FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: October 16, 2014

Agenda Item: Whitefish River Petition Administrative Rule

Division: Enforcement **Action Needed:** Final

Time Needed on Agenda for this Presentation: 30 Minutes

Background: In February 2014, the FW Commission initiated rule making on the Whitefish City Council's proposed amendment restricting the Whitefish River to electric motors or manually powered vessels from the BNSF train trestle to the JP Bridge. In June 2014, the FW Commission voted down the original proposal of a yearlong closure and extended the comment period to gather comments on an FWP proposed seasonal closure from July 5-September 30.

Public Involvement Process & Results: The main issues in the public comment were resource damage/protection, public safety, historic use, property rights and recreational opportunity. During the initial comment period, FWP received 104 comments in support and 105 against the proposal to restrict usage to electric motors and manually powered vessels. During the extended comment period ending August 8, 2014, FWP received one comment supporting the seasonal compromise, one supporting a yearlong closure but would rather have the compromise over status quo, two comments supporting the compromise over a yearlong closure but would rather have status quo, 35 comments supporting status quo, 95 comments supporting a yearlong closure and two blank comments.

Alternatives and Analysis:

No Amendments Adopted: PRO - Allows equal access by all users at a no-wake. CON – Petitioners don't feel the no action alternative addresses their concern.

Adopt Original Proposal. PRO – Petitioners concerns are addressed. CON- restricts historic recreational access by motorized vessels on public waters.

Adopt Seasonal Closure Alternative: PRO- addresses some concerns of both opponents and proponents. CON-there is very little support in the public comment. This compromise would offer limited gains to the petitioners, but would remove existing recreational access for motorized users.

Agency Recommendation & Rationale: FWP recommends not adopting the proposed amendments with the exception of "or minimum operating speed necessary to progress upstream". This addition is necessary because there are several short stretches of river where the current is too swift to travel upstream without causing a wake. The FWP proposed seasonal closure was aimed at balancing the conflict between two polarized user groups, but neither group supported the compromise in the extended public comment. FWP time-lapse cameras in the closure area showed low levels of motorized use, few wake violations this summer, and FWP received only one complaint in the closure area. FWP recognizes the conflicting social values over the shared usage of this stretch of river and strong public and political support to make it non-motorized. But FWP also received a significant number of comments advocating for maintenance of the status quo. FWP supports multiple public user groups so long as use levels are sustainable and don't damage the resource. The current no wake rule limits resource damage, provides safety to all users, maintains historic recreational access by motorized vessels, and also provides a unique opportunity for non-motorized users.

Proposed Motion: I move the Commission amend ARM 12.11.645 to state "or minimum operating speed necessary to progress up stream" as recommended by the Department. Any other proposed amendments will not be adopted.