

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of a ) NOTICE OF ADOPTION OF  
temporary emergency rule closing the ) TEMPORARY EMERGENCY RULE  
Kelly Island Fishing Access Site in )  
Missoula County )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of a temporary emergency rule:

(a) The Kelly Island Fishing Access Site (FAS) is flooded due to high river flows. The combination of dangerous conditions includes high water levels choked with woody debris, rapidly changing water levels, flooded roadways that have become unsafe for vehicle and pedestrian travel, and fast flowing water through flooded trees, underbrush, and site structures.

(b) Persons recreating in the flooded portions of the FAS are at risk of:

(i) drowning due to unexpected changes to topography obscured by flood waters; or

(ii) drowning due to swift current created by flood water.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 11 of the 2014 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on June 27, 2014, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov).

3. The temporary emergency rule is effective May 27, 2014, when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

NEW RULE I KELLY ISLAND FISHING ACCESS SITE TEMPORARY EMERGENCY CLOSURE (1) The Kelly Island Fishing Access Site is located in Missoula County.

(2) Kelly Island Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as water is flooding the fishing access site.

(4) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 23-1-106, MCA

IMP: 2-4-303, 23-1-106, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to: Sharon Rose, Department of Fish, Wildlife and Parks, 3201 Spurgin Road, Missoula, MT, 59804; fax 406-542-5529; e-mail shrose@mt.gov. Any comments must be received no later than July 11, 2014.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Mike Volesky

Mike Volesky

Chief of Staff

Department of Fish, Wildlife and Parks

/s/ William Schenk

William Schenk

Rule Reviewer

Certified to the Secretary of State May 27, 2014.