

TESTIMONY SB343
Fishing Outfitters Association of Montana
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SENATE AGRICULTURE

EXHIBIT NO. 7

DATE 2-17-11

BILL NO. 58343

The Fishing Outfitters Association of Montana, FOAM, is a 31-year old non-profit business association counting some 700 outfitter and guide members whose small businesses contribute over \$25 million a year to Montana's recreational service economy.

We reluctantly rise in opposition to SB343 as written.

Make no mistake: FOAM supports the MT Aquatic Invasive Species Act (MAISA) and the on-going efforts of the Dept's of Fish, Wildlife & Parks and Agriculture.

We've been involved in invasive species since the mid-90's when I received a morning call from then Fisheries Chief Larry Peterman describing the discovery of Whirling Disease in the Madison river. We were among the first to offer funding for WD research, volunteers for instream detection, and cooperation between various federal and state agencies in the struggle against WD. We had a representative on Gov. Racicot's Whirling Disease Task Force, and one of our association's founding outfitters is now a director with the WD Foundation. We've continued to contribute to and assist Dept. of FWP in their efforts at education, research, detection and control of new invasive species. We are definitely concerned about invasives. Why?

These species threaten the fisheries we depend on, the waters fish live in, and our member's small businesses and family income - that's hitting directly where and how we make our living.

Unfortunately, SB343 as written has several flaws that may divert department focus and resources away from what we consider the fundamental purposes of the original MAISA. Rather than rise in support with doubts - damn with faint praise - we must object clearly to 5 specific portions of this legislation:

1) Definition of invasive species: Page 2, lines 17, 18: adding threatens the diversity or abundance of native species is too broad. For example, it could inadvertently call such non-native fish as Rainbow or Brown trout an invasive species. We've seen some argue that Westslope Cutthroat 'belong' in Montana and Rainbows and Rainbows and Browns should be pushed aside or eradicated to provide for the 'abundance of this native species'. Does this definition include illegal introductions of non-native fish already covered in other sections of FWP code that certainly threaten the diversity of native species?

We recommend leaving the current definition alone.

2) Page 2, line 25: the definition of 'vessel' must be refined. MCA at 61-1-101 states:

"Vessel" means every description of watercraft, unless otherwise defined by the department (of Justice), other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Do we mean to inspect every air mattress, each float-tube, each child's beach toy? And why are seaplanes exempt? It seems a single seaplane docked on infested waters elsewhere could carry problematic species in their pontoons to any of Montana's lakes or reservoirs.

A reasonably inclusive definition of vessel needs to be agreed upon for effective inspection.

3) Page 2, lines 28, 29 : maintain and distribute a list of invasive species and any water bodies in Montana contaminated by those species

Based on what we consider a flawed definition, should FWP list well-noted existing Whirling Disease hotspots? What about waters with non-native trout or pike, tiger muskie, and others?

Plus, requiring a cycle of detection, verification, coordination, publishing, distributing and updating such a list is a departmental nightmare; the costs in staff time and funding alone will divert current resources away from ongoing critical work already mandated in the MAISA.

During the early days of Whirling Disease, we witnessed the publishing of affected areas and the subsequent alternating public confusion and false relief when a favorite water body was listed as infected . . . or not . . . or later added. This 'stock ticker/news flash' mentality dilutes public concern and cooperation in combating invasives.

We ask that this committee remove the listing requirement.

4) Page 3, lines 24 - 26 : provide public notice of an infested water body - similar problems to those in developing the list.

5) Page 5, lines 29, 30; : report a violation . . . to any law enforcement agency, uniformed peace officer, or fish and game warden of the state

And Page 6, line 30 and Page 7, line 1 : Investigations and arrests for violations . . . may be made by any peace officer or fish and game warden

Yes, violations should be reported and enforcement applied, but does this mean coordinating local law enforcement with check stations throughout Montana? Reassigning already sparsely distributed wardens to check stations? Or the notification of local cops and wardens that a violator has been detected and 'please hurry over here for an arrest'? We're unsure of how this provision will be efficiently applied.

We must carefully consider enforcement resources before mandating specific personnel for this duty.

One last note: we only saw this bill on Monday and we're in a hearing today: that's simply too fast for collaborative consideration of any amendments to MAISA. Complete involvement of all stakeholders is key to successful legislation.

POSITIVE SECTIONS

- 1) Quarantine regulations and measures (Page 3, lines 13 - 20, Pages 4, line 30 and Page 5, lines 1 - 4)
- 2) Management area inspection justifications and specifics (Page 4, lines 17 - 19 and Page 5, lines 5 - 7)
- 3) Inspection of interior portions of boats rather than just exteriors: live-wells, ballast chambers, etc. where invasives may be hidden (Page 5, lines 5 - 7 and lines 24 - 26)
- 4) Impounding at check stations: good prophylactic measure (Page 6, lines 7 - 12)

Given what we've identified as problematic and awkward sections of SB343, FOAM urges a DO NOT PASS without multiple amendments.

We note that funding for MAISA may be in the works: immediate appropriations for FWP's invasive species efforts may be forthcoming, and Sen. John Brendan has introduced SB363 that creates a fund within FWP for invasives and sources for monies to put in it. We'll be watching that one . . .