



# The FOAMLINE

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FISHING OUTFITTERS ASSOCIATION OF MONTANA  
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FALL 2007

## FOAM DIRECTORS ELECTION COMING UP

### *Nominees Sought for Regions 1, 4, 6, 7, and Guide at Large*

Our association's directors represent the members in the regions where they live and work. Several directors' terms are up in December of '07, and FOAM is accepting nominees for these positions.

Jim Voeller, Region 1 - Bitterroot, Clark Fork, Tim Tollett, Region 4 - Big Hole, Beaverhead, Steve Summerhill, Region 6 - Gallatin, and Chris Fleck, Guide-at-Large, are completing their first terms as directors and can run again, if they choose. Lee Kinsey, Region 7 - Yellowstone, has been appointed to the Board of Outfitters and needs to resign as a FOAM director. Members may nominate any FOAM outfitter member for the various region seats available, and guides can nominate a Guide-at-Large director.

Nominations should include the member's name, phone, and a statement of willingness to serve a two-year term. Directors can be re-elected for up to three terms. Mail nominations before Monday, November 5th, to: FOAM, PO Box 67, Gallatin Gateway, MT 59730.

Elections are by mail-in ballot; ballots will be mailed out during November with a postmark deadline of Monday, December 3rd. Newly-elected directors will select a President and Vice President for the board during a meeting tentatively scheduled for mid-December.

If you've wanted to help FOAM steer its future course, are interested in representing your region for the largest fishing outfitter and guide association in Montana, or just want to make your fellow FOAM members voices heard, consider nomination to the board of directors. Topics for the BoD range from local river regulations and management, through Board of Outfitter topics like fees and rules, clear up to national representation on hot-button issues like in-stream flows on the Bighorn with the Bureau of Reclamation.

Think about what you can do, then ask for a nomination from another member - or do it yourself. It's important and meaningful to serve your members - give it a try.

## BIG HOLE RIVER CLOSURE CONTROVERSIAL

### *FWP Biologist Discusses Closure, Reopening Decisions*

On Tuesday, August 28th, FWP Region 3 biologist Bruce Rich checked the USGS flow data for the Big Hole river and noted a downward trend nearing the threshold of 140 cubic feet per second (cfs) for a third day that the Big Hole Drought Management plan set as river section closure criteria. So Bruce started the process for closure approval for the river from Dickey Bridge to Melrose, a very popular fishing section, and the following day, Wednesday, August

29th, the section was closed. However, the river never dropped below the 140 cfs stage, instead rebounding slightly in a day, then rising more over the next few days.

The Big Hole's drought management plan dictates strict closure guidelines for the Dickey - Melrose stretch based on average daily flows (ADF), not the daily 'snapshot' flow data taken from the USGS website. The criteria are simple: three days of ADF below 140 cfs means mandatory closure. Once the threshold is met, Rich contacts his regional fisheries manager, the regional supervisor, the FWP commissioner (or substitute) nominated for the region in question, and FWP's fisheries division in Helena. A long chain, yes, but mandated by policy. If any one of these individuals is unavailable, on vacation, or just plain out of town, the process takes a while. But, it can take a while, as happened in this case.

Many FOAM members wondered about the closure criteria and the daily flows the USGS rendered on their website. Noting the rise in flows, they complained that Rich had closed the river 'arbitrarily' or 'illegally' without regard for the closure criteria and rules.

During a talk in September about this with FOAM Executive Director Robin Cunningham at FWP Region 2 headquarters, Rich admitted he mistakenly assumed the dropping flow he noted on Tuesday, August 27th, would continue into Wednesday, the third day of the criteria, putting flows below the closure threshold. Knowing the command chain might take a while and mindful of the key role biologists play in fisheries management, particularly during continued drought, Rich issued a request to close the stretch in question without waiting for Wednesday's ADF calculations - his admitted mistake - and what could be considered an "error on the side of caution."

As the intermediary between the various agencies that manage and control our fisheries and our members, FOAM has long backed a conservative stance on drought management, including river closures. At the same time, we're a business association dedicated to helping our members' businesses. It's a delicate balance, making sure we have healthy fisheries to work on, then actually being able to work on them. Some might argue that Rich's 'early closure' cost them income, while others might agree that a healthy fishery is more important than their day-to-day income.

In any case, the Dickey-Melrose section of the Big Hole reopened early on Wednesday, September 26th - a day earlier than it might have because Rich issued the reopen request (based on 7 days of flows exceeding 200 cfs) and got approval from the command chain within a few hours. He was able to set the reopening at midnight the day of the decision - the 7th day - rather than several days later. Perhaps that early reopening balances the early closure.

Note: FWP's statewide river closure policy uses water temperatures, not flow, as criteria: three days over 70 degrees equals river (or section) closure; three days under 70 degrees should reopen the stretch or river.

## BIG HOLE BAITFISHING DISCUSSION

### *Slot Limit, Baitfishing Tie-in, FWP Consideration*

As part of new fishing regulation proposals, FWP has suggested opening the Big Hole from Divide Bridge to Melrose Bridge to bait fishing and dropping the slot limit that's been in place for a long time. Their rationale, as stated in the proposed fishing regs, is multifold: "These changes are proposed to: A: simplify regulations and enforcement ; B: eliminate unnecessary tackle, bag, and length limits which constrain opportunity on what is effectively a catch-and-release river; C: . . . remove restrictions . . . that may enhance non-native rainbow and brown trout size and numbers to the detriment of fluvial Arctic Grayling via competition and/or predation."

Many Big Hole area FOAM members questioned why FWP would drop the artificial lure restriction on what they consider their best water and open the stretch to what has been called the 'Butte bait crowd' with the expectation of many fish taken.

During the September conversation with Bruce Rich, FWP Region 3 biologist, FOAM learned that slot limits and bait-fishing ban went hand in hand since the original proposal to move Montana from put-and-take to wild trout management. The slot limit was intended to enhance survival of the reproductive class of trout and the no-bait restriction was meant to keep anglers from injuring fish during release. Over the years, as FWP puts it, "Brown and rainbow trout population data collected since 1981 clearly indicate that the slot limit and artificial lures regulation between Divide and Melrose no longer results in any discernible difference in numbers of trout . . . with and without the restrictive regulations." So, the slot limit isn't helping produce more reproducing trout and, if the slot limit goes, so does the artificial lure restriction.

Note that other sections of the Big Hole have had bait fishing for years, but catch-and-release fishing still predominates in most sections. We'll just have to see if the regulations result in fewer large trout available for our clientele.

FOAM made no comments on these proposed regulations because we were all at work on the water and no directors contacted FOAM HQ requesting comments.

On another front, there have been requests by sportsmen's groups to close portions of the Big Hole from October 1st through the end of the season in November. This proposal is not part of FWP's proposed changes, but may be considered by the commissioners during final regulation discussions at their next

scheduled meeting October 28th in Havre.

FOAM members concerned about either of these proposals should contact Region 3 Commissioner Dan Vermillion, PO Box 668, Livingston MT 59047, 222-0624 or Commission chairman Steve Doherty, 405 South First St. West, Great Falls MT 59801, 4529791. Another commissioner who's listened in the past is Shane Colton, 335 Clark, Billings MT 59101, 259-9986. Keep your comments to the point and offer reasons why you do or don't want changes.

## FOAM MEMBERS APPOINTED TO MBO

### *Fishing Outfitters a Majority on the Board of Outfitters*

Last October was the end of term for Craig Madsen and Russ Smith as board of outfitter members, but Governor Schweitzer took so long to appoint replacements that the new members weren't seated until the May 2007 meeting.

Lee Kinsey of Livingston replaced Madsen as the fishing-only outfitter and Shawn McNeeley took over for Russ Smith in the fishing and hunting outfitter category. Tim Linehan remains as another fishing-hunting outfitter and Kelly Flynn, current board chairman, is the hunt-only outfitter member. Public members include Thomas Sather, an optometrist and sportsman from Bozeman, Carol Gibson, a retired teacher, former legislator, and sportswoman from Billings, and John Redman, long-time rancher and public member from Sidney.

Kelly Flynn's term expires in October of 2007, but considering the long delay in appointment scheduling by the Governor's office, Kelly will probably preside until early 2008. In the fall of 2008, Linehan's term expires. In the meantime, the balance of interest has shifted from hunting outfitters to fishing outfitters. This could signal a change in attitude toward fishing outfitter and guide issues with possible rule changes to fit our industry's needs. FOAM will track all developments and report as needed.

## MBO E.D. SEES NEED FOR FEE INCREASE

### *Johnston Balances Budget with Increasing Expenses*

Wayne Johnston, MBO Executive Director, noted at the last scheduled Board of Outfitters meeting on August 29th that rising expenses may require the board to consider raising outfitter and guide license fees.

The MBO budget has grown three-fold in the last decade due to legislatively-mandated hiring within the Dept. of Labor and Industry, increased staffing needs for the board itself, and steadily increasing standard wage, salary, and cost-of-living allowances for state employees.

For years, the department that housed the MBO (first, the Dept. of Commerce, now the Dept. of Labor & Industry) has

#### BOARD of DIRECTORS

##### Region 1 (Kootenai, Flathead)

Jim Voeller  
862-3448

##### Region 2 (Bitterroot, Clark Fork)

Casey Hackathorn  
546-5680

##### Region 3 (Missouri)

Pat Straub  
495-0487

##### Region 4 (Big Hole, B'head)

Tim Tollett  
683-5276

##### Region 5 (Madison)

Joe Dilschneider  
682-5356

##### Region 6 (Gallatin)

Steve Summerhill  
586-5373

##### Region 7 (Yellowstone)

Lee Kinsey  
222-4494

##### Region 8 (Bighorn, Ft. Peck)

Matt McMeans  
666-2326

Guide-at-Large Director Chris Fleck 322-0202

charged the board for employees, office rent, legal counsel, and other overhead expenses, all lumped under the budgetary heading of 'recharges.' The way these recharges are calculated has changed over the years; once a ratio of the board's budget to the particular department's budget, now it's based on the current actual time employees spend on MBO business. Whatever savings may be realized by tracking actual work time versus some statistical calculation, these recharges, among other expenses, have grown over the past five years to the point where Johnston sees the need for fee increases.

While no firm numbers were available during the August MBO meeting, Johnston predicted guide license fees may increase to \$125 a year, while outfitter fees could follow a similar percentage increase - that is, some 25% - to \$375 a year. Of course, both outfitters and guides would like to see the other licensing group pay, so the board will have to balance any fee increase between the two licensed groups. Stay tuned for details and remember, any fee increases won't be in place until renewal time in October of 2008.

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## **RIVER MANAGEMENT GROUPS REPORT**

### *Blackfoot, Bitterroot, Rock Creek, Clark Fork and Smith Rivers Management Discussions Progress and Results*

Charlie Sperry has been a busy guy. FWP's River Management Specialist, along with Regional Supervisor Mack Long and Regional Parks Manager Lee Bastian and other Region 2 personnel, has conducted the Regional River Advisory For Tomorrow (RRAFT) meetings in Missoula for the past several months. Sperry headed up the Smith River Management Plan review, too. Here's what's been happening.

Currently keying on the Blackfoot River Cooperative Agreement between FWP and the Bureau of Land Management (BLM), the RRAFT group has spent time familiarizing its members with river characteristics, the river management policy and process adopted by the FWP Commission several years ago, current rules and river demographic and use data. Currently the group is working on a Blackfoot river 'problem statement' that outlines the current management needs and solution assessment.

Jack Mauer, former FOAM BoD member, represents fishing outfitter interests on the RRAFT and has been a faithful attendee at all meetings. Jack was around when the FOAM BoD dealt with developing the statewide river management policy, and he remembers the original tenets the FOAM Board agreed upon a long time ago - basically that outfitters want an opportunity to provide quality services on a healthy resource.

The RRAFT group will meet for the balance of 2007 and on into 2008, keeping their focus on the Blackfoot, Bitterroot, Clarks Fork rivers and Rock Creek. Some cooperation between state and federal agencies may be modeled on the current FWP-BLM coop agreement on the Blackfoot when management details are ironed out. Keep in mind that management doesn't always mean a complete and official plan hammered out according to the statewide policy. Site-specific changes, like increased

enforcement to control the 'party atmosphere' on the lower Blackfoot or a possible ban on glass bottles on these rivers, could emerge as interim solutions.

In fact, aspects of established management plans may overcome some long-term problems. For example, increased enforcement of the Blackfoot Corridor Management Plan has reportedly reduced the week-end party-float difficulties so familiar to Blackfoot river users. The trend seems to be toward smaller groups, less noise, and a return of the 'family-oriented' float rather than the frequently large and rowdy 'beer and bikini' float groups from the recent past.

One graphic outcome of continued research on the Blackfoot are underwater pictures of several popular 'holes' on the lower Blackfoot showing a carpet of beer cans covering the freestone bottoms. In spite of the popular river cleanups held for many years along area rivers around Missoula, this kind of abuse still persists and is a target for solutions by the RRAFT group.

Meanwhile, Mike Geary, longtime FOAM outfitter and major recreation provider on the Smith, and Andrew Hansen, another Smith river outfitter, sit on the group that is reviewing, assessing, and commenting on that river's current management plan. One of the first rivers with a management plan, the Smith faces unique problems rare to other much-used rivers in Montana. Because camping is mandatory and campsites function as the structural basis for floating the Smith, camp conditions, location, maintenance, and types of use are common topics under this plan. Such specifics as food storage, human waste management, and pets on the river will be a challenge for this group, and cooperative management between FWP and the U.S. Forest Service will require some good negotiations.

FOAM will follow these groups' progress over the winter and report accordingly.

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## **BIG HOLE, BEAVERHEAD FEE REVIEW**

### *FWP to Decide How Much and How to Charge for Fees*

As part of the new commercial use and restricted river management rules, Big Hole and Beaverhead permit fees for 2007 were based on a flat \$5 per peak-period allocated client day. This fall, with a little more time for consideration before FWP starts requesting fees, outfitters, guides, and the public will have a say in what happens in 2008.

Outfitters permitted for the BH2 rivers should check their mail soon for a questionnaire from FWP's Region 3 HQ in Bozeman seeking comments and suggestions about the fee system for those rivers. As you may remember from the recently adopted rules on commercial use, there are three choices: 1) 3% of gross proceeds from working on either or both rivers, 2) the current flat \$5 per peak-period allocated client day, or 3) a \$4 per actual client day for clients served any time during the year, peak season and off-peak season. All fee proposals have a \$50 minimum fee.

Permittees should review their own use patterns for the past years and decide which of these fee schedules would be best

for them. Do a few calculations and see if the flat \$5 based on your allocation for a shorter period is cheaper than \$4 per head all year or if an all-year fee total is better.

And remember too, the deadline for applying for temporary BH2 days is November 1st. There are still a number of temporary days available for both rivers. Questions? Contact Jerry Walker - 406-994-3552, gwalker@mt.gov. Be ready for next year by thinking in advance about fees and helping FWP shape the fee rule.

## MADISON SPECIAL REC. PERMIT UPDATE

### *FWP-BLM Issue Decision Notice on Process, Fees*

On Thursday, Oct. 11, FWP Region 3 Supervisor Pat Flowers and BLM Field Manager Tim Bozorth published what's called a 'Decision Notice' or official acceptance of the Special Recreation Permit (SRP) program to be implemented on the Madison river in 2008.

Outfitters will pay 3% of gross income made on the Madison or a \$90 minimum, whichever is less, for use of FWP and BLM access points along the entire river reach from near Quake Lake to Headwaters State Park, except for Bear Trap Canyon, already administered by the BLM. Shuttle drivers will pay similar fees for their use of BLM access sites only, with a 50% reduction in fees for shuttles that include a BLM site and begin or end on an FWP site. The idea is to compensate the public, via their public agencies, for "the privilege of conducting (private) business on

public lands and related waters."

Guides will pay no fees, but must still obtain the \$100 FWP Commercial Use Fishing Access Site Permit to use sites along the Madison, even when working for an permit-holding outfitter.

Revenue from the fees will be used first for program administration, such as hiring a Program Manager and enforcement. The balance will be dedicated to maintenance and improvements at access sites and for leveraging support from such granting entities as PPL Montana for projects on the Madison.

Enforcement includes preliminary warnings for failure to hold an SR Permit, with second offenses warranting investigation, fines, possible loss of a permit, court appearances or Board of Outfitters sanctions. The SRP Program Mgr., seasonal river ranger, and BLM and FWP law enforcement staff can all issue citations for violations.

Many FOAM members asked that the public be charged fees, too. However, the BLM and FWP note that the public pays for access sites via fishing licenses and federal taxes for public land and that the public is not making income from their use.

The agencies have not decided how permit holders or guides working for them will be identified. Tags similar to those on the B'hole/B'head are possible. FWP may also require logbooks tracking Madison use for audit purposes. There is a lot to work out yet, and FOAM will part of that process.

Find a link to a copy of the Decision Notice on the 'NEWS' page of our website, [www.foam-montana.org](http://www.foam-montana.org).

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