



## Status Update on the Open Waters Compromise (HB 1001)

- The Open Waters Compromise (HB 1001) passed on June 12 and reopened access to nearly 30 GFP managed nonmeandered lake boat launches where access had previously been restricted in response to the Supreme Court ruling in Duerre v Hepler. GFP removed all barriers to the access sites by June 16. <http://gfp.sd.gov/news/news/june/13.aspx>
- After passing of HB 1001, the department updated the GFP website with information to aid the public in understanding the bill and how it affected access to waters in the state.
  - The department added a summary of HB 1001 to the GFP website. <http://gfp.sd.gov/fishing-boating/openwaterscompromisessummary.aspx>
  - A “Frequently Asked Questions” section was added to the website to provide answers regarding the bill, meandered vs. nonmeandered lakes, process for closing nonmeandered waters, posting requirements and more information continues to be added to the site as process details become available. <http://gfp.sd.gov/fishing-boating/nonmeanderedwatersFAQ.aspx>
  - The department also added a list of meandered lakes to the website. Meandered lakes are not affected by HB 1001 and are open to recreational use by the public. <http://gfp.sd.gov/fishing-boating/docs/Meandered%20List%202017-pub-updated%2004282017.pdf>
- An online map shows the water bodies that have been legally closed. <http://sdgfp.maps.arcgis.com/apps/StoryMapBasic/index.html?appid=6106051f86c04a6988a51f9d7e992707>
  - Sites listed have been reviewed to ensure ownership.
  - Sites have been investigated to ensure they are nonmeandered and not Section 8 lakes.
  - Section 8 lake landowners are notified of the GFP Commission petition process if they wish to close waters over their flooded property.
- Three sites have been investigated by staff and have been confirmed to be legally posted as closed. Staff met with the landowners to see if there is any desire to enter into an access agreement and to confirm ownership. There has been open dialogue, but no agreements at this time.
  - Two water bodies in Clark County (242 acres per 2016 imagery) have been marked as closed.
  - One water body in Marshall County (1,433 acres per 2016 imagery) has been marked as closed.
- A number of landowners have contacted the department to ask about the petitioning process to request closing some water over their land on a Section 8 lake. Most have indicated they would like to close an area as a privacy buffer.



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- The department is working on developing a proposal to bring to the GFP Commission for marking requirements on closed waters.
  - GFP may provide the signs for landowners, similar to the 660' Safety Zone signs the department provides to landowners to mark hunting safety zones in rights-of-ways around their building sites. The landowner would be responsible for providing posts and installing signs.
  - Options for buoys to mark open water sections are being investigated. Buoys will be substantially more expensive than signs, but may be necessary in certain locations. Expectations are that landowners would purchase the buoys based on the standards set forth by the GFP Commission and would be responsible for their placement and removal.
  - There will possibly also be a maximum distance requirement for the markings (i.e. there must be a sign or buoy every 660 feet), so they are visible to the public.
  - The department is planning on digitizing the closures and making them available on the GFP mobile app.
- The GFP Commission proposed a rule earlier in July to provide a mechanism where a landowner with property on a Section 8 lake could petition the GFP Commission requesting closure of a portion of their flooded land. The rule should be finalized at the September GFP Commission meeting.
  - As defined in statute, the GFP Commission shall consider privacy, safety, substantial financial interests of the landowner, along with water quality, water quantity and the public's interest in recreational use of the water in making their decision on whether to grant in full, in part or deny the petition. Landowners can complete and submit the form online or print and mail the form to GFP.
  - Attached is a link to the proposed petition form <http://gfp.sd.gov/fishing-boating/petition-form.aspx>
- Access Agreements
  - Department staff had an initial meeting with the Reetz family to discuss a new access agreement. No agreement was reached at the initial meeting, but the department will be following up to see if something can be done to provide public access.
  - The department is in the process of developing a matrix to evaluate and rank water bodies for size, depth, water quality, fisheries present, past and future recreational use so values can be assessed and consistent offers can be made to landowners for providing access.
- Department staff meeting with a group of landowners on July 6.
  - Department staff had a productive meeting with about 15 landowners from Day County and their attorneys in Pierre on July 6. The meeting was organized on behalf of the landowners in order to share their thoughts regarding the possibility of providing some access to lakes which have been closed under injunctions (Long, Parks, Schiley, Duerre).



The landowners would like to provide some access for recreation, but want to make sure the fisheries that are present currently are sustained. They are very interested in conserving the resource and want to be confident that it isn't over-exploited. There was discussion of how best to provide access, but yet maintain a viable and lasting fishery. Some of the initial thoughts shared included:

- Non-motorized boats only
  - No motorized vehicles (i.e. no ATV's, UTV's, trucks on the ice)
  - No hunting
  - Restrictive bag limits
  - Landowners are very interested in fish management and research
  - Preference is to have all the landowners on the water bodies in agreement in order to eliminate the need for buoys separating open and closed areas.
  - No access agreements were made, but there will be ongoing discussion to see if there can be some common ground reached to provide some public access.
- The department has developed a database to aid staff in tracking information on questions, closures and interest in agreements. This has proven valuable in following up on requests from the public. This information will also be used in reporting back to the legislature on progress and activity relating to the bill.
  - The department continues to work on Recreation and Respect communication efforts to encourage positive interactions among anglers, hunters and landowners.
    - New posters are being printed and distributed to display in GFP regional offices as well as with over 400 licensing agents across the state.
    - 2017 Hunting Handbook provides information on The Open Waters Compromise and an ad regarding Recreation and Respect.
    - 2017 Landowner Deer Application provides a full page ad regarding Recreation and Respect.
    - State Fair efforts will allow for staff to answer nonmeandered waters questions on site and for the opportunity to deliver the Recreation and Respect message while providing a one page handout of the FAQs.
    - South Dakota Conservation Digest July/Aug issue:
      - Nonmeandered Waters FAQ
      - Article on Accessing Private Lands
    - Facebook Live Question and Answer session will be August 21 featuring GFP Secretary Kelly Hepler and Ag Secretary Mike Jaspers – an outline of logistics, location and testing is in development along with promotion of the event in advance. Questions will be taken from customers in advance of the event.
    - Facebook memes will begin September 1 – also will consider paid ads if necessary.
    - Green Sheets advertising/article - September – work in progress.
    - Dakota Country magazine ad – Ad will be in the September issue.
    - Landowners Matter Special Edition – October – will distribute to over 13,000 landowners across the state.



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- SDPB Focus Program – pretape October 24 to air October 26 – currently featuring GFP Secretary Kelly Hepler, GFP Special Assistant Arden Petersen and Ag Secretary Mike Jaspers. A legislator and landowner will also be a part of the panel.
- The department experienced considerable interest leading up to the special session and fielded numerous questions after HB 1001 passed. Most folks have asked questions regarding the law and concerning what they could and could not do. The information the department has provided on the website has been valuable in answering most questions that have arisen. The agency will continue to work closely with landowners, sportsmen, the GFP Commission and the Legislature to make the Open Waters Compromise work for everyone.