

Date: May 23, 2002 Exhibit 10

**HEARING ON HB 626**

**Opening Statement by Sponsor:** Rep. Hal Harper

**{Tape : 1; Side : A; Approx. Tape Counter : 17 - 153}**

**Proponents' Testimony:**

John Kober, Montana Wildlife Federation

**{Tape : 1; Side : A; Approx. Tape Counter : 176 - 192}**

Dianne McDermand, Medicine River Canoe Club

**{Tape : 1; Side : A; Approx. Tape Counter : 196 - 259}**

(fih53a01)

Steve Gilbert, Self

**{Tape : 1; Side : A; Approx. Tape Counter : 260 - 274}**

James Curtis, Self

**{Tape : 1; Side : A; Approx. Tape Counter : 276 - 339}**

(fih53a02)

Lisa Bay, Self

**{Tape : 1; Side : A; Approx. Tape Counter : 341 - 358}**

Sanna Porte, Self

**{Tape : 1; Side : A; Approx. Tape Counter : 359 - 391}**

Paul Roos, Self

**{Tape : 1; Side : A; Approx. Tape Counter : 393 - 419}**

Pete Cardinal, Self

**{Tape : 1; Side : A; Approx. Tape Counter : 420 - 468}**

Jim Ahrens, Self

**{Tape : 1; Side : A; Approx. Tape Counter : 470 - 499}**

Jim McDermand, Russel Country Sportsmen Association

**{Tape : 1; Side : B; Approx. Tape Counter : 500 - 529}**

(fih53a03)

Tim Plasca, Self

{Tape : 1; Side : B; Approx. Tape Counter : 531 - 542}

(fih53a04)

Chris Strainer, Self

{Tape : 1; Side : B; Approx. Tape Counter : 543 - 560}

Beverly Magli, Self

{Tape : 1; Side : B; Approx. Tape Counter : 561 - 576}

Darrel Harris, Self

{Tape : 1; Side : B; Approx. Tape Counter : 577 - 594}

Robin Cunningham, Fishing Outfitters Association of Montana

{Tape : 1; Side : B; Approx. Tape Counter : 596 - 615}

Jerry Wells, Montana Trout Unlimited

{Tape : 1; Side : B; Approx. Tape Counter : 616 - 631}

Dick Fort, Self

{Tape : 1; Side : B; Approx. Tape Counter : 632 - 637}

Michael McNeilly, Lewis and Clark Expedition

{Tape : 1; Side : B; Approx. Tape Counter : 638 - 640}

Janet Ellis, Montana Audubon

{Tape : 1; Side : B; Approx. Tape Counter : 641 - 647}

John and Linda Winnie, Self

(fih53a05)

Opponents' Testimony:

Terry McFarlow, Self

{Tape : 1; Side : B; Approx. Tape Counter : 651 - 687}

Virgil Binkley, Broadwater Rod and Gun Club

{Tape : 1; Side : B; Approx. Tape Counter : 689 - 721}

Wilfred Olson, Ducks Unlimited, Broadwater Rod and Gun Club

{Tape : 1; Side : B; Approx. Tape Counter : 722 - 746}

Bill Tronson, Self

{Tape : 1; Side : B; Approx. Tape Counter : 747 - 782}

Tim Crowe, Self

{Tape : 1; Side : B; Approx. Tape Counter : 783 - 814}

(fih53a06)

HOUSE COMMITTEE ON FISH, WILDLIFE AND PARKS

March 9, 1999

PAGE 4 of 10

Gary Eppers, Self

{Tape : 1; Side : B; Approx. Tape Counter : 816 - 834}

Tim Johnson, One Way Marine

{Tape : 1; Side : B; Approx. Tape Counter : 835 - 869}

Neil Severinson, Self

{Tape : 1; Side : B; Approx. Tape Counter : 871 - 930}

Bob Spannagel, Self

{Tape : 1; Side : B; Approx. Tape Counter : 932 - 999}

John Mieyr, Self

{Tape : 2; Side : A; Approx. Tape Counter : 3 - 16}

Bill Fiegiel, Self

{Tape : 2; Side : A; Approx. Tape Counter : 17 - 36}

(fih53a07)

Bill Henderson, Self

{Tape : 2; Side : A; Approx. Tape Counter : 37 - 52}

John Lawsen, Self

{Tape : 2; Side : A; Approx. Tape Counter : 53 - 63}

Jim Baker, Self

{Tape : 2; Side : A; Approx. Tape Counter : 64 - 74}

Mike Hilliard, Walley's Unlimited Great Falls Chapter

{Tape : 2; Side : A; Approx. Tape Counter : 75 - 96}

Bruce Calvin, Self

{Tape : 2; Side : A; Approx. Tape Counter : 97 - 102}

Larry Howlk, Self

{Tape : 2; Side : A; Approx. Tape Counter : 103 - 134}

(fih53a08)

(fih53a09)

Linus Wehri, Self

(fih53a10)

Terry Tronson, Self

(fih53a11)

Garve Gierke, Riverside Marine and Cycle

(fih53a12)

Linda Henderson, Montana Power Boaters Association

(fih53a13)

Yellowstone and Missouri Rivers Petition:

MEMBER (fih53a14)

MEMBER (fih53a15)

Joe Uzelac, Self  
Dana Warner, Self  
Jim Devlin, Self  
Ray Scozzari, Self  
Ken Emineth, Self  
Sue Nance, Self  
Kent Ferris, Self  
Karen Hochhalter, Self  
Mike Ablott, Self  
Randy Replogle, Self  
Shannon Kirkpatrick, Self  
Rick Nickels, Self  
Mary Holzinger, Self  
Maureen Thompson, Self  
Larry Demetriades, Self  
Tom Hudak, Self

MEMBER (fih53a16)

Blair Jones, Jones Law Firm  
Rod Lee, Self  
Barb, Self  
Dan Neiter, Self  
Jim Lowe, Self  
Ron Ford, Self  
Doug Breuer and Paul Orth, Townsend Electric  
Wayne Rottrup, Self  
Dave Crosmer, Self  
Greg Harris, Self  
Bill Henderson, Self  
Roman Gillitzer, Self  
Mark Vinner, Self  
Ronald Junkert, Ron Junkert Construction  
Daniel Sayer, Self  
William Lowe, Self  
D. Charleson, Self  
Joe Abarr, Self  
Todd Gainan, Self  
Meg Laird, Self  
John Wise, Self  
Mike Philips, Self  
Ed Allen, Allen's Tool Repair  
Business Properties  
Phil Madden, Self  
Barb Grove, Self

David Odermann, SISR Enterprises, Inc.  
Gerald and Kathy Barta, Self

## Petition of Letters:

**(fih53a17)**

Jerry Rudio, Self  
Guy Davidson, Self  
Jim Wise, Self  
Jerry Rudio, Self  
Adam Schaff, Self  
Ronald Mackney, Self  
Willis Kukes, Self  
Guy Raidiger, Self  
Brett Bates, Petitions:  
David Johnson, Self  
Larry Lowman, Self  
Randy Tuhy, Self

**(fih53a18)**

Robert Wise, Self

**(fih53a19)**

Ronald Ford, Self  
Robert Lowe, Self  
Steve and Judy Bayless  
Don Klein, Self  
Steve Monson, Self  
James Pickens, Big Horn River Fin and Feather Lodge  
Michael Smith and Patrick Connolly, Self

**(fih53a20)**

Chuck Gainan, Gainan's

**(fih53a21)**

Todd Gainan, Gainan's

**(fih53a22)**

Terry McArdle, Self

**(fih53a23)**

## Petition Letters From:

**(fih53a24)**

Dana Warner  
Ray Scozzari  
Sue Nance  
Tom Hudak  
Larry Demetriades  
Shannon Kirkpatric  
Randy Replogle  
Rick Nickels  
Maureen Thompson  
Karen Hochhalter  
Ann Beaudry  
Ken Emineth

HOUSE COMMITTEE ON FISH, WILDLIFE AND PARKS

March 9, 1999

PAGE 7 of 10

Phone Calls Against:

RECORD (fih53a25)

Tex Janecek  
Kurt Burris  
Chris Peterson  
Paul Ash  
Arlen Blumhagen  
Forest Ash  
Rita Orr  
Lee Ash  
Jay Vermillion  
Roger Holick  
Andre Linwood  
Mike Kloppel  
Tom Putz  
Richard Vaughn  
Lee Ash  
Larry Larsen  
Steve Monson  
John Welsh  
Mark Vinner  
Randy Tuhy

Phone Calls For:

RECORD (fih53a26)

Akra Halmer

**Informational Testimony:**

Pat Graham, Fish, Wildlife and Parks

{Tape : 2; Side : A; Approx. Tape Counter : 138 - 198}

RECORD (fih53a27)

**Questions from Committee Members and Responses:**

{Tape : 2; Side : A; Approx. Tape Counter : 200 - 274}

**Closing Statement by Sponsor:** Rep. Hal Harper

{Tape : 2; Side : A; Approx. Tape Counter : 285 - 352}

Motion: REP. HARPER moved that HB 626 DO PASS.

(fih65a02)

Motion/Vote: REP. HARPER moved that HB 626 BE AMENDED. Motion carried unanimously.

(fih65a03)

Motion/Vote: REP. ANDERSON moved that HB 626 BE TABLED. Motion failed 9-11 with Anderson, Davies, Fuchs, Golie, Hanson, McKenney, Molnar, Rehbein, and Wagner voting aye.

Motion/Vote: REP. HARPER moved that HB 626 BE AMENDED. Motion carried unanimously.

(fih65a04)

Motion/Vote: REP. HARPER moved that HB 626 DO PASS AS AMENDED. Motion carried 13-7 with Anderson, Fuchs, Golie, McKenney, Molnar, Rehbein, and Wagner voting no.

HEARING ON HB 626

Sponsor: REPRESENTATIVE HAL HARPER, HD 52, Helena

Proponents: Michael McNeilly, Lewis & Clark Expedition  
Bob Fitzgerald, Helena  
Jim Errands, Helena  
Robin Cunningham, MT River Action Network and  
Fishing Outfitters Association  
Bill Orsello, MT Wildlife Federation  
Pat Graham, Fish, Wildlife and Parks  
Lisa Bay, Self  
Dick Porte, Self  
Janet Ellis, MT Audubon  
Jerry Wells, MT Trout Unlimited

Opponents: Clyde Drewney, Self

Opening Statement by Sponsor:

REPRESENTATIVE HAL HARPER, HD 52, Helena said HB 626 deals with regulating operations of motor boats and jet skis. The bill comes from requests of constituents who have been deprived of use of their cabins on lakes. They want to use the bill as a proactive method to avoid some of the conflict between motor boats and jet ski operators and the public. He explained the intent of the bill. He said the bill will solve a number of problems and a number of conflicts before they happen.

{Tape : 1; Side : A; Approx. Time Counter : 35.7}

Proponents' Testimony:

Michael McNeilly, Lewis & Clark Expeditions, said the root of the problem has to do with a lack of common courtesy. He said if the jet skiers could attempt to slow down or go to an area more

suitable for their purposes, there would be no need for the bill.

**Bob Fitzgerald, Helena,** said out-of-state fishers drive too far to come fishing to see the uncontrolled jet skiers. He also said the people who came back to Montana to live here also didn't move here to see it.

**Jim Errands, Helena,** said jet skis are unsafe and someone will be killed from the rocks in the Missouri River. He urged the committee's support for HB 626.

**Robin Cunningham, MT River Action Network and Fishing Outfitters Association,** said they were in support of HB 626 for the reasons already described.

**Bill Orsello, MT Wildlife Federation,** supported HB 626.

**Pat Graham, Fish, Wildlife and Parks,** entered written testimony, (fis76a06) and proposed amendments, (fis76a07).

{Tape : 1; Side : B; Approx. Time Counter : 0}

**Lisa Bay, Helena,** said less than 5% of Americans own personal water craft but they are able to ruin a recreational experience for the rest of America. She urged for the passage of HB 626.

**Dick Porte, Helena,** provided written testimony, (fis76a08).

**Janet Ellis, MT Audubon,** entered a witness statement, (fis76a09).

**Jerry Wells, MT Trout Unlimited,** wanted to add their support to HB 626.

{Tape : 1; Side : B; Approx. Time Counter : 1.2}

**Opponents' Testimony:**

**Clyde Drewney, Self,** said the bill started out as a bad bill. It would have eliminated the use of motor boats for a hundred miles on the Missouri River. He said it is inappropriate for the Legislature to make the decisions on the speed of a boat for a particular stretch of river. He said it should be done through an administrative process in which the users of the river are notified of the action that is going to take place. He encouraged the committee not to legislate the speed of boats on

particular stretches of a river but allow the FWP to do it through their administrative process.

*{Tape : 1; Side : B; Approx. Time Counter : 2.2}*

**Questions from Committee Members and Responses:**

**SENATOR BECK** asked what the reason was for amending the bill to restrict operating a vessel within 50 feet of a person engaged in fishing and hunting water fowl. **REPRESENTATIVE HARPER** replied Speaker Mercer told him 200 feet was too far for a motor boat and he was going to amend it to 50 feet. **SENATOR BECK** said the FWP had proposed an amendment to change it back to 200 feet.

**REPRESENTATIVE HARPER** replied he knew Speaker Mercer lives on a lake and operates a boat. Speaker Mercer felt it was too far.

**SENATOR BECK** said if the restriction was 200 feet and someone was on a stream then the stream would have to be 400 feet wide.

**REPRESENTATIVE HARPER** replied he was correct if the person was standing in the middle of the stream. He wanted to add the language which would make the motorist cut back the speed but could go on through. He commented on the current law.

**SENATOR MCCARTHY** asked if Representative Harper objected to the section from the FWP about the speed limit. **REPRESENTATIVE HARPER** replied he thought all of their amendments were fine. He commented about the opponent's testimony about the FWP being allowed to put out a notice and pass the law. He said don't put a speed limit in the bill just make sure the commission has the authority through the rule making process as the opponent said.

*{Tape : 1; Side : B; Approx. Time Counter : 4.6}*

**Closing by Sponsor:**

**REPRESENTATIVE HAL HARPER, HD 52, Helena,** hoped the bill covered some of the concerns which they had in a bill sponsored by Senator Ellingson.

*{Tape : 1; Side : B; Approx. Time Counter : 5.2}*

**EXECUTIVE ACTION ON HB 626**

**Motion:** SEN. BECK moved that HB 626 BE CONCURRED IN.

**Motion:** SEN. CRISMORE moved that FWP's AMENDMENT BE ADOPTED.

**Discussion:**

Leanne Kurtz explained the FWP's amendment. She asked Pat Graham if the amendment included the 200-foot safety zone. Mr. Graham clarified the explanation of the amendments. He said they were not recommending a 200 foot safety zone.

**Substitute Motion:** SEN. BECK made a substitute motion to SEGREGATE #4, #5, AND #6 OF THE AMENDMENT.

**Discussion:**

SENATOR BECK explained why he wanted to segregate #4, #5, and #6 from the amendment.

**Vote:** Motion carried unanimously.

SENATOR ELLINGSON said he sensed some reluctance on part of the committee to establish a speed limit. He suggested as a conceptional amendment that they authorize the Department of Fish, Wildlife and Parks to adopt rules and regulations which would regulate the speed on rivers.

Leanne Kurtz believed the commission could already do that under 871-303.

SENATOR EKEGREN asked how fast are jet skis capable of going. SENATOR TAYLOR replied he believed they can go up to 60 mph or even faster. SENATOR EKEGREN said it would seem reasonable to consider a speed limit.

**SENATOR WELLS** agreed with Leanne Kurtz that the commission can set the speed limit. He did not think one speed limit will be appropriate for all rivers.

**SENATOR DOHERTY** asked Bob Lane to clarify if the FWP could set speed limits on rivers. **Mr. Lane** replied they do have authority to regulate speeds on rivers but only for safety. He said that is a limitation on their authority. If they had full authority they would need some expression in 87-1-303 subsection 2.

**SENATOR TAYLOR** asked how would they enforce the speed limit on rivers. **Bob Lane** said they could enforce it. They would address each situation on a river by river basis.

**SENATOR DOHERTY** restated the FWP can only set speed limits for public safety but not to diminish the potential conflicts. He didn't know if Senator Ellingson's memo would be appropriate or whether they should give the commission additional authority. **Leanne Kurtz** said FWP mentioned public welfare and she thought that might do it. **Bob Lane** replied the general broad legal category to give authority to the agency would be in terms of public welfare. It would give the department the ability to address all of the issues.

**Substitute Motion/Vote:** **SEN. ELLINGSON** moved that **CONCEPTIONAL AMENDMENT WHICH GAVE THE FWP AUTHORITY TO ADOPT RULES AND REGULATIONS TO REGULATE SPEED ON RIVERS BE ADOPTED. Motion carried unanimously.**

**SENATOR CRISMORE** withdrew his motion.

**SENATOR WELLS** explained why would like to have a 100 foot operating distance.

**Substitute Motion/Vote:** **SEN. WELLS** made a substitute motion that **100 FOOT OPERATING DISTANCE ON PAGE 2, LINE 11 BE ADOPTED. Motion carried unanimously.**

**Substitute Motion:** **SEN. BISHOP** made a substitute motion that **STRIKE LINES 14, 15 AND 16 ON PAGE 4. BE AMENDED.**

**Discussion:**

**SENATOR BISHOP** explained why he would like the proposed amendment.

**SENATOR ELLINGSON** said the speed limit only applies to personal water craft. He spoke against the amendment because he had

serious reservations about personal water craft being on any of Montana's rivers.

**SENATOR TAYLOR** asked if someone kills themselves in a jet ski accident, who do they sue. **Bob Lane** replied they would sue anybody they could. The state is often named in the suits. The department is not usually liable for those kind of accidents.

**SENATOR BECK** asked where Beaver Creek and Pruitt Creek was located. **Pat Graham** said Beaver Creek enters the Missouri River downstream from Hauser Dam. He said Pruitt Creek is located between Craig and Cascade.

**Vote:** Motion failed 3-8 with Beck, Bishop and Ekegren voting aye.

**Motion/Vote:** SEN. BECK moved that HB 626 BE CONCURRED IN AS AMENDED. Motion carried 11-1 with Swysgood voting no.

{Tape : 2; Side : A; Approx. Time Counter : 16.4}