

## The Negative Effects of Banning Boats for Public Fishing Access on the Madison River

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<https://www.montanaangler.com/montana-fly-fishing-blog/201911/negative-effects-banning-boats-public-fishing-access-madison-river>

Recent petitions have been filed to propose rules that would be part of a recreational plan for the Madison River. One of the petitions recommends banning boats for public fishing access on 18.6 miles of the Madison River.

***We support a recreation plan for the Madison River that includes setting limits to prevent future growth of guided fishing. Banning boats would be counter productive in a recreation plan since it limits access and would only compress anglers in other reaches.*** Banning boats as a tool for navigation on a large river such as the Madison River would severely diminish the full power of our stream access laws and effectively limit access on large sections of the river from the general public. While such a rule change would benefit land owners in these reaches, the vast majority of users would lose significant access without the right to use watercraft as an access tool. The wade only areas make up one third of all waters between Quake Lake and Ennis Bridge.

Approximately 54% of all lands along the Madison River in these wade fishing only zones are privately held without trespass easements or are landlocked public parcels surrounded by private lands. Two sections of state land are also found in these areas that are surrounded by private land and only accessible via the river corridor. There are numerous zones where heavy willows, cliffs, and dense dead-fall block travel along banks and force anglers to wade if they are going to legally stay under the high water mark. Even at average flows this is difficult and at higher flows it is impossible. Banning boats as a tool for access will limit access to many reaches of the river and compress the public into smaller zones.

The purpose of this blog post is to provide accurate, realistic information regarding accessing the Madison River while traveling on foot below the high water mark. *If we are going to change rules affecting public access anglers*

*need to understand exactly what sections of the river can (and cannot) be effectively and legally accessed on foot.*

## **Floating, Fishing and Practicing Commerce are all protected by state law on the Madison River**

1. Montana State Law (annotated code 36.25.1102) clearly dictates the public's right to boat, fish and practice commerce on navigable waters such as the Madison River: "(a) ensure the public's right to fully use and enjoy this resource for commerce, navigation, fishing, hunting, recreation and other public trust values; and (b) generate income from navigable rivers for the public trust in a manner consistent with these rules and other laws."

## **How "small" are the wade only areas on the Upper River?**

1. The current wade only zones are very substantial and actually make up 33% of all fish-able water on the Upper Madison from Quake Lake to Ennis Lake (18.6 total miles out of the 56.2 river miles in the upper)
2. The upper wade fishing zone from Quake Lake to Lyons Bridge is 12.6 miles long and makes up 22% of the entire Upper Madison fishing zone.
3. The "Channels", or lower wade only area from Ennis Bridge to Ennis Lake is 6 miles long and makes up 10.5% of the entire upper river.
4. Wade fishing is permitted on 100% of the upper river. Wade fisherman have 56.2 miles of water to recreate on.

## **The physical characteristics of the Madison River limit travel over long distances on foot when it is required to stay within the high water mark**

1. The Madison is a swift but broad river. The difference in high water and low water is often only a few feet. At higher flows common in spring and early summer, the river's surface is essentially the "high water mark" which requires wading as the only legal option when moving up and down the river corridor where it travels through private land.

2. Even at lower flows the high water window is often razor thin and sometimes impassable due to large rocks, thick willows, and cliffs or steep banks. In these areas wading is not always possible due to swift waters and slick boulders.
3. Even in zones where the current is not too swift or the water not too deep wading long distances in the Madison is an extreme challenge and is exhausting even for young adult anglers in good shape. For youths and older adults the prospect of gaining access to much of the wade zones on foot is nearly impossible.
4. Wading across the river is very difficult at lower flows and impossible at average and higher flows. So even if you can publicly access one side of the river you rarely can cross the river. This is especially true on the upper 12.6 mile wade only zone.

*This video clip shows the river in the upper wade zone at typical spring/early summer fishing flows. The river is wide, powerful and difficult to wade. Video courtesy of our friend Nate Stevane at Montana Trout on the Fly*

*This video shows high flows in the upper wade area. These flows are during runoff. Due to dam controls at Hebgen this is about as high as the river gets - still great fishing flows. The water surface IS the high water mark so once an angler encounters private land their only option on foot is to wade in these currents. Boats allow an angler to ferry into zones that are impossible to get to without trespassing.*



*This image was taken at the lowest flows of the season. It shows the large boulders that make up the river bed between Quake Lake and Lyons Bridge. Even at low flows only the "high water" zone above the water surface is limited in size.*

### **Much of the wade fishing zones are bounded by private land**

1. Approximately 54% of all wade fishing zones are bounded or blocked by private lands (we excluded private land with trespass easements)
2. The land along the 6 mile Channels Zone between Ennis and Ennis Lake is 85% private.
3. The land along the 12.6 mile upper wade area between Quake Lake and Lyons Bridge is 41% either private or land-locked by private lands.
4. Although some landowners are generous and allow anglers to trespass above the high water mark; many land owners along the river post large no trespassing signs. Land owners in subdivisions between Quake Lake and Lyons bridge frequently advise anglers that they will be trespassing unless they remain in the river. In these reaches it is imperative that anglers wade in swift and challenging waters to legally use Montana's

Stream Access Law. Travelling long distances via wading is problematic in these zones and is a limiting factor in gaining full access in these reaches.

*This video shows a series of no trespassing signs for over 100 yards of the river posted at the high water mark. There is a significant amount of private, posted lands on the 18.6 miles of river that a boat ban would impact.*



*The land above and below the state land at the "Big Bend" is heavily posted and difficult to wade inside the high water mark*

### **Reach by Reach Public vs. Private and Realistic accessibility using Montana's Stream Access Law on foot without a boat**

*NOTE - this analysis is broken up into both East and West Banks of the river. In the upper 12.8 miles of the river below Quake Lake the river is extremely difficult to wade across. Generally anglers without a boat to use as a ferry are confined to one bank or the other*

| Wade Areas Private vs Public Land Ownership       |   |               |                    |  |
|---|---|---------------|--------------------|--|
| Reach of River                                    | Mileage of private (not protected by an trespass easment) or landlocked | Total Mileage | % Private          |  |
| Quake to Reynolds Right Bank                      | 0.25  | 3.6           | 6.944444444        |  |
| Quake to Reynolds Left Bank                       | 1.5   | 3.6           | 41.66666667        |  |
| Reynolds to 3\$ Right Bank                        | 0   | 1.4           | 0                  |  |
| Reynolds to 3\$ Left Bank                         | 0   | 1.4           | 0                  |  |
| 3\$ to Pine Butte Right Bank                      | 2.6   | 4.3           | 60.46511628        |  |
| 3\$ to Pine Butte Left Bank                       | 2.3   | 4.3           | 53.48837209        |  |
| Pine Butte to Lyons Right Bank                    | 3.3   | 3.3           | 100                |  |
| Pine Butte to Lyons Left Bank                     | 0   | 3.3           | 0                  |  |
| Ennis to Ennis Lake Right Bank                    | 5.1   | 6             | 85                 |  |
| Ennis to Ennis Lake Left Bank                     | 5.1   | 6             | 85                 |  |
| <b>Total Stream Bank Privatized with no boats</b> | <b>20.15</b>  | <b>37.2</b>   | <b>54.16666667</b> |  |

In all wade only areas of the river 18.6 bank miles of water or 54% of all water in wade areas are on private land not protected by a public access easement  
85% of all lands between Ennis Bridge and Ennis Lake are private  
41% of all lands between Quake Lake and Lyons Bridge are private  
24% of all lands between Quake Lake and Reynolds Pass FAS are private  
5% of all lands between Reynolds Pass and Three Dollar Bridge are private  
57% of all lands between Three Dollar Bridge and Pine Butte are private

28% of the Upper River between Quake Lake and Ennis Lake is currently designated as wade fishing only  
22% of all fishable water on the Upper River (Quake to Ennis Lake) is between Quake Lake and Lyons Bridge (12.6 miles out of 56.2 miles of the Upper)

*Reach by reach statistics showing land that is private without a trespass easement, or state land surrounded by private with only river access. This details the Quake Lake to Lyons Bridge reaches and the Ennis to Ennis lake reaches where boat bans have been proposed.*

### **Quake Lake to Reynolds Pass - East Bank**

*3.6 miles 93% public and good access on foot*

Only 7% of the land on the East Bank of the river is private. The current land owners in the middle of this zone currently operate a fly shop and allow access. Access on foot is good. The river is very swift here with very large boulders. Even at the lowest flows it is very difficult to wade across the river in this reach and it is impossible to cross at normal or higher flows.

### **Quake Lake to Reynolds Pass - West Bank**

*3.6 miles 58% public access (BUT USFS public land difficult to access at average to high flows)*

*Access on the West side of this entire reach is difficult, especially at higher flows (including the public land upstream of Reynolds which either requires hiking overland for more than a mile or upstream travel through private land). Most rocks on the bottom are the size of bowling balls or larger and*

accessing the West Bank from the public water on the east side of the river is often impossible, even at lower flows due to the steep gradient and swift currents. Forest Service extends from the earthquake formed dam downstream for 2 miles (although accessing this public water requires either a 1 mile hike or walking/wading upstream through private land upstream of Raynolds Pass). The lower 1.6 miles are private.

At average and low flows it is possible to walk along a trail just below the high water mark for .9 miles upstream from Raynolds Pass. There is a large back eddy .9 miles upstream from the bridge that is very deep and has a soft bottom. At average and higher flows this deep area makes wading upstream impossible. Signs are also posted warning against trespassing at this spot thus barring further upstream legal travel on foot at higher flows.

At higher flows the public access along the river in the forest service area is difficult to get to. Upstream travel through the private land would require wading at higher flows which as noted is impossible due to a large back eddy (and even without this it is very, very difficult to wade for long distances upstream through heavy current). The upper water can be accessed by parking at the Sheep Creek USFS access and then hiking for just over 1 mile to reach the river. Fortunately, some land owners on the opposite bank including Kelly Galloup at the Slide Inn allow limited watercraft launches so that anglers can still access the productive waters in this area when flows are higher.



*This photo was taken just upstream of Raynold's bridge. High flows might add 6" so in most locations you need to wade. Upstream of this photo is all private land. There is also a large and deep eddy just above this photo that is difficult to cross. The heavy willows remove any legal bank travel as an option. At these floats using a boat to get from spot to spot is critical for access. Photo courtesy Nate Stevane, Montana Trout on the Fly*



*A subdivision just upstream of Raynold's Pass Fishing Access on the West Bank is a limiting factor for anglers on foot. At higher flows anglers must wade swift and heavy currents to pass through this zone*

### **Raynolds Pass to Three Dollar Bridge**

*1.4 miles. 100% public land or easements that allow trespass*

Both East and West Banks in the 1.4 miles from Raynolds Pass to Three Dollar Bridge allow excellent walk in access above the high water mark thanks to public lands or easements that allow public access.

### **Three Dollar Bridge to Pine Butte - West Bank**

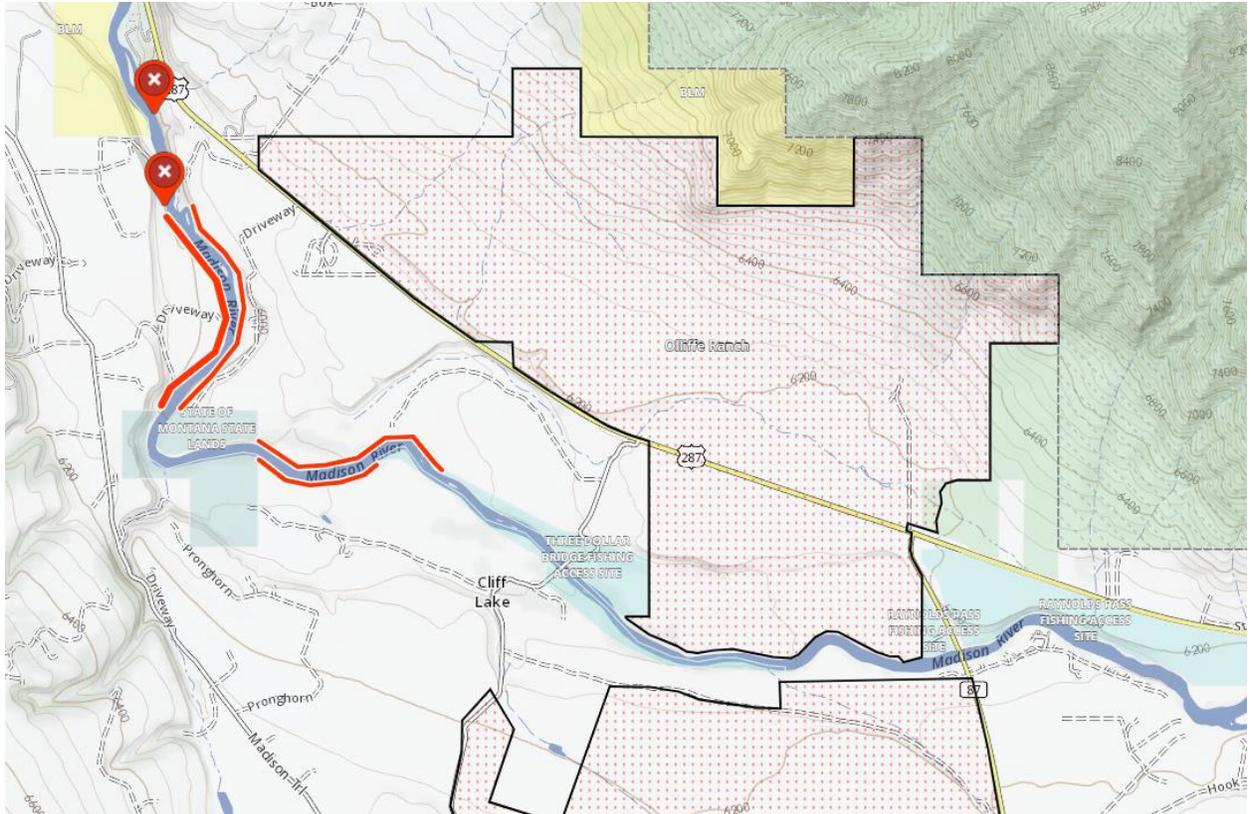
*4.3 miles. 53% is either private land or public land that is surrounded by private*

*Public access is significantly limited at higher flows on this reach when limited to travel on foot only. The middle 2.2 miles of this reach of river on the west side poses significant issues for walk in anglers. There is a section of state land at "the Big Bend" which is locked in both above and below by private land owners in subdivisions with large and prominent signs warning against trespassing and walking on banks with vegetation. To access the middle reach of this river from the lower end anglers can park at the end of a public*

gravel road on BLM. Upstream travel becomes very difficult just upstream of the BLM boundary (.2 miles) where a very steep bank and rock band comes down to the river. At average and higher flows anglers cannot get around this obstacle for legal travel upstream. When travelling downstream of \$3 bridge anglers will encounter a fence extending into the river 1.3 miles downstream of the bridge. The 1.3 miles below the bridge is state land. Continued downstream travel after encountering the no trespassing signs and fence requires anglers to hug the bank at lower flows or wade the river at higher flows. Dead-fall and large boulders are common in this area. Reaching the state land section at the Big Bend on foot is realistic for aggressive waders at lower flows but is very difficult at higher flows when anglers must wade long stretches of the river in order to stay below the high water mark. Dead-fall, swift currents and huge slippery boulders are common in this reach.



*This image was shot at very low flows downstream of \$3 bridge. Private land in the middle of the zone between \$3 Bridge and Pine Butte surrounds a section of state land. Posted signs are in copious abundance. Cliffs bound the lower reaches and the upper water are boulder strewn with deadfall in numerous locations. At lower flows getting to the state land is possible for athletic anglers, but it is nearly impossible at higher flows without a boat*



*The state land at the Big Bend offers some of the best trout water on the Madison. It is bound both above and below by heavily posted private lands*



Cliff walls make continuing upstream very difficult, and at times nearly impassable.

*Cliff walls bound the river below the Big Bend state lands. This shot was at very low flows. At average flows these cliffs are a barrier to travel for anglers limited only to foot access*



*Log jams just above the Big Bend state land area. Land owners in this area are quick to remind anglers they must stay in the water and wade around obstacles like these*



*This is what anglers face when trying to navigate through parcels of private land in the wade zones. This is at the lowest flows of the year. The exposed high water mark is very narrow in this part of the river with no trails. Anglers must stay in the water in many areas to avoid trespassing and navigate large boulder fields. A boat allows anglers to easily and legally move past these stretches to spread out and access all of the river*

### **Three Dollar Bridge to Pine Butte - East Bank**

*4.3 miles. 60% is either private land or public land that is surrounded by private*

Public access is significantly limited at higher flows on this reach when limited to travel on foot only. *The middle 2.5 miles of this reach of river on the east side poses significant issues for walk in anglers.* There is a section of state land at “the Big Bend” which is locked in both above and below by private land. No trespassing signs are common (see the video below). To access the middle reach of this river from the lower end anglers can park at Pine Butte access along the highway. Upstream travel becomes very difficult just upstream Pine Butte (.5 miles) where heavy timber with frequent dead-fall bounds the river banks. At average and higher flows anglers cannot wade upstream in the swift currents with numerous log jams and sweepers. Beyond

the sweepers walk-in anglers encounter a large cliff band which restricts both upstream and downstream foot access travel at average and above average flows.

When travelling downstream of \$3 Bridge anglers will encounter private land .6 miles downstream of the bridge. Although one land owner in this reach allows trespass above the high water mark others do not. Continued downstream travel to reach the state section requires wading through swift currents and large boulders at average and above average flows. Reaching the state land section at the Big Bend on foot is realistic for aggressive waders at lower flows but is very difficult at higher flows when anglers must wade long stretches of the river in order to stay below the high water mark. Dead-fall, swift currents and huge slippery boulders are common in this reach.

### **Pine Butte to Lyons Bridge - West Bank**

*3.3 miles. 100% public land*

Public access is good in this section of river from the West Bank. The reach from Lyons Bridge to Pine Butte is all federal land (about 80% Forest Service and 20% BLM). There is a forest service road that parallels the river in this stretch. Parking is only available at Lyons Bridge and at a pull out across from Pine Butte. To fish the middle of this section from the West Bank anglers can walk up or down the USFS road and then drop down the steep bank to the river.

### **Pine Butte to Lyons Bridge - East Bank**

*3.3 miles. 0% public land*

*Public access on foot is significantly impacted at various locations from Pine Butte to Lyons Bridge on the east side of the river. This entire reach of river is bound by private land on the East Bank. At average and above average flows the Madison is difficult or impossible to wade across (so even though the west side is public, the East Bank is nearly impossible to get to by crossing the river by wading, even at average or below average flows).*

### **Pine Butte to the Grizzly Bar (1.4 miles)**

Although all of the land is private, it is owned by a larger ranch and it has not been posted. This section of river is right along the highway and much of it has steep banks that come right to the river. Access on foot or via wading is realistic for an angler in good shape, but the steep bank and numerous

bushes are a challenge for older anglers or anyone with any type of mobility issues.

*Grizzly Bar Bend (.5 miles)*

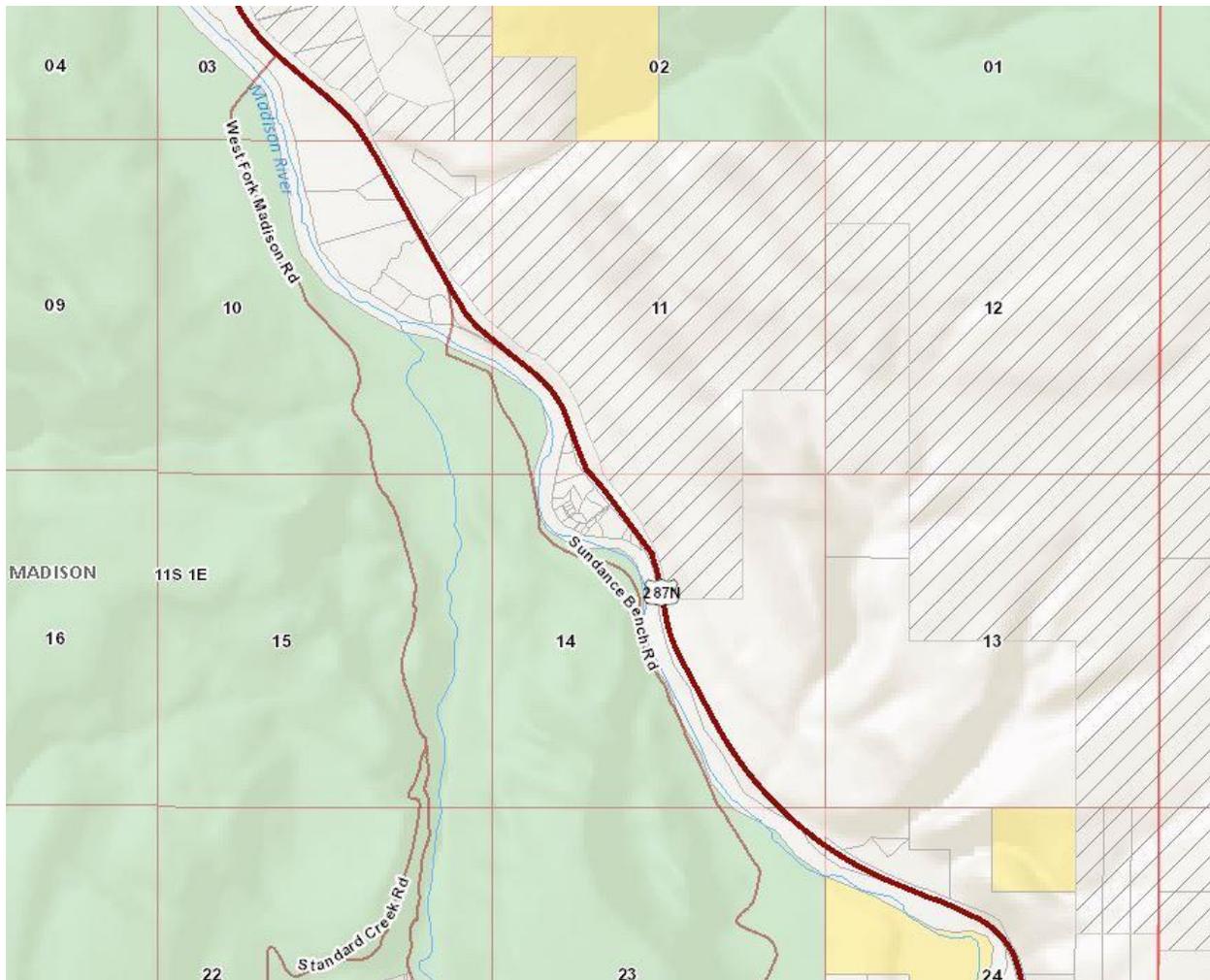
The river leaves the highway for .6 miles where the Madison makes a large bend. This is where the Grizzly Bear, numerous cabins, and several homes are located. The homes in this reach are built right to the waters edge, including some with decks or docks extending. At lower flows a wading angler can make their way along this inside bend. At higher flows some of the structures are difficult to wade around as they protrude into the river.

*Lower Grizzly Bar Bend to West Fork Bridge (.4 miles)*

This reach is very close to the highway. Although it is private land it is not currently posted. The steep banks require an agile angler to navigate.

*West Fork Bridge to Lyons Bridge (1.0 mile)*

This reach is composed of 100% private land with several large homes that are built very close to the river. Spruce and Douglas Fir is also common in this reach with some sweepers. It is very difficult to avoid wading in this zone for an angler attempting to stay in the high water mark as thick vegetation are found right at the waters edge. This is a very difficult section to reach on foot by wading.



*The entire East bank of the Madison from Pine Butte to Lyons Bridge (3.3 miles) is private. There are some areas of large ranch land that is not posted, but other parts of this reach are difficult to access without a boat. Wading from the other side is not realistic at most flows due to the size of the river.*

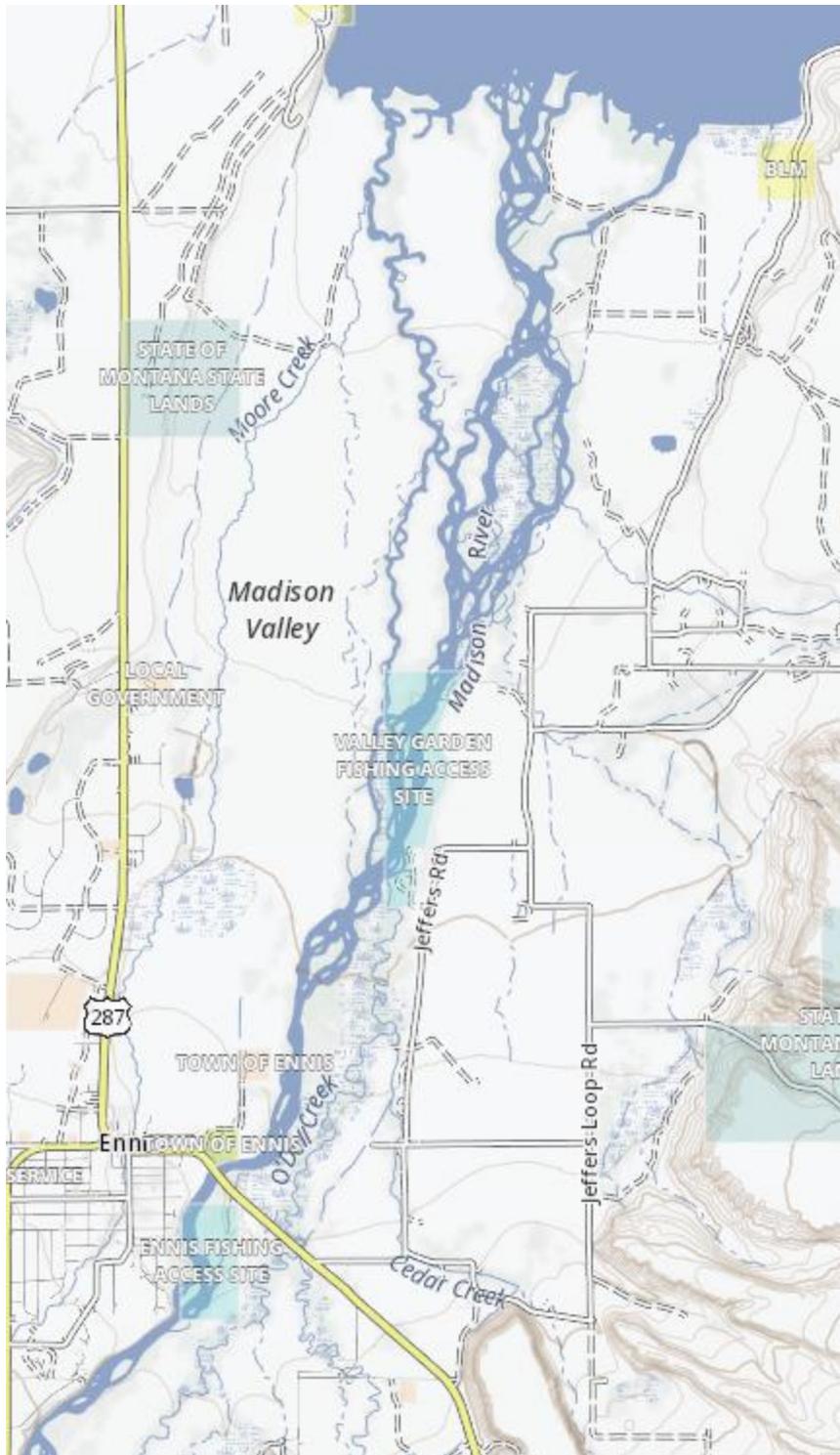


*The East bank of the river upstream of Lyons bridge is comprised of heavy timber along the trees as well as several homes built right along the river banks. This section of water is tough to access by walking and wading inside the high water mark without a boat*

### **Ennis to Ennis Lake**

*6 miles. 15% public land*

*Public access would be severely limited in the “Channels” between Ennis and Ennis Lake if restricted only to wade in fishing without the use of boats. The only public land in this reach is a half section of state land 2 miles downstream of Ennis Bridge: the Valley Garden FAS. The state land at Valley Garden gives anglers about 1 mile of public access in the middle of the Channels. At high flows however, the West Bank of the state land section cannot be accessed as it would require a river crossing from the FAS and it is bounded both above and below by private land.*



*The wade only zone from Ennis to Ennis lake is mostly private land. The banks are heavily lined with willows. Walking in the river to access most 6 mile reach is not realistic. Boats are a critical tool for access in this reach*

The 85% of the land in this reach is privately owned. The banks here are often “cut banks” in many locations with several feet of vertical bank, so essentially to stay in the high water mark in these areas you must be wading. Much of the river here is also lined with heavy brush and dense willows - again complicating travel and requiring wading in the river. The currents are swift and while wading downstream is manageable, wading upstream is very challenging.

**Summary:**

The Madison is one of Montana's largest rivers. Banning boats as a tool to for fishing access would dramatically impact the public's ability to gain access to much of the river. Currently boats are permitted in the 18.6 miles of river managed for wade fishing. In these zones anglers may use a boat to spread out between access points, park, and then wade fish. Banning boats would only compress anglers near a limited number of access points while preventing access to many other zones bounded by private lands.

**A better solution than banning boats would be to:**

- 1) Set limits on commercial guided trips now (while allowing organic spreading of these trips)
- 2) Add more detail to the free Madison River stamp proposal so the stamp is a free daily pass. This will provide better data for non-commercial use (less than 15% is commercial).
- 3) At the 1 year review the data collected from the stamp/pass system should be used to evaluate the need for a recreational carrying capacity for the river that would include non-commercial use as well as suggest management tools such as an allocated day pass system to be explored such as those used in Oregon, Michigan and British Columbia for setting upper limits on use.