

14 May 2008

Mike McLane
Montana FWP
1620 East Sixth Avenue
Helena, MT 59620

Re: rules regarding angling restrictions and fishing closures

Dear Mike:

Please accept these comments from Montana Trout Unlimited on the proposed rules affecting angling restrictions and closures during drought conditions. Montana Trout Unlimited represents 3,400 conservation-minded anglers organized in 13 TU chapters in the state. FWP might also be receiving separate comments from individual TU chapters, and they might include suggestions for specifics that vary slightly from these comments. However, the chapters and Montana TU are consistent on all major recommendations regarding the proposed rules.

Generally, we support most of the proposed rules, but with these exceptions and recommendations:

New Rule II – We do not support the proposed language requiring approval from the local FWP commissioner before a restriction or closure is implemented. Restrictions and closures should be based on two things: whether conditions on the ground meet criteria detailed in the rules, and professional judgment from local biologists. Requiring approval from the local commissioner even when environmental thresholds are met potentially introduces politics into a decision that should be based primarily on scientific data and the professional judgment of department biologists. We instead recommend that the FWP Commission delegate the authority to implement closures to the Director, subject to criteria in the rules being met and professional judgment. The commission, if it desires, can take up the closure at its next regularly scheduled call or meeting, or in an emergency call or meeting. We think our recommendation is the most objective approach to making decisions on restrictions and closures. It also best meets the expectations of the angling public.

New Rule IV – We support the criteria recommended for angling restrictions, though we believe a 95 percent exceedence flow is a bit too low. We urge FWP to revisit this and instead adopt a 75 percent exceedence flow. We strongly support restrictions on specific waters being based on criteria established in a publicly developed drought management

plan, such as those available for the Big Blackfoot, Big Hole and Jefferson Rivers. This criterion helps create incentives for development of more stream-specific drought plans, which are potentially more responsive to local conditions. We support the closure criteria, though the 4 ppm dissolved oxygen trigger is a little vague as to where and exactly when in the “early morning” it will be measured. FWP might want to flesh this out a little. It’s important to catch the maximum DO2 sag in the most characteristic reach and depth of a stream. Several of our chapters have expressed concern that the “other biological or environmental conditions” criterion is too vague. FWP might consider specifying what some of these criteria could be (ie., existing poor water quality conditions, etc.).

New Rule V -- We support the proposed re-opening default of Sept 15. And we support the proposed specific criteria, including the 70 F./3-day trigger, recognizing that from a biological perspective it might not be quite conservative enough but it responds to the concerns of outfitters, guides and flyshops who desire to see restrictions or closures lifted. FWP should specify the source (NOAA, NWS, or other) it will consult for 14-day weather forecasts. It is unclear in the way this rule is crafted as to whether there could be an intermediate step for closed streams to be upgraded incrementally to a restricted-angling status (hoot-owl hours) before they are fully opened. We are not sure this is necessary, but it would be consistent with the way restrictions and closures are implemented.

Finally, though it’s beyond the scope of these propose rules, we recommend FWP start evaluating options, voluntary or regulatory, that can help address the displacement effect on angling pressure that occurs when restrictions or closures are implemented. When angling is restricted or prohibited on one stream it shifts angling pressure to another that might only be slightly better in terms of water conditions. This increase in angling pressure can potentially increase incidental mortality in the water that is left open. It certainly has been demonstrated to be increasing some social conflicts. We’d be happy to be involved in a discussion over this challenge.

Thanks for the consideration.

Sincerely,

Bruce Farling
Executive Director

cc. TU chapters in Montana