SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 3/4/05
BILL NO. HB 312

Smith River
Special Use Area Rule

Montana Fish, Wildlife & Parks
Parks Division

January 2004

SMITH RIVER SPECIAL USE AREA

Section 23-2-408, MCA, authorizes the FWP Commission to provide for the administration of the Smith River waterway.

A. RIVER CAPACITY - The maximum number of private/outfitter launches shall not exceed nine launches per day.

B. PERMIT DRAWINGS

1. All private launches for a floating season are available to the public via a drawing system conducted by the Department each year.

2. Applications for the drawing are available on approximately January 1 of each year, with the completed applications due to the Department by approximately February 15.

3. Applications for the Smith River drawing are available at all of the Regional FWP Headquarters offices, the Helena headquarters, or can be downloaded from the Internet via the FWP Website.

4. Results of the drawings will be mailed to both successful and non-successful applicants in March.

5. No individual may submit more than one drawing application.

6. If there are any dates that have not been fully subscribed during the permit drawing process, all undersubscribed launches will be made available to the public for private launches by the end of March on a "first-come, first-served" basis.

C. FLOATING REGISTRATION

1. There is mandatory registration or reporting for all floaters of the Smith River between Camp Baker and Eden Bridge. All floaters must be permitted and/or pre-register as provided herein. Permits are issued to an individual and are non-transferable and non-refundable. Initial private floater launch dates will be allocated by drawing. Unsuccessful applicants for the initial drawing may donate their pre-registration fee to the Corridor Enhancement Account or receive a refund.

2. A permit is required to float the Smith River from April 1 through October 31 each year. All public launch permits are initially allocated through a lottery process, with results available in March of each year. Any public launch dates remaining after the lottery allocation is complete, or voluntary cancellations are made to the Department, are available to the public on a "first come-first served" basis as administered by the Region 4 FWP office in Great Falls.

3. The Camp Baker launch site is staffed continually by FWP from approximately April 15 through July 15 each float season. Floaters arriving at Camp Baker for floats outside these dates when FWP staff are not at the site are required to self-register and pay the appropriate fees before launching. A self-registration board and related materials are provided at the Camp Baker site.

4. Floating opportunities are not guaranteed for those public floaters who arrive at Camp Baker expecting to self-register outside the main floating season when the site is not staffed by FWP. To ensure a public launch opportunity, all floaters are encouraged to contact the Region 4 FWP office in Great Falls to confirm a launch reservation prior to arriving at Camp Baker.

D. CANCELLATIONS

1. During the peak floating period of June 10 through July 10, a total of five (5) private and/or outfitter launches per week which are voluntarily canceled by the permit holders will not be refilled or reallocated to subsequent private parties. Canceled launch dates will be reallocated to private floaters beginning with the sixth floater cancellation during a given week during the peak floating. The reallocation of launches starting with the sixth private cancellation during a given week will be on a first-come, first-served basis.

2. On dates other than June 10 through July 10, any unassigned private launches or cancellations will be available daily to private floaters on a first come, first served basis. Unassigned outfitter launches will be available to private floaters seven days before the launch date.

3. Persons failing to notify either the Great Falls office or Camp Baker station in the event of a cancellation will be ineligible for the permit drawing the following season. In case of a cancellation, pre-registration fees paid can only be applied by the individual permit holder to the remainder of the current float season. The remaining fees are remitted as follows: 90% to the Parks Earned Revenue Account and the remaining 10% to the Smith River Corridor Enhancement Account. Cancellations made two (2) days or less before the launch date results in the loss of the pre-registration fee.

4. If the river flows are below 100 cfs, Section 3 of this policy relating to ineligibility for the next years' permit drawing shall not apply. The permit fee shall remain non-transferable and non-refundable.

E. CAMPSITE DECLARATION

1. All floaters are required to declare their campsites with the Camp Baker Ranger, or if Camp Baker is not staffed, then on the boat camp declaration board. All floaters must stay at their designated campsites.

2. During the peak-floating season of June 10 through July 10 both outfitted and private parties shall be limited to a four (4) night stay limit in the Smith River corridor

F. CAMPSITE FIRE RINGS

1. No person may build or maintain a fire in any designated campsite, except in metal fire rings, if metal rings are established and maintained by FWP.

G. BOAT IDENTIFICATION

1. Waterproof boat tags will be issued for each boat or watercraft on the river. Each boat must visibly display the boat tag(s) while on the river. Three separate and distinct boat tag colors will be issued to each of the following:

   a. Private floaters;
   b. Outfitted floaters;
   c. Landowner floaters.

H. GROUP SIZE

1. Maximum group size is 15 people of any age (including guides and other outfitter staff). A bona fide group has shared planning and expenses for the trip, generally remains together while traveling to and on the river, and has a distinct and identifiable kitchen and camping unit within the same declared campsite.

I. EDUCATIONAL GROUPS

1. Organized tours or outings conducted for educational or scientific purposes may, on a case-by-case basis, qualify for an exemption of group size limit and fee if:

   a. The group is not outfitted.
   b. The educational or scientific purpose is related to the resources of the Smith River.
   c. The group pre-registers at least 30 days in advance.
   d. The group is from a bona fide institution established for these purposes.
   e. The group applies for and receives an exemption by submitting documentation of their official recognition as an educational or scientific institution and a statement as to the purpose of their proposed visit.
   f. The use for which the exemption is proposed is not primarily for recreational purposes.
   i) The group will not unreasonably displace private floaters.

J. FEES

1. Private and Outfitted Floats

Permit Drawing Fee	$5 – residents and non-residents – Non-refundable
Private Pre-Registration Fee - to be paid with the drawing fee	$25 – Resident Application – Refundable if not drawn $50 – Non-Resident Application – Refundable if not drawn
Private Launch	$15 – per resident or non-resident (age 6 to 12) $25 – per resident (13 and older) $50–per non-resident (age 13 and older)
Outfitter Launch	$200 - per launch
Outfitter Staff	$25 – per each outfitter's staff members, or guide
Outfitter Client	$100– per each outfitter's client (resident/non-resident)
Outfitter Launch Transfer	$250 – per each permanent launch transfer.

2. There is no fee for children age 5 and under.

3. Fees are to be paid April 1 - October 31. There is no fee from November through March.

4. Landowner Floating Fees

   a. Landowners and immediate family members on day floats on any portion of the river, and landowners, agents, assignees, guests, etc. within a landowners contiguous fee title property boundaries – no fee.
   b. Non-immediate family members and guests - $7.50 per person for day floats only outside an individual landowner's contiguous fee title property boundaries.
   c. Floats involving overnight camping (permit required) at FWP managed boatcamps - $25 per resident and $50 per non-resident.
   d. Landowner property maintenance floats – no fee

K. LANDOWNER FLOATING OPPORTUNITIES – within contiguous fee title property boundaries. Recognizing that use by landowners adjoining the Smith River has historically been of minimal impact, the following regulations are adopted;

1. There shall be no restriction on landowner floats within the boundaries of such landowners' contiguous property, except as provided in this rule. For the purposes of this rule, contiguous property shall mean adjoining private property adjacent to the Smith River and not include U.S. Forest Service, Department of Natural Resources and Conservation, Fish, Wildlife & Parks, or other public properties.

2. The Department will monitor such usage to determine if it becomes excessive or interferes with private outfitters or the public's use of the river. In order to monitor the usage the landowners shall report to the

Department when a float is planned and provide the numbers of persons in the party.

3. Each boat of a landowner must be tagged pursuant to rule G-1. Each landowner will be issued at the beginning of each floating season two identification tags to be used to identify private landowner floating groups. If additional tags are needed based upon the number of boats, they may be requested and will be provided by the Department through the nearest Fish, Wildlife & Parks agent.

4. The size of landowner floating groups shall be limited the same as public floating groups, not to exceed 15 persons.

5. A landowner shall be deemed to be the entity that owns the property, or a person designated by the landowner per individual trip. Such designee of the landowner or the landowner himself shall accompany each floating group.

6. Any and all required landowner maintenance floats are allowed for work by the landowner and/or their agents or employees. No boat tags are required for maintenance floats.

7. Landowners may not use the floating opportunities under this section to conduct or allow outfitted floats, or otherwise allow or conduct floats for commercial purposes. It is the intent that landowner floats shall not be used to supplant or diminish outfitter allocations.

L. LANDOWNER FLOATING OPPORTUNITIES – outside contiguous fee title property boundaries.

1. There is no limit to the number of landowner/immediate family member day floats permitted each day.

2. Up to three (3) landowner with non-immediate family and/or guests (as defined in Section K-6) day floats will be allowed per day for the entire river, allocated on a "first come, first served basis". These floats require that the landowner or an immediate family member of the landowner must be on the float.

3. Landowners/immediate family/non-immediate family members and guests are required to register for day floats either by mail, in-person, or by telephone and to pay the appropriate fee. Boat tags (ref. Section G – BOAT IDENTIFICATION) are required and will be issued by the Department for all floats.

4. An immediate family member shall include the spouse, children, parents, siblings, grandchildren, and nieces/nephews of a fee title landowner.

5. The floating opportunities shall be for day floats only. Floats will be of one-day duration only, consecutive day floats or "back-to-back" floats are not allowed.

6. A landowner may not use the floating opportunities of this section to conduct or allow outfitted floats or to otherwise conduct or allow floats for commercial purposes.

7. Group size shall be limited to a total of six (6) people per trip.

8. Any/all landowner required landowner maintenance floats are allowed for work by the landowner and/or their agents and/or employees without restriction and will not count against the three (3) landowner floats per day limit.

M. CORRIDOR ENHANCEMENT ACCOUNT

1. Fifty dollars from each outfitted client fee and 5% of all other fees collected will be put in a Smith River Enhancement Account to be used to better manage and protect the river corridor.

N. OUTFITTERS

1. Outfitter Allocation

a. Outfitter launches are capped at 73 launches/year, with no more than 54 launches per year allowed during each peak season of June 10 through July 10. There are 12 authorized outfitters for the Smith River.

b. Selection of actual outfitter launch dates will be done in conjunction with the authorized outfitters.

c. Authorized outfitters are limited to one (1) launch per day, with an additional two (2) launches allowed per week during the peak season on days of lowest private floater use as determined by the Department.

2. Outfitter Permits

a. Authorized outfitters will receive annual concessionaire permits. The Department has the option of withdrawing or retiring a permit held by an outfitter who violates federal or state laws or rules or Department regulations.

b. Authorized outfitters must be licensed in the State of Montana and permitted by the White Sulphur Springs Ranger District of the Lewis and Clark National Forest.

3. Permit Transfer

a. If the concessionaire through failure to license with the Board of Outfitters, voluntary sale or transfer of the outfitting business ceases to operate the business for which a permit is intended, the

permit shall be subject to cancellation. If the permittee sells or transfers the outfitting business to another individual the department may transfer the permit and its associated launches to the new owner of the outfitting business, providing that the new concession applicant can meet criteria established by the Department and is willing and able to provide at least an equivalent floating service to the public as was previously offered by the original concessionaire. This paragraph also applies to sale or transfer of individual launches.

b. Permanent permit transfers will only be approved if they include all allocated launches. Individual launch transfers (both temporary and permanent) are permitted only within the group of authorized outfitters. Temporary transfers may be as few as one launch.

SMITH RIVER
AUTHORIZED OUTFITTERS AS OF December 2003

	NAME	BUSINESS NAME	ALLOCATED LAUNCHES		
			Peak and/or shoulder season	Shoulder seasons	Total
1	JOHN HERZER	BLACKFOOT RIVER OUTFITTERS	1		1
2	JOE SOWERBY	MONTANA FLY FISHING CONNECTION	9		9
3	RANDY GAYNER	GLACIER WILDERNESS GUIDES	1		1
4	TODD FRANCE	BLAST AND CAST OUTFITTERS	4	1	5
5	MIKE GEARY	LEWIS & CLARK EXPEDITIONS	21	2	23
6	MIKE HILLYGUS	HIGH PLAINS DRIFTER	3		3
7	MARK JONES	RIVER RESOURCE OUTFITTERS	3		3
8	GARY PADGHAM	MONTANA RIVER WORKS	1		1
9	ED RENAUD	BIG SKY EXPEDITIONS	6	1	7
10	PAUL ROOS	PAUL ROOS OUTFITTING	12		12
11	JIM VOELLER	MONTANA RIVER ANGLERS	4		4
12	ROBERT WALKER	SMITH RIVER FLY FISHING EXPEDITIONS	4		4
	TOTALS		69	4	73

DAN WALKER, Chairman DATE
Fish, Wildlife & Parks Commission

M. JEFF HAGENER, Director DATE
Fish, Wildlife & Parks