

## **FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET**

**Meeting Date:** November 17, 2016

**Agenda Item:** Madison River Between Ennis Lake and Madison Dam No Wake Petition (R3)

**Division:** Enforcement

**Action Needed:** Final

**Time Needed on Agenda for this Presentation:** 10 minutes

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**Background:** Jonathan and Marianne Klein submitted a petition for a no wake restriction on a 1.3 mile section of the Madison River between The North Ennis Lake Bridge and the Madison Dam. The proposal restricts the Madison River to no wake motorized boating from the North Ennis Lake Bridge at the northeast end of Ennis Lake to the Madison Dam. Petitioners feel this regulation is necessary to address social desires for all varieties of water-based recreation users and to address safety concerns through the narrow canyon, stating in their petition that “there have been at least two fatalities past years involving high-speed recreation.”

**Public Involvement Process & Results:** The public has not had an opportunity to review or comment on the petition. If approved by the Commission, rulemaking processes would be initiated that would include public involvement.

**Alternatives and Analysis:** The Commission is required to either deny the petition or initiate rulemaking. If the Commission denies the petition, the regulation of the water body listed in the petition will remain as it is currently. If the Commission initiates rulemaking, the process for rulemaking under the Montana Administrative Procedure Act (MAPA) will begin.

**Agency Recommendation & Rationale:** The section of the Madison River listed in the petition is very narrow and receives a large amount of non motorized boating use as well as shoreline based recreation and swimming. There are several rope swings into the water as well as popular swimming locations on this stretch of the river. Limiting this section of the river to no wake will serve to increase public safety and prevent a potential accident involving a motor boat traveling at greater than wake speed in a narrow channel colliding with another vessel or user, as well as reduce user conflicts. Additionally this restriction will minimally reduce motorized boating opportunities as motorboats will still be able to use the river channel at less than wake speed and the rest of Ennis lake will be unaffected by this rule.

For the interests of public health, public safety, and public welfare, the Department recommends the Commission initiate rulemaking on the petition, but with a change from the language proposed by the petitioner. Under ARM 12.11.3506, the waters 600 feet above the Madison Dam are already closed to all public occupation. To avoid confusion and conflict with this rule, the Department recommends the proposed no wake zone start at the North Ennis Lake Bridge and end 600 feet above the Madison Dam, where the no occupation zone starts.

**Proposed Motion:** I move the Commission initiate rulemaking for the petition submitted by Jonathan and Marianne Klein requesting an administrative rule regarding limiting the Madison River to a no wake zone from the North Ennis Lake Bridge to 600 feet above the Madison Dam.