides in protecting Lake Pend Oreille from the proposed mine. I would like to take my commitment to the organization to the next level by serving on the Board of Directors.

Rock Creek Alliance T-Shirts

If you haven't seen our newest T-Shirts, you're in for a treat. Our pigment-dyed shirts are offered in both a woman's cut and a man's cut. Men's colors include "smoke" or "bluegrass," and women's are available in "surf." Shirts are priced at two for \$25 or \$15 each. To purchase a shirt, visit Outdoor Experience in Sandpoint, or give us a call at 208-265-8272, and we'll make arrangements to get a shirt to you.





Dear Member,

As you peruse this newsletter, you will find articles on bull trout, legal rulings, federal legislation, and historic mining pollution. These articles all relate to water in some way. Whether it is safeguarding water for bull trout or your right as a citizen to have meaningful input on the fate of the water in the Clark Fork-Pend Oreille Watershed, our work encompasses water and its protection. And, the tools we use involve science and the law. They are the foundation of our work, and they are what we write about in reporting on our work to you our members.

It might be easier to fill the pages of our newsletter editorializing on how we truly feel about the prospects of having a massive hardrock mine blast its way beneath the Cabinet Mountains Wilderness, sending a stream of perpetual pollution into the Clark Fork River and ultimately into Lake Pend Oreille. It is, after all, the passion that we feel about the special places we are trying to protect that drives us. This passion is at the heart of why we exist, as much today as 17 years ago when many of us stood at public meetings in Noxon and Sandpoint expressing our deepest fears about what would happen if the Rock Creek mine should ever be built. It continues to fuel what we do, and we know that it is what motivates you to support our work. It's also why we are fortunate enough to have attorneys like Tim Preso. In this issue, you will read about Tim, who is working diligently to protect grizzly bears in the Cabinet Mountains Wilderness.

On behalf of the Rock Creek Alliance, I want to thank you for your commitment to helping us stop the mine, and for the fervor that you show for Lake Pend Oreille, the Cabinet Mountains Wilderness, and the magnificent wildlife that make these places come alive. Taking such a public stand against the Rock Creek mine is made easier because we know that our members stand with us. My hope for the coming year is all of us will continue to hold these places sacrosanct and fundamental to our happiness. In that way, we will never stop working to protect them.

Best Wishes for the New Year,

Mary Costello

Executive Director





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Please note the date by your name to check your membership expiration date. Thank You!

PROTECTING OUR WATER AND QUALITY OF LIFE



Rock Creek Alliance is a non-profit organization formed by citizens, conservationists, and outdoor sports enthusiasts to protect our public lands and water resources from proposed mining activities within the lower Clark Fork River—Lake Pend Oreille Watershed

Board of Directors:

Rich Del Carlo, Sandpoint ID
John Edwards, Sagle, ID
Jean Gerth, Sandpoint, ID
Diane Mosley, Heron, MT
Linda Olson, Sagle, ID

Staff:

Mary Crowe Costello, Executive Director
Jim Costello, Outreach & Communications Coordinator