



MONTANA FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

THE **OUTSIDE** IS IN US ALL.

Meeting Date: February 4, 2022

Agenda Item: Rulemaking Petition Restricting Motorized Use to a No-Wake Speed on Church Slough in Flathead County

Action Needed: Final

Time Needed on Agenda for this Presentation: 15 Minutes

Background: In 2011, the Fish and Wildlife Commission received a petition requesting the initiation of rulemaking to close the entire Church Slough to boating from March 1 to April 10. The reason for the closure was to protect migrating waterfowl and to make the slough no-wake from April 11 through Feb. 28 to decrease bank erosion and boating hazards and to put all boaters on an equal basis. The commission did adopt the seasonal boating closure in ARM 12.11.2206 to reduce the disturbance to migratory waterfowl, however the commission determined that a no-wake rule was not required. The commission determined that restricting the use to a no-wake speed was unnecessary for many reasons including:

- at current use levels, safety concerns did not require adoption of the no-wake boating rule
- there was neither survey data nor anecdotal evidence that described a rate of erosion or accelerated erosion due to boating at a wake speed.

On Oct. 5, 2021, the commission received a rulemaking petition to limit motorized boating on Church Slough to no-wake speed for the entire year. The petition was submitted by Ben and Maureen Lauden, Melanie Cross, and Andy Hurst. The petition states the reasons for the request are 1) protection of public health and safety; 2) prevention of shoreline degradation and disruption of river bottom; 3) prevention and improvement of the wildlife and fish habitat; 4) reduction of the noise level for other uses of the water and residents; and 5) reduction of the amount of chemical toxins released in the water.

Public Involvement Process & Results:

Public comment has not been collected on current petition. The commission will take public comment at the meeting. If the commission opts to initiate rulemaking, the public will have the opportunity to provide comments after the proposed rule language is published in the Montana Register pursuant to the administrative rulemaking procedures.

Alternatives & Analysis:

The commission may initiate rulemaking on the petition. Should this occur, public comment will be collected during the rulemaking process.

The commission may deny the petition. Should this occur, motorized use on Church Slough will remain as it currently is with the seasonal restriction.

Agency Recommendation & Rationale:

The department recommends the commission retain the seasonal closure from March 1 to April 10 to provide migratory waterfowl habitat and security. Recreational boating outside this seasonal closure does not provide a

significant biological or resource impact in Church Slough. Therefore, the question of boating restrictions is a social issue and within the purview of the commission to decide.

Proposed Motions:

I move the Fish and Wildlife Commission initiate administrative rulemaking to limit Church Slough to a no-wake speed.

I move that the Fish and Wildlife Commission deny the petition to restrict Church Slough to a no-wake speed or less for the entire year.