

THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD NATION

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A People of Vision

A Confederation of the Salish,
Pend d' Oreilles
and Kootenai Tribes

December 1, 2012

The Honorable Brian Schweitzer, Governor of Montana
P.O. Box 200801
Helena, MT 59620-0801

Sent by FAX and U.S. Mail

RE: Smurfit-Stone Mill Site

Dear Governor Schweitzer,

The Tribal Council of the Confederated Salish and Kootenai Tribes (Tribes) are writing to join Missoula County and express support for placing the Smurfit-Stone Mill Site, located near Frenchtown, Montana, on the Superfund National Priorities List and for entering the site into the 2013 rulemaking process. The United States Environmental Protection Agency (EPA) has determined the site qualifies for listing based on the presence of contaminants that have recently been discovered in landfills and sludge ponds located within the alluvial aquifer and floodplain of the Clark Fork River (Analytical Results Report for a Combined Site Inspection and Removal Assessment, EPA, August 20, 2012). The contaminants are not contained and are being released into the groundwater and the surface water and sediments of the Clark Fork River. The Tribes feel strongly that placing the site on the National Priorities List is warranted in order to deploy the technical and financial resources necessary to permanently remediate the site in a manner that best protects human health and the environment. NPL listing also provides a mechanism for EPA to consult with the Tribes during the investigation and remediation process before making final decisions.

The Clark Fork River is a natural resource of great importance the Tribes. By the terms of the Hellgate Treaty of 1855, 12 Stat 975, the Tribes reserved to themselves, in perpetuity the

exclusive right of taking fish in all the streams running through or bordering said reservation...; as also the right of taking fish at all usual accustomed places, in common with the citizens of the territory, and of erecting temporary building for curing; together

TRIBAL COUNCIL MEMBERS:

Joe Durglo - Chairman
Carole Lankford - Vice Chair
Reuben A. Mathias - Secretary
Ron Trahan - Treasurer
Leonard W. Gray
Lloyd D. Irvine
Steve Lozar
Jim Malatare
James Bing Matt
Terry Pitts

with the privilege of hunting, fathering roots and berries, and pasturing their horse and cattle upon open and unclaimed land.

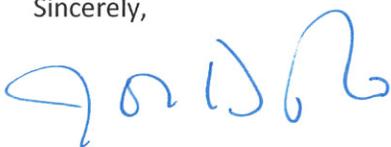
Notably the site where territorial Governor Isaac Stevens and the leaders of the Salish, Kootenai and Pend d' Oreille Tribes signed the Hellgate Treaty, now the Council Grove State Park, is adjacent to the Clark Fork River within the 4-mile Area of Influence defined by EPA for the Smurfit-Stone Mill site inspection and removal assessment. Council Grove remains a place of ongoing significance to the Tribes and is regularly visited by Tribal Members. O'Keefe Creek, a tributary to the Clark Fork River, originates in the Evaro area of the Flathead Indian Reservation approximately 5 miles north of the Smurfit-Stone Mill Site. Tribal members actively utilize the Clark Fork River and O'Keefe Creek and surrounding environs for fishing, hunting, cultural and recreational activities.

As you know, the Tribes are actively involved in the remediation and restoration of the Milltown Reservoir / Clark Fork River Superfund Site. The Tribes are deeply concerned with the health of the Clark Fork River system and the treaty-protected fishery associated with it. As such the Tribes intervened in Montana v. Atlantic Richfield Company litigation seeking damages for injury to the fishery of the Upper Clark Fork River Basin and the natural resources upon which the fishery depends. The Court affirmed the Tribes standing as a Natural Resources Trustee and awarded damages to the Tribes for the restoration of bull trout, wetlands and riparian habitat (Streamside Tailings Operable Unit and Federal and Tribal Natural Resources Damages Consent Decree). The Tribes are also a party to the Milltown Consent Decree and have worked closely with the EPA Montana Office, the Montana Natural Resources Damages Program and Montana Fish Wildlife and Parks throughout the remediation, restoration and redevelopment of the Milltown Reservoir Sediments Operable Unit.

The Tribes' fundamental position remains as it always has been - that the Clark Fork River ecosystem is a unitary resource. Accordingly, we want the river preserved where it is now healthy and restored where it is now injured. The Tribes are seeking a permanent and protective solution for the Smurfit-Stone Mill Site that will remove contaminants from the floodplain; prevent the migration of contaminants off-site; protect the Clark Fork River and O'Keefe Creek fishery; restore floodplain and riparian habitat; protect human health and safety; and ensure that the responsible party is held liable for remediation and restoration costs.

The Tribal Council has designated the CSKT Legal Department as point-of-contact for Clark Fork River Superfund issues. If you have any questions concerning this letter please do not hesitate to contact Mary Price, Staff Scientist at (406) 675-2700 extension 1167 or John Harrison, Staff Attorney at (406) 675-2700 extension 1185.

Sincerely,



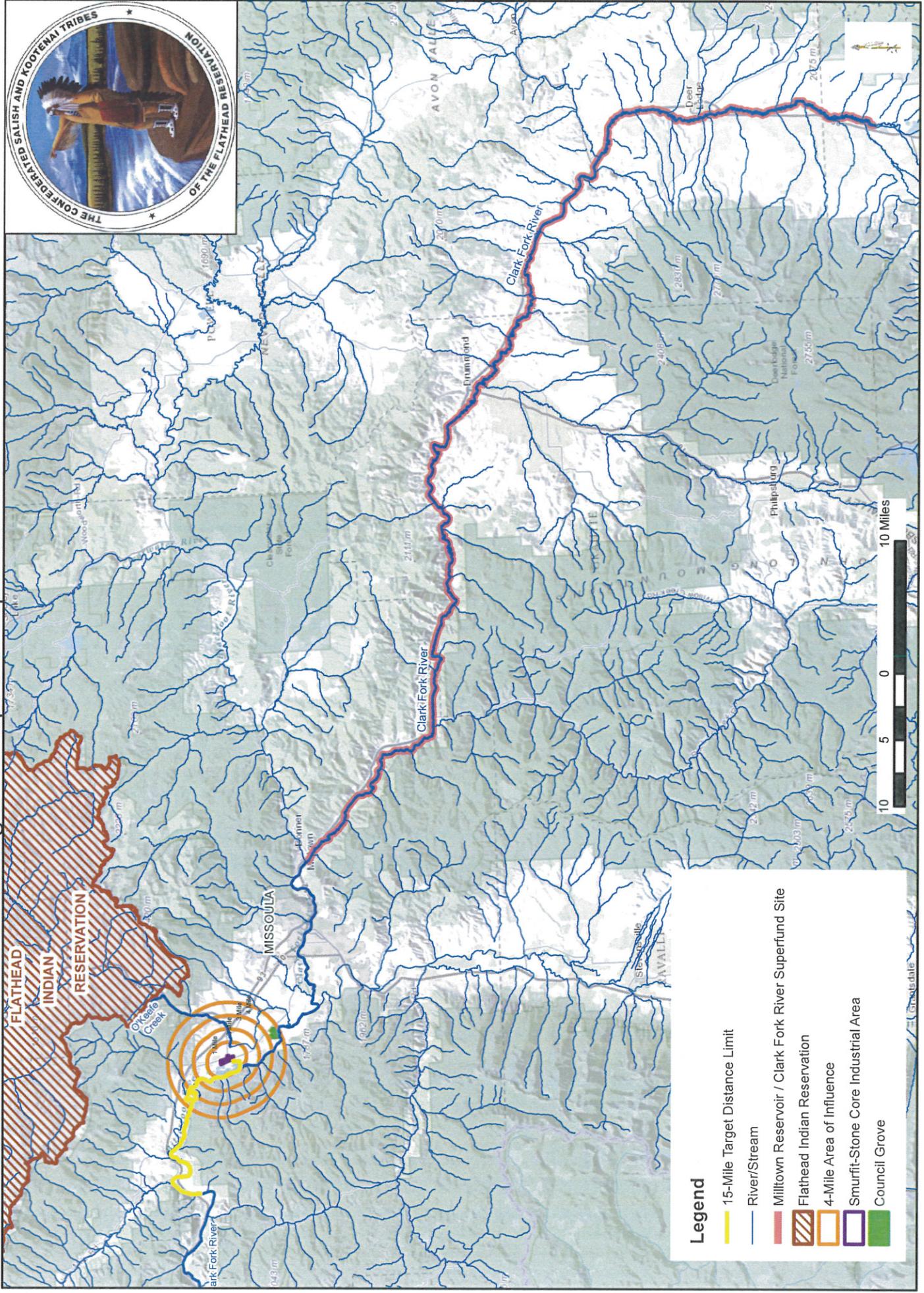
Joe Durglo
Chairman, Tribal Council

Cc; Richard Opper, Montana Department of Environmental Quality
Missoula Board of County Commissioners
U.S. Environmental Protection Agency, Region 8

Attachment

Map – Clark Fork River Existing and Proposed Superfund Sites

Clark Fork River Existing and Proposed Superfund Sites



Legend

- 15-Mile Target Distance Limit
- River/Stream
- Milltown Reservoir / Clark Fork River Superfund Site
- Flathead Indian Reservation
- 4-Mile Area of Influence
- Smurfit-Stone Core Industrial Area
- Council Grove