MADISON RIVER
-FOUNDATION-

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DIRECTOR'S OFFICE

September 25, 2019

Chairman Colton, Commissioner Aldrich, Commissioner Brower, Commissioner Byorth, and Commissioner Stuker,

The Madison River Foundation implores you to approve the attached petition pursuant ARM Rule 12.4.103 so there can be regulations on the Madison River in place for 2020. As local sportsmen, those who enjoy Montana every day, and the ones who depend on our state to manage our waters, we are frustrated that no regulatory action has been taken on the most heavily-used river in this state.

We appreciate your time and urgency with this petition.

Sincerely,

Richard Rohrbaugh
President, Madison River Foundation

222 E Main Street Ennis, MT 59729 ~ Mailing PO Box 1527, Ennis, MT 59729
406.682.3148 ~ www.madisonriverfoundation.org
Tax EIN 56-2333733

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September 25, 2019

Chairman Colton, Commissioner Aldrich, Commissioner Brower, Commissioner Byorth, and Commissioner Stuker,

We, the Madison River Foundation, demand the Fish and Wildlife Commissioners to implement the regulations described in Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment dated April 19, 2018 for the Madison River, Montana effective January 2020.

Recreational use on the Madison River has significantly increased since 2003, as indicated by FWP angler surveys. In the last four years, use on the upper Madison has more than doubled from 88,000 to 179,000 angler days (Figure 1). Most recent angler surveys indicate over 207,000 angler days on the Madison River. Angler use has increased 15% biennially since 2013, and without regulations, is expected to continue to rise exponentially. As stated in Fish, Wildlife & Parks' 2018 Madison River Draft Recreation Management Plan and Environmental Assessment, although fish populations have remained relatively stable thus far, there is concern that the continual increase in angling pressure will negatively impact fish populations. Under Administrative Rule of Montana (ARM) 12.4.104(2)(h) and 12.4.104(2)(c), present and anticipated public use on the Madison River presents a clear and immediate threat to wild fish populations.

We request that the Fish and Wildlife Commission limit and restrict commercial and recreational use on the Madison River to the proposed regulations immediately so that regulations can be implemented for 2020. We believe that further delays are unacceptable.

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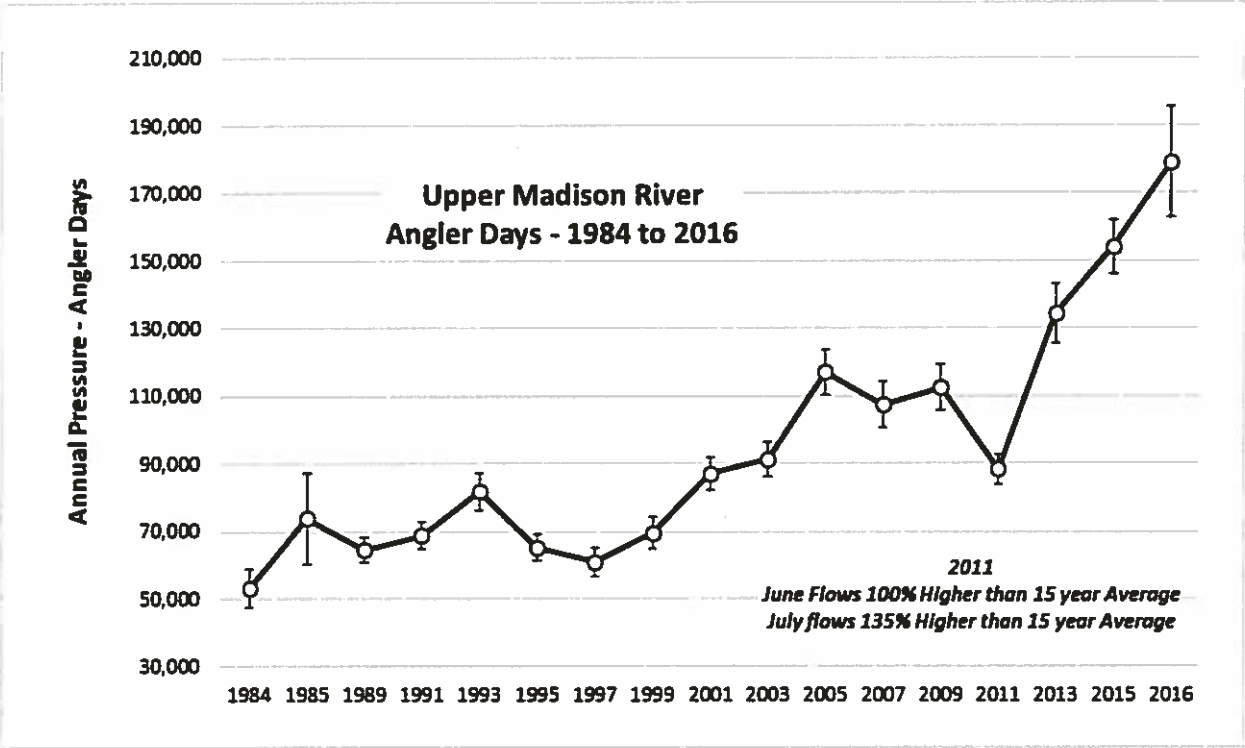

Figure 1. Angler days gleaned from mail-in surveys collected on odd years. Vertical bars represent standard error/confidence intervals. The 2016 data point was estimated using a correlation analysis between reported outfitted trips and total angling pressure. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Proposed Remedies:

Special Recreation Permits

The number of permits available will be maintained at the number of permits issued in 2016 & 2017 showing historical use as provided by the special use permit report logs submitted for that year. Specific rules proposed for the cap include:

- Placing a cap on permits issued for commercial purposes on the Madison River at the number of active permits, with logged use, that were issued for the 2016 and 2017 seasons.
- A permittee would be eligible for a permit if they have historically received a permit and recorded use on the Madison River during the 2016 or 2017 seasons as designated by FWP.
- A permit would be forfeited and returned to FWP jurisdiction if an outfitter records zero commercial Madison River use for two consecutive years.
- All permittees must submit an annual report of all commercial activity in a format as specified by FWP.
- Any permit returned to FWP may be reissued to an eligible outfitter through a random lottery process if social conflicts improve and the health of the Madison River fishery is maintained. If social conflicts do not improve and/or the health of the fishery declines, a lower number of permits may become necessary and some permits may not be reissued.
- An outfitter could not hold more than one Madison River permit.
- In accordance with ARM 12.14.120, a commercial use permit is not transferable and void when a business is sold or transferred. However, if a business is sold or transferred in its entirety, FWP is required to issue a new permit to the new owner of a business upon application and payment of all fees due.

Based on current permit numbers, we propose instituting a cap on the number of permits issued for the Madison River.

Non-Commercial Reaches

Non-commercial reaches are designed to provide less-crowded conditions for non-commercial users, both resident and non-resident, while still providing adequate opportunity each day for permittees. Reaches would proceed consecutively downriver beginning on Saturday to help avoid confusion. These restrictions would apply year-round to mitigate the potential of an increase in traffic during shoulder-seasons. We propose dividing the Madison River from the Quake Lake outlet to Greycliff FAS into seven reaches and designating one of these as a non-commercial reach each day of the week. We also propose prohibiting commercial use in the reach from Greycliff FAS to the confluence with the Jefferson. Commercial use will only be

limited as described below. Outside of these restrictions and the 18.9 mile reach from Greycliff FAS to the confluence with the Jefferson River, the remainder of the river is open for commercial use (Figure 2). Shuttle services and livery services will be exempted from the non-commercial reach restrictions.

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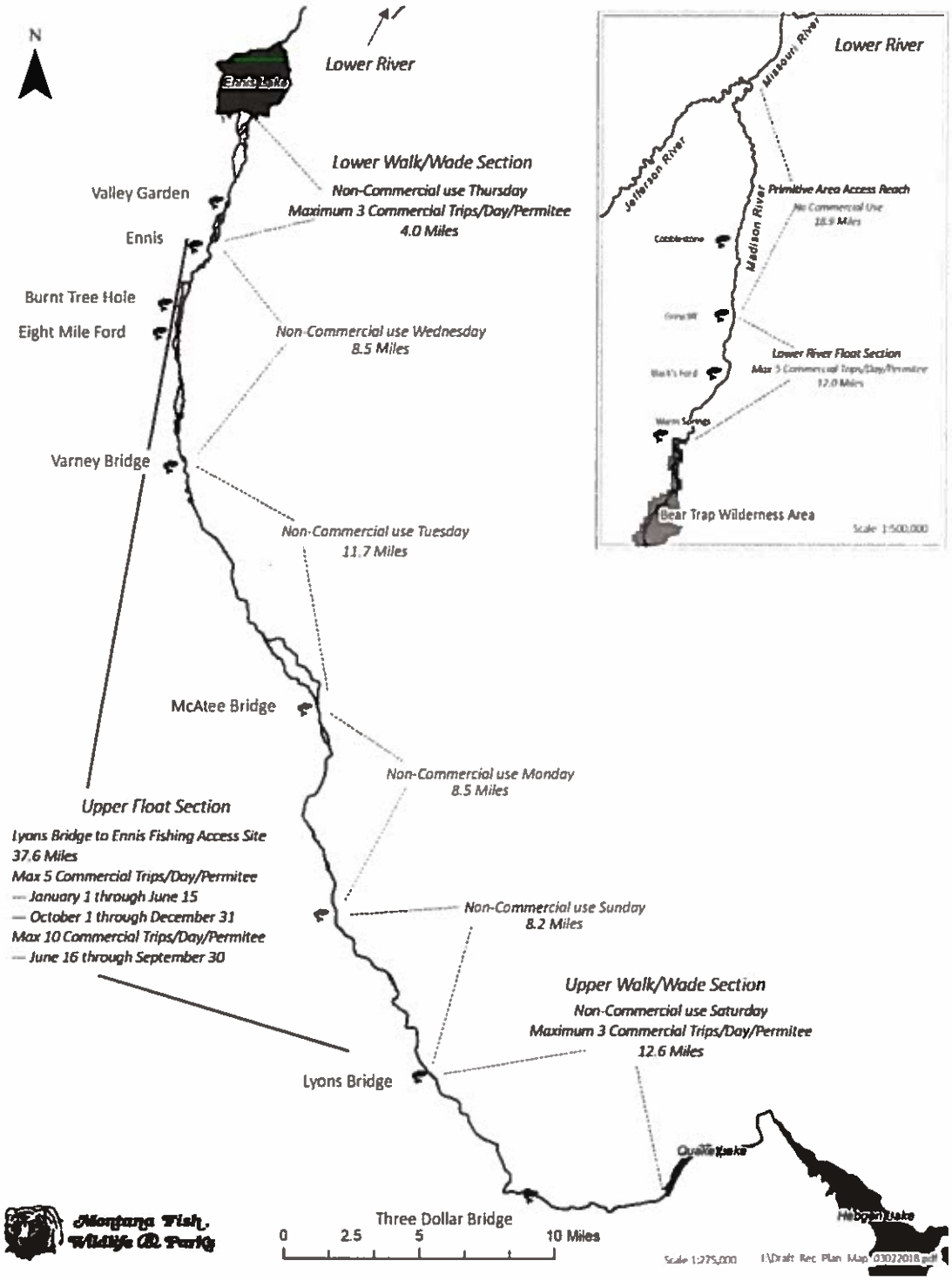

Montana Fish, Wildlife & Parks

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Figure 2. Map showing proposed rules described in Proposed Remedies: Non-Commercial Reaches. Inset map of lower river rules is presented at 1:500.000. Map does not depict all Madison River Access. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Saturday (Quake Lake Outlet to Lyons Bridge FAS)

Each Saturday the reach of river from the Quake Lake outlet to Lyons Bridge FAS would be designated as a non-commercial reach in which no commercial use would be allowed. The purpose of this closure is to reduce both crowding and social conflicts while maintaining adequate opportunity for commercial outfitting elsewhere on the river. This 12.6-mile reach of river is currently closed to fishing from vessels or float tubes. We propose that this reach be changed to walk/wade only (no access obtained by any type of vessel or float tube for angling).

Sunday (Lyons Bridge FAS to Palisades Recreation Area)

Each Sunday the reach of river from Lyons Bridge FAS to Palisades Recreation Area would be designated as a non-commercial reach in which no commercial use would be allowed. This 8.2-mile reach of river is the most heavily outfitted reach of the Madison River. The purpose of this closure is to reduce both crowding and social conflicts while maintaining adequate opportunity for commercial use elsewhere on the river.

Monday (Palisades Recreation Area to McAtee Bridge FAS)

Each Monday the 8.5-mile reach of river from Palisades Recreation Area to McAtee Bridge FAS would be designated as a non-commercial reach in which no commercial use would be allowed. The purpose of this closure is to reduce both crowding and social conflicts while maintaining adequate opportunity for commercial use elsewhere on the river.

Tuesday (McAtee Bridge FAS to Varney Bridge FAS)

Each Tuesday the 11.7-mile reach of river from McAtee Bridge FAS to Varney Bridge FAS would be designated as a non-commercial reach in which no commercial use would be allowed. The purpose of this closure is to reduce both crowding and social conflicts while maintaining adequate opportunity for commercial use elsewhere on the river.

Wednesday (Varney Bridge FAS to Ennis FAS)

Each Wednesday the 9.2-mile reach of river from Varney Bridge FAS to the Ennis FAS would be designated as a non-commercial reach in which no commercial use would be allowed. The purpose of this closure is to reduce both crowding and social conflicts while maintaining adequate opportunity for commercial use elsewhere on the river.

Thursday (Ennis FAS to Ennis Lake)

Each Thursday the reach of river from the Ennis (Highway 287) to Ennis Lake would be designated as a non-commercial reach in which no commercial use would be allowed. This approximately 4-mile reach of river is currently closed to fishing from vessels or float tubes and is proposed in this EA as walk/wade only (no access obtained by any type of vessel or float tube for the purpose of angling). The purpose of this closure is to reduce both crowding and social conflicts while maintaining adequate opportunity for commercial use elsewhere on the river.

Friday (Warm Springs Recreation Area to Greycliff FAS)

Each Friday the 12-mile reach of river from Warm Springs Recreation Area to the Greycliff FAS would be designated as a non-commercial reach in which no commercial use would be allowed. The purpose of this closure is to reduce both crowding and social conflicts while maintaining adequate opportunity for commercial use elsewhere on the river.

Maximum Daily Commercial Use Restrictions

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We propose to restrict the daily maximum number of commercial trips per permittee allowed within each of the following four reaches of river: 1. outlet of Quake Lake to Lyons Bridge FAS, 2. Lyons Bridge FAS to Ennis FAS, 3. Ennis FAS to Ennis Reservoir and 4. Warm Springs Recreation Area to Greycliff FAS (Figure 2). The proposed maximum number of commercial trips per reach and time frame were established by analyzing complete Madison River SRP use logs provided to FWP by all permittees from 2011-2017. Proposed maximum daily use restrictions were set so that daily use would be capped at normal levels of commercial use in each reach based on 2016-2017 use, the years with the most permitted outfitters, most total commercial use, and the most use by an individual outfitter on record (Table 1). For this proposal, a commercial trip is defined as (a) one launch of one vessel by the permittee or an agent of the permittee and associated clients; or (b) walk/wade use by the permittee or an agent of the permittee and associated clients.

Ultimately, very few permittees would be impacted by these trip restrictions and those that are impacted would see only a very small percentage of impact to their overall Madison use (Table 2). Conversely, if FWP were to allocate client days to outfitters based on historic use then all outfitters would be significantly impacted because no growth in their business could occur unless they acquired more days through business transfers from other permittees. Additionally, limiting permittees to maximum use per reach rather than at individual sites would allow permittees flexibility in planning trips. These restrictions would apply year-round. Shuttle services are exempt from permittee reach caps.

Table 1. Total trips reported by active river-based permittees and categorical counts of the number of trips per permittee. An active river-based permittee is defined as a permittee with an active permit that reports commercial Madison River use in that calendar year. Shuttles, liveries, and river-based permittees that reported zero use are excluded from the counts. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Year	Total Active River-Based Permittees	Most Trips	>1000 Trips	999-500 Trips	499-250 Trips	250-100 Trips	99-50 Trips	49-25 Trips	24-1 Trips
2017	175	1012	1	3	10	12	21	22	106

2016	168	846	0	4	9	11	20	36	88
2015	163	796	0	2	9	14	18	37	83
2014	162	686	0	1	7	12	16	31	95
2013	156	604	0	1	2	16	19	26	92
2012	162	553	0	1	4	14	17	29	97
2011	150	451	0	0	3	14	16	28	89

Table 5. Percent impact of proposed reach use restrictions from 2016-17. Total trips over reach maximum is a combined total by all permittees from all four defined reaches. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Year	Total Number of Permittees Impacted by Max Use Restrictions	Total Number of Trips Over Reach Max Use	Total Number of Trips Reported by Permittees Exceeding Max Use	Total % of Trips Impacted by Max Use Restrictions	Max % Impact to an Individual Permittee
2016	17	146	4868	3.00%	6.67%
2017	13	145	5474	2.65%	3.80%

Upper Walk/Wade Reach (Quake Lake Outlet to Lyons Bridge FAS)

From 2013 to 2017, the maximum number of commercial trips reported between the outlet of Quake Lake and Lyons Bridge FAS in a single day by an individual permittee was 7. Although 7 trips was the maximum number reported in a single day by a permittee in this reach, it is not representative of normal commercial use. In fact, it is exceptionally uncommon for a permittee to exceed 3 trips per day in the upper walk/wade reach (Table 3). We are therefore proposing that the maximum daily number of commercial trips per permittee between the outlet of Quake Lake and Lyons Bridge FAS be 3 (Figure 2). Under this proposed rule, every trip that occurs in this reach would count towards the daily maximum of 3.

Table 3. Total use by permittees in the Quake Lake to Lyons Bridge walk/wade reach in 2016- 17. A permittee day is defined as one permittee with at least one reported trip in this reach on any day. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Year	Total Permittee Days	Total Permittee Trips	Average Trips per Permittee Day	Total Permittee Days Exceeding 3 Trips	Percentage of Permittee Days Exceeding 3 Trips
2016	727	977	1.3	14	1.9%
2017	801	1123	1.4	28	3.5%

Upper Float Reach (Lyons Bridge FAS to Ennis FAS)

The Lyons Bridge FAS to Ennis FAS reach of the Madison receives the most commercial float angling use of any reach of the river. The overwhelming majority of commercial use occurs between June 16th and October 1st (Figure 3). For this reason, we propose defining two distinct time periods for this reach with different maximum commercial use restrictions.

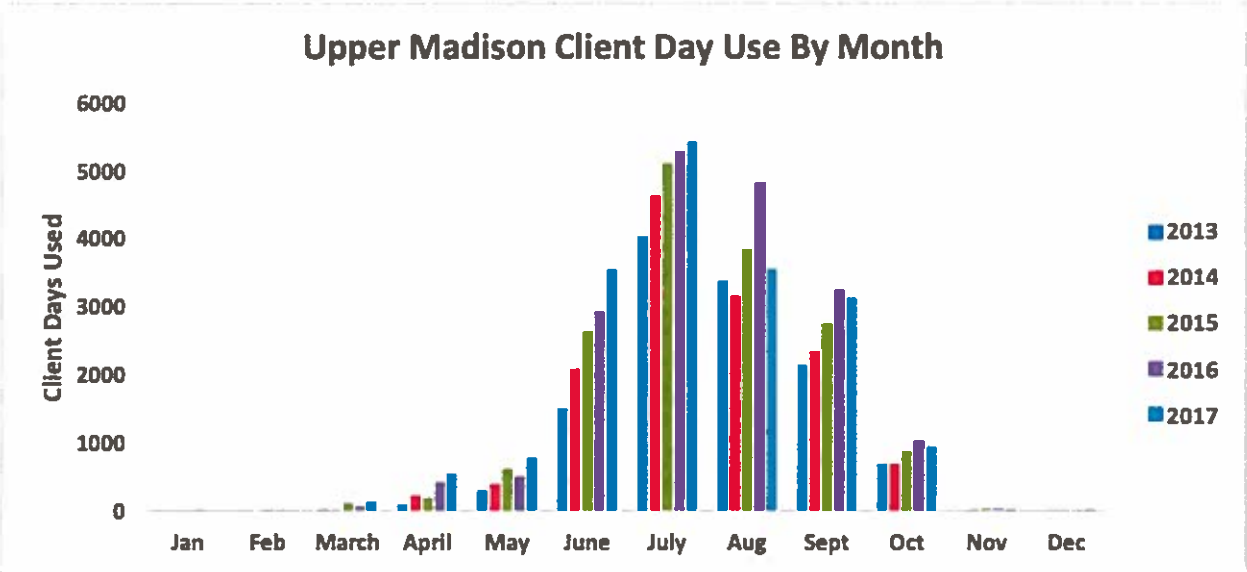

Figure 3. Commercial use of upper Madison River client days reported from 2013 to 2017. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

June 16th through September 30th

From 2013 to 2017, the maximum number of commercial use reported between Lyons Bridge FAS and Ennis FAS in a single day by an individual permittee was 19. Although 19 trips was the maximum number reported by a permittee in a single day in this reach, it is not representative of normal commercial use. In fact, it is exceptionally uncommon for any permittee to exceed 10 trips per day in the upper float reach (Table 4). We are therefore proposing that the maximum daily number of commercial trips per permittee between Lyons Bridge FAS and Ennis FAS be 10 from June 16th through September 30th (Figure 2). Under this proposed rule, every trip that occurs in this reach would count towards the daily maximum of 10.

Table 4. Total use by permittees in the Lyons Bridge to Ennis Bridge reach between June 16th and September 30th, 2016-17. A permittee day is defined as one permittee with at least one reported trip in this reach on any day. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Year	Total Permittee Days	Total Permittee Trips	Average Trips per Permittee Day	Total Permittee Days Exceeding 10 Trips	Percentage of Permittee Days Exceeding 10 Trips
2016	3736	7750	2.1	20	0.5%
2017	3499	7419	2.1	29	0.8%

October 1st through June 15th

Prior to 2016, only the McAtee Bridge to Ennis (Highway 287) Bridge reach of the Madison's upper float reach was open to year-round angling. New regulations allowing year-round angling from the Quake Lake outlet to McAtee Bridge went into effect March 1, 2016. Previously, this reach was closed to all fishing from the end of February through the third Saturday in May. Because of the new regulations, only 2016 and 2017 data were considered in

setting the maximum daily use prior to June 16th and after September 30th in the Lyons Bridge FAS to Ennis FAS reach.

In 2016-17, the years with the most commercial use on record, the maximum number of commercial trips reported between Lyons Bridge FAS and Ennis FAS in a single day prior to June 16th and after September 30th by an individual permittee was 11. Although 11 is the maximum number of trips reported by permittee in a single day in this reach and time frame, it is not representative of normal commercial use. In fact, it was exceptionally uncommon for any permittee to exceed 5 trips per day during these periods in the upper float reach in 2016 and 2017 (Table 5). We are therefore proposing that the maximum daily number of commercial trips per outfitter on any day from January 1st through June 15th and October 1st through December 31st between Lyons Bridge FAS and Ennis FAS be 5 (Figure 2). Under this proposed rule, every trip that occurs in this reach would count towards the daily maximum of 5.

Table 5. Total use by permittees in the Lyons Bridge to Ennis Bridge reach between October 1st and June 15th, 2016-17. A permittee day is defined as one permittee with at least one reported trip in this reach on any day. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Year	Total Permittee Days	Total Permittee Trips	Average Trips per Permittee Day	Total Permittee Days Exceeding 5 Trips	Percentage of Permittee Days Exceeding 5 Trips
2016	804	1231	1.5	13	1.6%
2017	816	1243	1.5	12	1.5%

Lower Walk/Wade Reach (Ennis FAS to Ennis Lake)

From 2013 to 2017, the maximum number of commercial trips reported between Ennis FAS and Ennis Lake in a single day by an individual permittee was 5. Although 5 trips was the maximum number of reported trips in a single day by a permittee in this reach, it is not representative of normal commercial use. In fact, it is exceptionally uncommon for any permittee to exceed 3 trips per day in the upper walk/wade reach (Table 6). We are therefore proposing that the maximum daily number of commercial trips per permittee from Ennis FAS to Ennis Lake be

3 (Figure 2). Under this proposed rule, every trip that occurs in this reach would count towards the daily maximum of 3.

Table 6. Total use by permittees in the Ennis Bridge to Ennis Lake walk/wade reach in 2016-17. A permittee day is defined as one permittee with at least one reported trip in this reach on any day. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Year	Total Permittee Days	Total Permittee Trips	Average Trips per Permittee Day	Total Permittee Days Exceeding 3 Trips	Percentage of Permittee Days Exceeding 3 Trips
2016	426	574	1.3	10	2.3%
2017	428	542	1.3	2	< 0.1%

Lower Madison River (Warm Springs Recreation Area to Greycliff FAS)

From 2013 to 2017, the maximum number of commercial trips reported between Warm Springs Recreation Area and Greycliff FAS in a single day by an individual permittee was 10. Although 10 trips was the maximum number of reported trips in a single day by a permittee in this reach, it is not representative of normal commercial use. In fact, it is exceptionally uncommon for any permittee to exceed 5 trips per day on the lower Madison River (Table 7). We are therefore proposing that the maximum daily number of commercial trips per permittee from Warm Springs Recreation Area to Greycliff FAS be 5 (Figure 2). Under this proposed rule, every trip that occurs in this reach would count towards the daily maximum of 5.

Table 7. Total use by permittees in the Warm Springs Recreation Area to Greycliff FAS reach in 2016-2017. A permittee day is defined as one permittee with at least one reported trip in this reach on any day.

Year	Total Permittee Days	Total Permittee Trips	Average Trips per Permittee Day	Total Permittee Days Exceeding 5 Trips	Percentage of Permittee Days Exceeding 5 Trips
2016	664	1079	1.6	10	1.5%
2017	744	1291	1.7	11	1.5%

Prohibit commercial use on the reach between Greycliff FAS and the Madison River's confluence with the Jefferson River

The Commission has adopted a Policy Statement Concerning River Recreation as ARM 12.11.405. ARM 12.11.405(4) states, "The quality of the river resources should be protected as the first and foremost priority." The Commission recognizes that "the public prefers to recreate on rivers without controls on their recreational experience" however in order to "maintain the quality of the river resources and the quality of the recreational experience" we are proposing prohibiting commercial use on the Madison River between Greycliff Fishing Access Site and the confluence with the Jefferson River (Figure 2). This reach of river is unique in its resource values for scenery and recreational solitude and currently has less than 1% of the commercial use on the Madison River (Table 8). During the summer months, the thermal properties of this reach of river creates warmer water temperatures causing fishing closures which are not conducive to commercial use but are coveted by recreationists who value a primitive floating experience with unique scenery and plentiful wildlife.

Table 8. Percent impact of proposed Greycliff FAS to Jefferson River confluence non-commercial designation from 2016-17. Data obtained from Montana Fish, Wildlife & Parks' Madison River Draft Recreation Management Plan - Environmental Assessment.

Year	Total Number of Permittees Impacted by Commercial Closure	Total Number of Trips Occurring in Reach	Total Number of Trips Reported River Wide by Permittees Using Reach	Total % of Trips Impacted by Commercial Closure	Max % Impact to an Individual Permittee
2016	17	63	2464	2.6%	73.7%
2017	22	71	2804	2.5%	66.7%

Prohibit the Use of a Vessel or Float Tube to Gain Access to Fishing in the Wade-Only Reaches of the Madison River.

The Madison River has a long history of wade fishing and current regulations prohibit fishing from a vessel or float tube in two reaches of the Madison River; from the outlet of Quake

Lake to Lyons Bridge and from the Ennis (Highway 287) Bridge to Ennis Lake (Figure 2). The increasing number of anglers, both commercial and non-commercial, using a vessel or float tube to access fishing in these reaches is negatively affecting wade angler's experiences. Wading anglers frequently express concerns that when they do try to access more remote reaches of these reaches they frequently encounter anglers who use vessels or float tubes to gain access. Prohibiting the use of a vessel or a float tube to gain access for fishing in these reaches could diversify fishing opportunities by providing less-crowded conditions for anglers without vessels or float tubes. For these reasons, we propose prohibiting anglers from using any type of vessel or float tube to gain access to fishing in these two reaches of the Madison River. Under this proposal, both reaches would remain open to all recreational vessels or float tubes for floating.

Primitive Designation of the reach from Greycliff FAS to the Confluence with the Jefferson River

The 18.9-mile reach of the lower Madison River between Greycliff FAS and the confluence with the Jefferson River is one of the most scenic and least developed reaches of the river. Ramps suitable for trailered vessels exist at Greycliff FAS and Milwaukee FAS, but no public boat ramps exist between them or downstream of Milwaukee FAS. Consequently, this reach is popular for recreationists seeking a longer, more solitary floating experience. FWP does have one additional FAS in this reach, Cobblestone, but construction of a developed ramp there is prohibited due to its primitive access site designation. We propose FWP develops a policy that any future land acquisition maintains the primitive nature of this reach by limiting vessel or float tube access to carry-in only.

Prohibit the use of glass containers on the Madison River from the Quake Lake outlet to the confluence with the Jefferson

Reduction of litter in the Madison River was identified as a priority by river users in the surveys and scoping meetings conducted by FWP. The Madison River CAC recommended prohibiting glass containers on the lower Madison River as a strategy to decrease the amount of litter along this reach. Eliminating the use of glass containers from the Quake Lake outlet to the

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confluence with the Jefferson River would also create a safer environment for river users by decreasing the occurrence of broken glass.

Review of Madison River Recreation Rules every five years

We propose that the Commission will review the rules governing recreational use on the Madison River every five years. The Commission may make adjustments to the Madison River Rules to reflect future changes in Madison River use, satisfaction of users and conditions of the fishery utilizing the best available data and public comment.

Sincerely,

Richard Rohrbaugh

Richard Rohrbaugh
President, Madison River Foundation

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