

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: August 9,2017

Agenda Item: Missouri River and Toston Fishing Access Site Closure Rule (R3)

Division: Fisheries **Action Needed:** Proposed

Time Needed: 5 minutes

Background

The Montana Department of Transportation notified FWP in 2015 of its intention to replace the Highway 287 bridge on the Missouri River at Toston beginning March 2019.

MDT will require the contractor to provide safe public float passage, including a 40-foot wide by 6-foot high effective opening between in-stream construction-related obstructions, and appropriate navigational signage and hazard posting. MDT has informed FWP that it does not anticipate that the construction will create conditions that require temporary closures of the river or the Toston FAS. However, as a precaution, MDT has asked the commission to authorize a rule that would let FWP, in consultation with the local commissioner, temporarily close the river and/or the FAS on a short-term basis during the new construction timeline March 1, 2019 to September 30, 2020. The contractor, with confirmation from MDT, would be required to notify FWP of each occurrence of such a request. The contractor would be responsible for posting signs at upstream and downstream access sites notifying the public about any temporary FAS or river closures. FWP understands that the Missouri River is very popular among the angling public and important to the regional tourism economy. For these reasons, FWP would only consider closures in the interest of public safety and if there are no other reasonable alternatives available.

Public Involvement Process & Results

Upon proposal of the rule, FWP would invite public comment and report back to the commission with a final recommendation.

Alternatives & Analysis

The commission could choose not to propose a rule that would allow temporary short-term closures of the river during construction. Without this option, emergency conditions might precipitate adoption of an emergency rule to close the river and/or the access site. FWP would prefer the ability to anticipate such needed actions to enhance public notice and safety.

Agency Recommendation & Rationale

FWP recommends that the commission propose the rule and initiate public involvement. The rule would allow FWP to assess the contractor's request with input from MDT for a temporary short-term closure and determine whether such action is warranted and whether there are alternatives that would have less impact on recreation opportunities without jeopardizing public safety.

Proposed Motion

I move that the commission propose an annual rule authorizing FWP, in consultation with the local commissioner, to temporarily close a portion of the Missouri River and/or the Toston FAS on a short-term basis necessary to safely complete removal of the existing bridge and construction of a new Highway 287 Bridge during the time March 1, 2019, to September 30, 2020.