Report on Madison NRC Effort—By Commissioner Tim Aldrich

On May 2, 2019, what ended up being the final meeting of the Madison Negotiated Rule Making Committee took place in Bozeman, MT. The work of the Committee did not result in any rule being proposed to the Department and Commission, and by a vote, the Committee specified that this would be the termination of the Effort. As stipulated in MCA 2-5-108, to conclude the Effort, the Committee shall transmit to the agency a report specifying areas in which the committee reached consensus and the issues that remain unresolved." The following are my recommendations for inclusion in the Committee's Report. I will attempt to only identify substantive matters and avoid getting wound up in process matters.

Areas of Agreement:

The committee members appeared to want the Department to develop and implement a plan for educating and informing users of the Madison River about appropriate behavior on the river and at fishing access sites. Some members obviously considered this a starting point for addressing social conflicts on the river. The concept was never put in and considered in a form that would have enabled a vote on something specific. It's highly likely that no Administrative Rule would have been needed to generate associated actions by the Department.

Issues Unresolved:

Of the several draft rules included in the Department's April 2018 proposal, the ones that generated the most discussion were those that would have disallowed floating in to wade angle on two reaches. At one point it appeared to me that members were working on a different proposal to modify the current rule in place for wade fishing only on the Quake Lake to Lyons Bridge reach. At the same time, it appeared that at least some members were willing to continue the existing rule for accessing wade fishing on the Ennis Bridge to Ennis Lake reach. Again, there were discussions that were never formalized so the entire membership could engage the topics and move toward a vote. There were a variety of opinions expressed on all the other Draft Rules that were in the package addressed by the Commission in April of 2018. For example, some were willing to support a "no glass container" rule for the lower river but not for anything above Ennis Lake. Capping the number of SRP Fishing outfitters was not looked upon favorably, but it did generate a number of different approaches that would have involved allocation of use to outfitters. The draft rules that would have attempted to provide temporal and spacial relief for some anglers were non-starters with the claim being that these types of measures would only exacerbate crowding on other reaches.

For context purposes, I note that the Problem Statement was a" full committee" effort and there were several times when the Committee agreed to proposed changes. Likewise, the Fundamental Objectives were, after a few adjustments, agreed to without any vote taking place. The alternatives formed by the group were generated thru "small working group" input. For the "consequences analysis" eight member-developed alternatives were evaluated in a matrix along with a "status quo" alternative and an "April 2018" alternative. Following the rankings by all members, the results were not discussed at any reasonable length, and the recommendation of the Facilitator to see if the committee could use the results to develop a "committee alternative, went unheeded.

In my opinion, the collaborative workings of the Committee as whole, ceased. As I recall, it was at this point where the Facilitator made statements to the effect that he felt his expertise was not being used and it appeared the group might need to go into a "conflict resolution" or "intense information gathering" mode to move forward. Between the end of this meeting and the May 2 Meeting, there were a number of efforts among members and among members and nonmembers to build alternatives. A proposal came from Montana Outfitter and Guide Association and another was received from a composite of George Grand Chapter of Trout Unlimited-Butte, Skyline Sportsmen's Association-Butte, Anaconda Sportsmen's Association and Public Lands Access Association. Part of MOGA proposal, which I believe was supported by one member of the NRC, claimed that the data that FWP used to support the existence of "social conflicts" on the Madison River and a need for rule making was taken out of context and essentially there was no problem indicated and therefore no need for rule making. With this, it was my opinion that there was no reasonable expectation that continuing work by this Committee would result in a consensus on meaningfully revisions of the River's Recreation Plan to address social conflicts.