

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: December 8, 2011

Agenda Item: FWP Commercial Use Permit Biennial Fee Rule

Division: Fish & Wildlife (in consultation with Parks Division) **Action Needed:** Final Approval

Time Needed on Agenda for this Presentation: 15 Minutes

Background: FWP is proposing a final Commercial Use Permit Biennial Fee Rule on fishing access sites, wildlife management areas, and state parks for the next two years—2012 and 2013.

Public Involvement Process & Results: Nineteen (19) people and organizations submitted comments on the proposed changes. Comments can be summarized as follows:

1. General support for the proposed changes.
2. Support for the proposed late fee.
3. Support for the \$50 - 100 minimum Restricted Use Permit fee.
4. Request that the Commission increase commercial use permit fees.
5. Opposition to proposed late fee.
6. Concern that commercial use permit fees would apply to nonprofit organizations conducting fishing contests or other events for youth; recommendation that these be exempt.
7. Request that the Commission establish a 10-day, \$50 version of the FAS Permit.

Alternatives and Analysis: Alternative A: Adopt the final rule as follows:

1. Minimum fee for Restricted Use Permits (\$50 - \$100): outfitters, water-based service providers.
2. Late Fee (\$50) for failure to submit restricted use permit fees / records by the required deadline.
3. Language allowing regional park or fisheries managers, or their designee, to select fee system.

Alternative B: Retain rule with no changes. FWP does not recommend this alternative. FWP's minimum annual fee would be inconsistent with the BLM's minimum fee. The absence of a penalty fee would mean less incentive for permit holders to submit records and fees on time. Requiring consultation with the Division Administrator when selecting fees is inefficient.

Agency Recommendation & Rationale: FWP recommends Alternative A with one modification: add language stating that the regional park manager or fisheries program manager, or their designee, has the authority to select a fee from the fee table (rule). **Rationale:** Adding "or their designee" clarifies that it is often the site manager that selects the appropriate fee and it is not necessary to include the regional managers on routine decisions. The remainder of the proposed final rule is the same as the tentative rule. FWP already charges a minimum annual fee for commercial use on the Beaverhead, Big Hole, Blackfoot and Madison rivers under the authority of 12.14.160, ARM. The fee ranges from \$50 (Beaverhead, Big Hole) to \$95 (Blackfoot, Madison). Inserting the dollar amounts into the fee rule will provide more transparency to the public. Increasing the top-end of the minimum fee from \$95 to \$100 will enable FWP to be consistent on rivers operated under a joint permit system with the Bureau of Land Management (Blackfoot and Madison rivers). The late fee would be used to encourage permittees to submit fees and records on time. Late payments and records create a burden on permit administration and impact the permitting timeline for the next year. With the transfer of the FAS Program to the Fisheries Bureau it is necessary to add the fisheries managers to the list of authorized staff. The selection of a fee system has not proved to be controversial and consultation with the division administrator is no longer necessary.

Proposed Motion: I move that the FWP Commission approve the final rule for commercial use permit fees as proposed in Alternative A with the department's modification.