

Glenda Wiles

From: Rose, Sharon <shrose@mt.gov>
Sent: Monday, November 16, 2015 4:58 PM
To: Rose, Sharon
Cc: Rose, Sharon
Subject: Proposed Biennial Closure Rule for Bitterroot River near Supply Ditch Diversion Dam
Attachments: Bitterroot Closure, Biennial Rule--Commission Agenda Sheet.pdf; Bitterroot Closure, Biennial Rule--News Release.docx; Bitterroot Closure, Biennial Rule--Proposed Rule (wording).pdf

Montana Fish, Wildlife & Parks (FWP) is proposing a biennial rule that outlines the circumstances under which FWP could temporarily close a portion of the Bitterroot River surrounding the Supply Ditch Diversion Dam, for public safety and repairs to the structure. This could involve a portion or the entire length of the river between FWP's Woodside Fishing Access Site (FAS) downstream to Tucker Crossing (West) FAS in Ravalli County.

Attached are a news release, the proposed rule, and a copy of the Fish & Wildlife Commission agenda sheet with further information explaining the issue.

This information--along with the opportunity to comment online--may also be found on FWP's website at: http://fwp.mt.gov/news/publicNotices/rules/pn_0199.html

Comments may also be mailed to Sharon Rose, Region 2 FWP, 3201 Spurgin Rd., Missoula 59804; phoned 406-542-5540; or emailed to shrose@mt.gov.

There will be a **public meeting** on **December 1** from 6:30 to 8:30 p.m. in **Hamilton** at the Bitterroot National Forest Office (1801 N. 1st Street [along US Hwy 93]).

Deadline for comments to be received by FWP is 5 p.m. on **December 18, 2015**.

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FISH & WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: November 12, 2015

Agenda Item: Biennial Rule for Possible Closure near Supply Ditch on the Bitterroot River

Division: Fisheries **Action Needed:** Proposed

Time Needed on Agenda for this Presentation: 15 Minutes

Background

In 2011, the Bitterroot River shifted flow into a new stream channel and over the Supply Ditch Diversion. The diversion now has a deceptive hydraulic that is dangerous to floaters. After 2011, accidents were reported, and FWP placed signs at access sites and on the river to warn of the danger. Despite educational efforts, several more accidents and one fatality occurred in 2013. Additional notice followed using signs and newspaper articles. There were no more accidents in 2013, but in spring 2014, at least two more accidents occurred and by April, FWP initiated an emergency rule closure for user safety on a five-mile section of the Bitterroot River, from Woodside Crossing FAS downstream to Tucker Crossing (West) FAS. In 2015, FWP asked for the authority to close the river if certain criteria were reached. The river was never closed in 2015 because the West Channel of the Bitterroot was floatable. FWP is taking steps to avoid closure but the potential need remains in 2016 and 2017. If the dam is successfully repaired, the rule would be retracted as soon as it is safe to do so.

Public Involvement Process & Results

Public comment was collected from February 13 to March 9 of 2015. A public hearing was held in Hamilton on March 4th. We received a total of 79 total comments with 73 of them being relevant to this issue. Of those 73 comments, 27 percent supported the FWP having the ability to close the river if necessary. These proponents included Bitterroot Trout Unlimited, Fishing Outfitters Association of Montana (FOAM), Ravalli County Search and Rescue, and the Supply Ditch Irrigation Association. The comments supporting this rule included concerns for public safety, rescuer safety (see attached for full analysis). Of the comments we received, 73 percent did not support the rule. The majority of these comments expressed concern about setting a precedent of closing rivers.

Alternatives and Analysis

- Alternative 1: Adopt the rule to allow closure to floating and boating if needed. Closure may be needed if: (1) other channels are not available to get around the dam; (2) high water washes away signs and/or alter conditions at the dam; and (3) repairs can be made to the structure.
- Alternative 2: Adopt an annual rule if the public comment is strongly against a biennial rule.

Agency Recommendation & Rationale

FWP recommends adoption of the rule because FWP can't be certain outreach alone will adequately protect public safety: High flows may change river conditions and destroy signs; posted information may not accurately reflect rapidly changing conditions at the dam. The ability to close all or a portion of the river from Woodside to Tucker FAS would greatly enhance public awareness of this dangerous and potentially rapidly changing hazard. There is also a process moving forward to repair the structure in 2016/2107 and a closure would be necessary to complete that work. Any floating closure would be intended to best meet public safety objectives, while minimizing the length of time and the length of river affected. If the dam is successfully repaired, the rule would be retracted as soon as it is safe to do so.

Proposed Motion

I move that the Commission adopt the biennial rule to allow FWP to close the Bitterroot River to floating and boating for user safety and/or possible repair from Woodside to Tucker FAS. This rule needs to be in effect during spring runoff until flows fall below 4,000 cubic feet per second at the USGS Missoula Gauge, or until July 10, 2015, whichever occurs first. Another reason for closure would be if the dam is actively being modified or repaired and then it would re-open as soon as construction is complete.

Montana Fish and Wildlife Commission

Prohibit Floating Near Supply Ditch on the Bitterroot River

BIENNIAL RULE

PURPOSE

- (1) The following rules govern any possible temporary closure of a portion of the Bitterroot River surrounding the Supply Ditch Diversion Dam to protect public safety.
- (2) The dam is a low-head structure that creates dangerous currents that have caused numerous boat accidents including a fatality.
- (3) During flood stages, portage around the dam is very difficult.
- (4) Conditions are unpredictable and an immediate temporary closure may need to be instated to educate the public and address the safety concerns around the dam.
- (5) The Fish and Wildlife Commission (Commission) is outlining the circumstances that the Department of Fish, Wildlife and Parks (Department) may temporarily close all or a portion of the Bitterroot River between Woodside Fishing Access Site and Tucker West Fishing Access Site.

BITTERROOT RIVER TEMPORARY CLOSURE REQUIREMENTS

- (1) The Department may close a portion or the entire length of the Bitterroot River between Woodside Fishing Access Site and Tucker West Fishing Access Site to floating and boating when:
 - (a) Danger at the dam is heightened; and
 - (b) Alternative ways to avoid the dam are difficult or impossible to navigate.
 - (c) The Supply Ditch Diversion Dam is being repaired.
- (2) The Department must reopen the Bitterroot River as soon as the flows are below 4000 cubic feet per second at the USGS Missoula Gauge or July 10, whichever occurs first. When the dam is repaired, the Department must reopen the Bitterroot River as soon as construction is complete.
- (3) This rule does not affect any rules that may be adopted to address unforeseen temporary, emergency situations.

This rule was adopted by the Fish and Wildlife Commission on _____
and expires two years from the date of adoption.

Dan Vermillion, Chairman
Fish and Wildlife Commission



Montana Fish, Wildlife & Parks

NEWS

Region 2 • 3201 Spurgin Road • Missoula, MT 59804

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FOR IMMEDIATE RELEASE

November 13, 2015

FWP Seeks Comment on Proposed Bitterroot River Biennial Closure Rule for Supply Ditch Diversion

Montana Fish, Wildlife & Parks (FWP) is seeking comment on a proposed biennial rule that outlines the circumstances under which FWP could temporarily close a portion of the Bitterroot River surrounding Supply Ditch Diversion Dam for public safety and repairs to the structure.

Supply Ditch Diversion creates dangerous currents that have caused a number of boating accidents over the past several years, including a fatality in 2013. During high flows, fast currents make it very difficult for floaters to stop and carry boats around the dam.

The proposed biennial rule, out for public comment through December 18, would allow FWP to close all or a portion of a nearly five mile stretch of the Bitterroot River between Woodside and Tucker FAS when danger at the Supply Ditch Diversion is heightened and alternative ways to avoid the dam (such as walking boats around or taking the river's West channel) are difficult or impossible to navigate.

This rule will also allow for closure when repairs are being made to the structure. The repairs are expected to begin in fall of 2016.

The department would be required to reopen the Bitterroot River as soon as the flows fall below 4000 cubic feet per second at the USGS Missoula Gauge or July 10, whichever occurs earliest and once repairs are complete.

There will be a public meeting with an opportunity to submit written comment at the USFS office in Hamilton on December 1st from 6:30 to 8:30 p.m. The rule proposal and opportunity to submit comments is available online at fwp.mt.gov by following links under "Submit Public Comments" or can be directed to Sharon Rose Region 2 FWP, 3201 Spurgin Rd., Missoula 59804; phone 406-542-5540; email shrose@mt.gov. Comments must be received by 5 p.m. on December 18, 2015.

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