



Updated FWP water right call process – July 2022

Instream flow water rights in many river basins across Montana are critical components of FWP's fishery and recreation management. Multiple factors are considered in determining how, why, and when FWP uses those water rights to keep water instream when flows are low. With some public uncertainty about the process for making a call, the governor last summer charged the director to make clear and transparent the protocol for making a call.

Background

Water in Montana is allocated for both private and public uses based on a "prior appropriation" system. As a typical summer wears on and water levels decrease, an older or "senior" water right holder may ask the newer or "junior" water right holders to discontinue their use. This is referred to as "making a call."

FWP has instream flow water rights in many rivers and streams. These rights are junior to most existing rights, but senior to some junior users on those rivers or streams. On these sources, FWP has the ability to make call, or ask junior water users to shut off their water. While utilization of FWP's water rights by making a call is an important component of protecting aquatic life in rivers and streams, FWP has also enjoyed great success by participating in community efforts that implement voluntary use reductions and other tools to mitigate against water shortages.

In 2021, when FWP was proposing a call on junior water users in the Smith and Shields River, a review of FWP's water call process revealed an opportunity to make improvements that would increase process transparency, clarify resource benefits, and provide predictability to water users.

Revised Process

The revised process includes the following steps for making call on FWP water rights:

1. Ongoing monitoring on rivers in which FWP has a water right.
2. Assessment as to whether the water level will fall below FWP's instream flow right.
3. Determination of resource impacts and potential call benefits.
4. Evaluation of which junior water rights to call based on factors outlined in the new process, including but not limited to use, connectivity, and presence of a local drought plan.
5. Staff recommendation of call to the director, outlining water rights impacted and benefits to the resource.
6. Call approval.
7. Call issuance.