

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

**Meeting Date:** February 13, 2019

**Agenda Item:** Madison River and Varney Bridge Fishing Access Site Temporary Closure Rule (R3)

**Division:** Fisheries      **Action Needed:** Final

**Time Needed on Agenda for this Presentation:** 5 minutes

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## **Background**

The Montana Department of Transportation notified FWP in 2016 of its intention to replace the Varney Bridge over the Madison River on Secondary 249, approximately 8 miles south of Ennis beginning April 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 anticipates that there will be times when construction activities will create unsafe conditions for the public and requests that FWP be prepared to temporarily close the river and/or the entire Varney Bridge Fishing Access Site on a short-term basis to all use in the proximity of the construction site. 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 Varney FAS on a short-term basis during the construction timeline March 15 to Nov. 15. The contractor, with confirmation from MDT, would be required to notify FWP of each occurrence of such a request. FWP would only consider closures in the interest of public safety and if there are no other reasonable alternatives available.

## **Public Involvement Process & Results**

FWP accepted public comment from December 17 to January 13. Twenty-eight comments were submitted. Twenty-three comments supported the proposed rule, but had additional concerns regarding access, crowding, river passage, and public notice. Two comments opposed the rule due to crowding and the belief that access should not be limited on public waters. Three comments were outside the scope of this proposal.

## **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 Varney FAS. FWP would prefer to have the ability to anticipate such needed actions to enhance public notice and safety.

## **Agency Recommendation & Rationale**

FWP believes the proposed rule adequately addresses concerns raised regarding access, river passage during construction, crowding, and public notice. The proposed rule allows FWP to assess the request for temporary closure and determine whether such action is warranted or if other alternatives would have less impacts on recreational interests and public safety.

## **Proposed Motion**

I move that the commission approve an annual rule authorizing FWP, in consultation with the local commissioner, to temporarily close a portion of the Madison River and/or the Varney FAS on a short-term basis as necessary to safely complete removal of the existing bridge and construction of a new Secondary 249 bridge during the time period March 15, 2019 to Nov. 15, 2019.