



The **FOAML**INE

VOL. 17, #2

FISHING OUTFITTERS ASSOCIATION OF MONTANA
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SUMMER 2008

DAVE DEDMON LOST IN RIVER TRAGEDY

Bitterroot Outfitter Drowned While Making Safety Check

On Sunday, June 15, our industry lost a good outfitter. While floating to check for hazards that might injure clients, Dave Dedmon drowned in a river accident. His wife, Sharon, was along on the trip and survived only through the efforts of two young men she considers heroes.

FOAM sends its condolences along with best wishes to Sharon and her rescuers. We've lost several outstanding members over the last decade or so, and we regret adding David to that list.

FOAM SIMPLIFIES OP PLAN BOUNDARIES

Stream Access Law May Replace Waters List in MBO Rules

Since the inception of the Board of Outfitters in 1988, fishing outfitters' operations plans required a list of all waters intended for use. Outfitters licensed under FWP prior to this time had typically listed "all the waters in Montana," or some equivalent, and were hard pressed to find a way to include all possible waters in some simple way.

Then, in 2000, FOAM convinced the MBO to accept what was termed the "basins plan," whereby outfitters listed the basins that contained the waters they intended to work on.

FOAM Executive Director Robin Cunningham and Board of Outfitters Chairman Lee Kinsey of Livingston realized they could simplify even further the requirement to list the waters in a fishing outfitters' operations plan. Reasoning that unrestricted, unpermitted access points were available on numerous waters throughout the state, Cunningham coupled the definition of waters integrated in the Montana Stream Access Law with the legal terms regarding operations plans to create a new rule that defined the plan without use of a list.

The proposed rule states, in part: "The boundaries of an operations plan for an outfitter offering fishing services shall consist of all surface waters subject to the Montana Stream Access Law, 23-2-302, MCA, accessible via unrestricted public access points, including, but not limited to those administered by state or federal fish and game or land management agencies within Montana."

This meant all waters within Montana that could be accessed legally without permit or permission - including (hopefully) county bridge access and sites administered by various state and federal land-managing agencies like DNRC, BLM, USFS, BuRec, etc. - would be within a fishing outfitters' op plan by definition.

Permitted or restricted access points, like those FAS's controlled by FWP, the BLM, or the USFS or water accessed via private land would continue to be listed by name on an outfitters' op

plan as required now: "Proposed use of surface waters accessed via private land and permitted or restricted public access points administered by state or federal fish and game or land-management agencies shall be subject to requirements listed in 37-47-304(2)(h) and (i)-(vi), MCA."

Note - FOAM will issue a list of all waters accessible via the recent FWP statewide FAS permit so members can update plans with a wider scope of waters - but not all surface waters - in compliance with the FOAM rule's second section if they choose. These sites are permitted, but not restricted.

Kinsey noted that MBO law allowed "other means of identifying boundaries as established by board rule." Based on this authority, he and Cunningham proposed their new fishing outfitter op plan boundary to Board of Outfitters' attorney Lorraine Schneider at a meeting in Helena. Carefully picking through the law, Schneider came to the realization that a long list of all state waters was equal to FOAM's new boundary definition using the Stream Access Law.

During this meeting, MBO Executive Director Wayne Johnston voiced his personal opposition to the proposed rule, suggesting the new definition could delay issuing a new outfitter license while a database was redefined or that staff would be flooded with plan amendments that included this new definition. Schneider countered that she saw no reason to delay issuing a new outfitter license while such adjustments, if necessary, were made and eventually offered a preliminary opinion that the proposed rule was legal.

On June 11, Kinsey introduced the rule proposal to the MBO with the aid of Cunningham, answered questions from fellow board-members, and countered a milder rebuttal from Johnston. Kinsey stressed two key points: the rule would clearly define where a fishing outfitter was legal to go, and it would much simplify complying with MBO law and rule when setting out an operations plan.

Because MBO law regarding op plans is set in the outfitter license application process, the new rule would apply primarily to new outfitter license applicants. However, amending a current operations plan to include this new definition of a plan's boundaries would be as simple as using the MBO op plan amendment form and referencing the new rule.

FOAM doesn't expect a rush of new and current outfitters amending their plans - in fact, less than 100 of our 350 or so outfitter members used the old basins technique to update their plans. We see no reason why this number should change when amending with the proposed new rule.

The rule will probably be out for comment in July or August. FOAM will keep its members informed and ask for positive

comments once the rule is proposed. Of course, you might want to add only those waters available via FWP FAS's, or you may choose to stick with your current op plan as written. In any case, FOAM has promoted a few ways to make one part of the paperwork for an outfitter license and an established outfitter's operations plan amendments just a little more reasonable.

MBO FEE RULE OUT FOR COMMENT

Rule Notice Mailed; Comments to be Accepted 'til July 11th

The last FOAMLINE explained the proposed increase in various MBO fees, including raising the guide license fee from \$100 to \$150 and the outfitter license fee from \$300 to \$375. Inactive outfitter license fees go up to \$200, and new outfitter fees increase to \$1300 plus \$500 for an operations plan.

The MBO will hold a hearing in Room 439, 301 S. Park Ave., Helena, on July 3, beginning at 10 a.m. Written comments will be accepted at the MBO, PO Box 200513, Helena, MT 59620-0513, by fax at 406-841-2309, or by email to dlibsout.mt.gov until 5 p.m., July 11.

The MBO must charge fees that are "commensurate with

expenses" and standard raises, support staff expenses, and other administrative costs rise continually. The board approved these fees to offset costs for another 10 years. The last fee change was in 2000.

FOAM may suggest a slightly lower fee per license (guide license = \$140, outfitter license = \$340), although these lower fees could mean another fee increase before 2018.

FOAM APPLICATIONS TO BE STREAMLINED

Confusion, Delays May be Avoided via Simplified Forms

FOAM will rewrite its application forms to make them simpler to understand and process. Some insurance certificates were issued late this season because many members forgot to send both membership and insurance applications and checks to the same address. Plus, our insurance provider - not Montana International - imposed new recording procedures, causing delays in the certificate processing.

FOAM will also ask the insurance underwriter to automatically include agencies requiring a copy of insurance, including the MBO, FWP, BLM, and, hopefully, the USFS. Stay tuned.

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Guide-at-Large Director OPEN

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