

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By Chairman Bob Ream, on January 24th 1989,
at 2:45 p.m.

ROLL CALL

Members Present: All with exception of:

Members Excused: Rep. Strizich

Members Absent: none

Staff Present: Doug Sternberg, Legislative Council and
Maureen Cleary, Committee Secretary

Announcements/Discussion: Additional information on House
Bill 186 was distributed to the Committee by Mr. Ron
Marcoux of the Dept. of Fish, Wildlife and Parks.

DISPOSITION OF HOUSE BILL 187

Motion: Rep. Phillips: motioned a "do not pass"

Discussion: Rep. Raney: It is my understanding that this
information covered in this bill was presently
available to the general public and the Dept. of Fish,
Wildlife and Parks was attempting to gain some
financial profits from this. Rep. Ream: I agree that
the information was available. But at an extensive
process, this bill would provide the list to be more
readily available.

Mr. Marcoux: I would remind the Committee that these lists
are already available to the public. It is my
understanding, from Mr. Bob Blaine the Depts. attorney,
the lists are available under certain circumstances
that are in the statutes. The present law provides
that the lists cannot be used for any solicitation and
must be made from the original documents.

Amendments and Votes: none

Recommendation and Vote: THEREFORE THE COMMITTEE RECOMMENDS

A "DO NOT PASS" FOR THIS BILL.

DISPOSITION OF HOUSE BILL 174

Motion: Rep. DeBruycker: motioned a "do pass"

Discussion: none

Amendments and Votes: Rep. Debruycker: motioned a "do pass"
for amendments.

Recommendation and Vote: THEREFORE THE COMMITTEE RECOMMENDS
A " DO PASS AS AMENDED " FOR THIS BILL.

HEARING ON HOUSE BILL 288

Presentation and Opening Statement by Sponsor:

REP. ELLISON: presented House Bill 288 to the Committee with
a recommendation for a "do pass".

List of Testifying Proponents and What Group They Represent:

Mr. David Wistey/ Livingston (See Exhibit #9)

Mr. John George/ Helena (See Exhibit #5,#6 and #8)

Ms. Vicki Becker/ President, ComSence, Inc., Bozeman, (See
Exhibit #10 and #12)

Mr. Bruce Becker, Bozeman (See Exhibit #11)

Mr. Tim Weamer/ Billings (See Exhibit #13)

List of Testifying Opponents and What Group They Represent:

Mr. Ron Marcoux/ Dept. of Fish, Wildlife and Parks, Helena
(See Exhibit #7)

Mr. Bob Blaine/ attorney, Dept. of Fish, Wildlife and Parks,
Helena

Testimony:

Refer to Exhibits as listed above.

Questions From Committee Members:

REP. COHEN: Are there any "sinkers" known to sailboarding?
MR. GEORGE: Not to my knowledge. REP. COHEN: Is it

possible for a person to be launched from a sailboard? When a person falls off the sailboard is it possible for the board to continue traveling? MR. GEORGE: It is possible for a person to be launched. A sailboards mast acts as a weight and stops any travel.

REP. KELLER: Why the 12 year old exempt status? MR. GEORGE: The age was simply a compromise in order to pass the bill.

REP. RANEY: Is there any need for a tether? MR. GEORGE: A tether could be considered in fact dangerous.

REP. KASTEN: What about the possibility of using a ski belt? MR. GEORGE: They would not be used in such cases.

REP. DEBRUYCKER: Would the state be liable for any person drowning in state waters? MR. BLAINE: To my knowledge, in a broad sense, the state would not be liable.

Closing by Sponsor:

REP. ELLISON: closed to the Committee with a recommendation for a "do pass" on House Bill 288.

HEARING ON HOUSE BILL 289

Presentation and Opening Statement by Sponsor:

REP. JOHNSON: This bill would provide income for designated non-profit organizations from an already disposed by-product of the paddlefish.

List of Testifying Proponents and What Group They Represent:

Ms. Kathy Nedens/ Ex. Director of Glendive Chamber of Commerce (See Exhibit #15)

Mr. Gary Marigard/ Marketing Administration Officer, Glendive (See Exhibit #16)

Ms. Kathy Spar/ Glendive Forward, Glendive (See Exhibit #17)

List of Testifying Opponents and What Group They Represent:

Mr. Ron Marcoux/ Dept. of Fish, Wildlife and Parks, Helena (See Exhibit #18)

Mr. George Holton/ MT. Chapter of the American Fishery

Society, Helena (See Exhibit #19)

Mr. Bill Holdorf/ MT. Wildlife Federation, Butte (See Exhibit #20)

Ms. Janet Ellis, MT. Audubon Legislative Fund, Helena (See Exhibit #21)

Mr. David Jenjer

Testimony:

Please refer to attached Exhibits for contents of testimony listed above.

Mr. Jenjer: The species is already in danger and need protection from any further pressures of commercialism.

Questions From Committee Members:

REP. ELLISON: Are there presently any statistics noting a decrease in the paddlefish population? MR. MARCOUX: Presently, I have no information indicating that. The Dept. would implement some regulations if there were any concerns in the area of over harvesting. REP. ELLISON: Are there any problems in the state in regard to poaching? MR. MARCOUX: (deferred to Mr. Kent of the Dept.) Presently there are no problems, but several other states have reported difficulties in regard to the commercialization of animal by-products.

REP. PHILLIPS: What about the processing of the roe and the possibility of increase in poaching due to the sale of the roe? MS. NEDEN: The procedure for storing and processing of the roe is so strict that I feel the possibility of poachers having the knowledge to carry that out is unlikely.

REP. KASTEN: How, after selling a license for paddlefish, could the Dept. have jurisdiction over the sale of the roe? MR. MARCOUX: The Dept. sees the potential for high dollars to be gained in the sale of roe and maintains control over how the funds are used. The potential for overharvesting would be overseen by the Dept., to prevent this from occurring.

Closing by Sponsor:

REP. JOHNSON: closed addressing the Committee vote a "do pass" for House Bill 289.

HEARING ON HOUSE BILL 290

Presentation and Opening Statement by Sponsor:

REP. GIACOMETTO: This bill would enhance the possibilities for ice fishing in the state.

List of Testifying Proponents and What Group They Represent:

Mr. Robert Van Der Veer/ citizen, Helena

Mr. Tony Schoonen/ sportsman, Missoula

Mr. Ron Marcoux/ Dept. of Fish, Wildlife and Parks, Helena

Mr. Bill Holdorf/ sportsman, Butte

List of Testifying Opponents and What Group They Represent:

none

Testimony:

All persons listed above simply stated their support for the bill. Agreeing that it would enhance the sport of ice fishing within the state.

Questions From Committee Members:

REP. BLOTKAMP: Would this bill affect the status of the blind in any current bills? REP. GIACOMETTO: I feel it would not. But I could check into this and report back to the Committee.

Closing by Sponsor:

REP. GIACOMETTO: Closed briefly to the Committee.

DISPOSITION OF HOUSE BILL 290

Motion: Rep. Blotkamp: motioned a "do pass"

Discussion: Rep. Elliott: Would there be some problems with the term "vicinity"? Mr. Marcoux: The Dept. would have to use some judgement in that but I foresee no immediate problems with the term.

Amendments and Votes: none

Recommendation and Vote: THEREFORE THE COMMITTEE RECOMMENDS
A "DO PASS" FOR THIS BILL.

ADJOURNMENT

Adjournment At: 4:20 p.m.



REP. BOB REAM, Chairman

BR/mc

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DAILY ROLL CALL

FISH AND GAME

COMMITTEE

51st Session - Legislative Council

Date January 24th

NAME	PRESENT	ABSENT	EXCUSED
Bob Ream, Chairman	✓		
Jim Elliott, Vice-Chair	✓		
Robert Blotkamp	✓		
Ben Cohen	✓		
Fritz Daily	✓		
Gene DeMars	✓		
Bob Pavlovich Bob Genovis	✓		
Bob Raney	✓		
Bill Strizich	✓		
Roger DeBruycker	✓		
Orval Ellison	✓		
Ralph Eudaily			✓
Marian Hanson	✓		
Betty Lou Kasten	✓		
Vernon Keller	✓		
John Phillips	✓		

ROLL CALL VOTE

FISH AND GAME

COMMITTEE

DATE Apr. 19th BILL NO. 187 NUMBER _____

NAME	DO NOT PASS.	DO PASS.
	AYE	NAY
Robert Biotkamp	✓	
Ben Cohen		✓
Fritz Daily	✓	
Gene DeMars	✓	
Bob Pavlovich	✓	
Bob Raney	✓	
Bill Strizich		✓
Roger DeBruycker	✓	
Orval Ellison	✓	
Ralph Eudaily	✓	
Marian Hanson	✓	
Betty Lou Kasten	✓	
Vernon Keller	✓	
John Phillips	✓	
Bob Ream, Chairman		✓
Jim Elliott, Vice Chairman	✓	

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Maureen Cleary
Secretary

Bob Ream
Chairman

MOTION: motion for "do not pass"

ROLL CALL VOTE

FISH AND GAME

COMMITTEE

DATE 1/24

BILL NO. 290

NUMBER _____

NAME	DO PASS	
	AYE	NAY
Robert Blotkamp	✓	
Ben Cohen	✓	
Fritz Daily	✓	
Gene DeMars	✓	
Bob Pavlovich <i>Bob Gervais</i>	✓	
Bob Raney	✓	
Bill Strizich		
Roger DeBruycker	✓	
Orval Ellison	✓	
Ralph Eudaily	✓	
Marian Hanson	✓	
Betty Lou Kasten	✓	
Vernon Keller	✓	
John Phillips	✓	
Bob Ream, Chairman	✓	
Jim Elliott, Vice Chairman	✓	

TALLY

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Maureen Cleary
Secretary

Bob Ream
Chairman

MOTION: _____

STANDING COMMITTEE REPORT

January 24, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that House Bill 174 (first reading copy -- white) do pass as amended .

Signed: Bob Peam
Bob Peam, Chairman

And, that such amendments read:

1. Page 3, line 6.

Following: "as"

Strike: "suffering from permanent blindness"

Insert: "a blind individual, as defined in 53-7-301,"

AT

STANDING COMMITTEE REPORT

January 24, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that House Bill 187 (first reading copy -- white) do not pass.

Signed: _____

Bob Ream

Bob Ream, Chairman

8:25 am
1/25/89
ja

STANDING COMMITTEE REPORT

January 24, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that House Bill 290 (first reading copy -- white) do pass.

Signed: Bob Ream
Bob Ream, Chairman

RT

EXHIBIT # 01
DATE 1/24
HB 187

STATEMENT OF INTENT--HB 187

A statement of intent is required for House Bill 187 because [section 1] grants authority to the department of fish, wildlife, and parks to adopt rules to implement the bill. At a minimum, it is intended that the rules address:

- (1) procedures necessary for proper administration of the sale and distribution of the lists specified in [section 1(1)];
- (2) a determination of department cost involved in producing the lists for Montana residents as required in [section 1(2)];
and
- (3) procedures that provide necessary departmental discretion in determining the propriety of sale or distribution of mailing lists to interested parties.

HB 186
SUPPLEMENTAL TESTIMONY
JANUARY 24, 1989

EXHIBIT #02
DATE 1/24
HB 186

Testimony presented by Ron Marcoux, Department of Fish, Wildlife, and Parks.

The present restitution statutes for illegal killing or possession of certain wildlife has a loophole for nonresidents cited for a violation for which the restitution penalty might apply. If the nonresident posts bail (also called bond) to assure his presence at trial, the nonresident may elect not to appear. The nonresident forfeits only the bail or bond because Montana courts no longer have jurisdiction over the nonresident when he is outside the state. A person charged with any crime, except homicide, is entitled to post bail or bond as determined by the court.

In practice, the nonresident who has forfeited bond cannot be convicted nor can the court or jury make a finding that the "illegal killing or possession was done knowingly or purposely" as required by Section 87-1-112, MCA. Both are prerequisites for assessing the restitution penalty. Forfeiting bail or bond has become a method of avoiding the restitution penalty for nonresidents. While the nonresident might be later arrested under a bench warrant should he return to the state and be discovered, this is not a practical solution to a real problem. In contrast, the resident is subject to the jurisdiction of the court and can be brought into court should he or she fail to appear. The resident does not have the same loophole by which to avoid responsibility for the restitution penalty.

To rectify this problem, the Department is proposing in HB 186 to provide that persons who forfeit bond or bail are subject to the restitution penalty the same as persons convicted are now liable. Further the amendments provide that the finding of knowingly or purposely is not required when bail or bond is forfeited and that forfeited bail or bond may be used to pay restitution. With these changes, the justice courts' would be able to adjust their bail or bond schedules to cover both the underlying penalty and the restitution. Remember that any person cited, whether a resident or nonresident, can appear to contest the charges and/or the restitution penalty.

Therefore, both residents and nonresidents would be equally subject to liability for the restitution penalty for illegally killing or possessing our most treasured wildlife and fish species.

BILL SYNOPSIS

HOUSE FISH AND GAME COMMITTEE--JAN. 24

PREPARED BY DOUG STERNBERG, COMMITTEE STAFF

HOUSE BILL 288

Sec. 1: exempts a sailboard operator age 12 or older from the Coast Guard flotation device standards

Sec. 2: excludes sailboard operators who do not wear flotation devices from "prohibited operation" enforcement statute

Sec. 3: grants to sailboard operators the same rights-of-way presently allowed to sailboats

Sec. 4: extends present rulemaking authority

HOUSE BILL 289

Sec. 1: allows a fisherman to donate roe (eggs) from a paddlefish that is legally caught at the time and place specified in subsection (3)(a) to a nonprofit Montana corporation for processing as caviar; requires department supervision of the donation; specifies how profits from caviar production must be used

Sec. 2: exempts donation and sale of paddlefish roe from "unlawful possession and sale" statute

Sec. 3: extends present rulemaking authority

HOUSE BILL 290

Sec. 1: allows ice fishing without holding the rod in hand as long as visual contact is maintained

Sec. 2: extends present rulemaking authority

Sec. 3: provides an immediate effective date

EXHIBIT #04
DATE 1/24
HB 186.

HB 186

SEQUENCE OF EVENTS THAT OCCUR WHEN A CITATION IS ISSUED

- (1) If an officer encounters a fish and game violation in the field he may:
 - (a) Arrest the violator and bring him before the nearest JP for initial appearance.
 - (b) Issue the violator a notice to appear on a specific date before the Justice of Peace in the county where the violation occurred. This is usually done when it has been determined that the violator is a resident of Montana.
 - (c) Accept a cash bail (usually from nonresidents), as the security given for the purpose of insuring the defendant's appearance in court. The defendant is receipted on the NTA by the officer for any bail posted with him in the field. Bail is determined by a schedule established by the Commission on Lower Courts and posted by the JP or magistrate. The judge issues the officer a receipt for bail when the NTA is filed.
- (2) The Justice Court will:
 - (a) Conduct an arraignment in which the defendant enters a plea. If the plea is guilty, the court will assess a penalty. If the plea is not guilty, a date for trial by jury or judge is set. Again, if convicted by the judge or jury, a criminal penalty is decreed. If the violation involves the illegal killing or possession of certain wildlife, the judge must determine that the violation was done purposefully and knowingly to assess the restitution or reimbursement according to the schedule in 87-1-111.
 - (b) If the NTA has been filed with the court and bail posted, the defendant may appear and enter a plea to the charge, or may not appear and forfeit the bail. When bail is forfeited there is no conviction and the defendant is not subject to restitution. HB 186 would allow the judge to assess restitution on bond forfeitures, eliminating a loophole for court-wise defendants.

All money collected as fines and forfeitures are divided evenly between the state and local governments. Of the 50% remitted to the state treasurer, 10% is transferred to the Department of Fish, Wildlife and Parks. All money collected as restitution is transmitted to the special ERA revenue account in Department of Fish, Wildlife and Parks.



EXHIBIT #05
DATE 1/24
HB 288.

UNITED STATES BOARDSAILING ASSOCIATION

UNITED STATES BOARDSAILING ASSOCIATION



WHY PFD'S AREN'T THE ANSWER TO BOARDSAILING SAFETY

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Newport, RI 02840
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WHY PFD'S AREN'T THE ANSWER TO BOARDSAILING SAFETY

Ideas for use by local committees to educate local officials

page 1

By way of introduction, we need reminding that nationally most drownings in small-boat accidents happen to people not using PFD's (Personal Flotation Devices, which may be a life vest, life ring, or cushion). Frequently they involve overloaded boats in which people such as fishermen, of limited or no swimming ability, and without protective apparel, are thrown unexpectedly into the water by capsizing. That much is factual and documentable.

Some authorities, evidently noting the proneness of boardsailors to unexpected capsizing, hold that it is entirely natural, safe, and proper that boardsailors should be required to wear, or carry a PFD, the same as other vessels. In addition, it makes for a desirable simplicity and uniformity of the boating laws and regulations.

In a word, we believe that a PFD requirement for sailboards (like for other boats) is wrong. It is based on data not pertinent to the boardsailing situation. It emphasizes the wrong safety measures while paying little or no heed to the true safety requirements. At times, a compulsory PFD requirement can create a positive hazard.

Furthermore, the PFD requirement for sailboards is now in a minority of U.S. jurisdictions. (The authoritative Sailboard News, a trade journal, reports in its April 1987 issue that 34 states are now PFD-free.) Most boardsailors have experienced at least some sailing free of PFD carriage requirements and have personally experienced the sometimes improved safety from lack of such impediments. Sailboard accidents cannot be traced explicitly to the lack of PFD's. It can create an "anti-safety" attitude where people are required to wear PFD's in a false name of safety even though the boardsailor knows very well that PFD's are usually somewhere in the ineffective-to-hazardous range.

History of PFD Regulation

The U.S. Coast Guard is the official regulatory authority in federal waters for such matters under the Federal Boat Safety Act of 1971. This act pre-empted state safety standards not identical with those issued by the Federal Government. The Coast Guard on February 18, 1973 granted to "Windsurfer" an exemption from PFD carriage requirements.

In 1979 and 1980, this exemption was proposed to be renewed by the Coast Guard, which was also about to extend this exemption from PFD carriage requirements to all sailboards, based on the USCG notice in the Federal Register Volume 45, page 47876. The Federal Register (available in or through public libraries) of August 20, 1981, Vol. 46, Pages 42288 and 42289, gives more detail on this history. However, in 1981, under the Reagan Administration's efforts to achieve regulatory simplification and reform, the U.S. Coast Guard determined that sailboards should not be subject to Federal regulation. Thus the states were free to apply such regulations as they saw fit. Many states had boating safety regulations requiring PFD carriage on all vessels. With the Federal withdrawal, some of these states merely treated a sailboard like any other vessel, requiring PFD carriage. Sailboard News estimated that at the beginning of 1983 only 10 states did not have sailboard PFD requirements. As previously noted, by April 1987, the number of states without PFD requirements had grown to 34. This was mainly through action by boardsailors in persuading the authorities to change the regulations.

Factors in Coast Guard's Exemption

The U.S. Coast Guard makes these points in justifying exemption of sailboards from PFD carriage requirements: (See above-named August 20, 1981 Federal Register).

WHY PFD'S AREN'T THE ANSWER TO BOARD SAILING SAFETY

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1. Unlike a normal vessel used for transportation, they determined that the "windsurfer" was "in essence ... more a novelty craft used as a swimming toy than a vessel used or capable of being used for transportation." (Boardsailors may cringe at the word "toy" being used to describe their high-tech machines, but these toys do give an amazing amount of fun; more seriously, many boardsailors have discouraged state attitudes exempting sailboards as non-vessels because the boardsailors are concerned they may lose Rules-of-the-Road privileges and responsibilities, as well as being banned (like innertubes, for example) from some waters. As such boardsailors would prefer to keep with the definition of a sailboard as a vessel but on the other hand declare the sailboard hull a suitable PFD. The Coast Guard has been considering sailboards to be vessels for Rules-of-the-Road matters, a very desirable condition.
2. The Coast Guard noted the skills required for proper use of a sailboard as being like "the skills of a surfer, a sailor, and a skier." (They might also have added a high diver in the case of wave sailing.) They go on to point out that "many water sport items have evolved over the years which, although they may be capable of a limited use as a means of noncommercial transportation on the water, have not been subject to regulation under the Federal Boat Safety Act of 1971. These water sport items include inner tubes, inflatable air mattresses, float boards, and surf boards." They go on to say, "It has been determined by the Coast guard that sailboards should be treated in a manner similar to water sport items and that formal regulation of sailboards is not needed at this time."
3. Interestingly, when the Coast Guard announced the proposed extension of its exemption from the "Windsurfer" to all sailboards with a request for comments, it said that the comments it received can generally be divided into two categories:
 - a) The manufacturers of sailboards and most sailboard operators were in favor of granting an exception to all sailboards.
 - b) State and local law enforcement agencies, a few sailboard operators, and other boat operators were generally in favor of terminating the existing exemption and requiring all sailboard operators to carry PFD's. (It has since been noted that in at least one case, state regulatory authorities urged local police to actively enforce PFD requirements on boardsailors as a means of increasing local municipality revenues through fines.)
4. Finally, in announcing its withdrawal, the Coast Guard said: "Although the Coast Guard does not intend to regulate sailboards under the Act, it plans to continue to monitor sailboard activities to determine whether regulatory action may be needed. The Coast Guard will not hesitate to consider imposing requirements on sailboards if it is determined that problems of safety exist." It should be noted that no such action has been taken by the Coast Guard at this writing six years later.

Why boardsailing is different: Some questions raised on the need for PFD's.

1. But windsurfers are always falling into the water. Therefore, shouldn't safety requirements be that they wear PFDs? So the argument goes. This author was present at one state hearing where a legislator, in good conscience, stated that she lived near the water and saw this happening all the time and therefore why on earth shouldn't they wear PFD's? She might well have cited the statistics showing most drownings connected to capsizing where PFD's were not in use.

WHY PFD'S AREN'T THE ANSWER TO BOARDSAILING SAFETY

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Such thinking obviously does not appreciate that windsurfing is a sport in which some swimming ability is both expected and required. There is no similarity at all between a boardsailor falling into the water and several fishermen in an overloaded skiff unexpectedly capsizing. The boardsailor expects to swim, just as much as a high diver, and in cold weather they are protected by wetsuits, drysuits, steamers and possibly insulated footwear, gloves, and helmets. The latter unfortunate fishermen or hunters in the skiff have no intention of swimming at all and may be non-swimmers and without apparel to protect them when immersed in cold water.

2. In boardsailing, PFD's are no substitute for swimming ability and other safety practices! In this author's opinion, and no doubt in 99.9% of instructors working with beginners, if you try to boardsail before you are a swimmer, you have your priorities wrong. Take time to become comfortable with swimming before you do anything about boardsailing. Wearing a PFD is not a proper substitute for being a comfortable swimmer. PFD's can become unfastened, damaged, lost. This is not intended to discourage use of PFD's by those who wish to wear them--it is simply to point out that a PFD is not advised as a substitute for swimming ability.

Parents have been known to come into a boardshop even on a spring morning when the water temperature is still in the low 50-degree area and buy a standard board and rig for their child. But when asked if they had thought about a wetsuit, they responded, "No, we insist that he wear a life jacket at all times--he will be safe enough!" How wrong! The two main potential killers in boardsailing are: (1) Hypothermia - this requires protective clothing and education about coming in as soon as you begin to feel cold; and (2) Offshore winds which are winds which blow you offshore. Typically such winds get stronger and stronger as you get carried offshore and there is no way an inexperienced person can sail back in against them. In a bad spot, there are several desperate remedies which can be employed. There are other problems and safety practices including not sailing alone, always staying with the hull in case of trouble, and being alert to protecting yourself from power boaters blinded by the late-day sun, upon which a beginner will be drilled by a qualified/certified instructor (any boardshop can recommend one).

The point being stressed here is that in the essentially safe sport of boardsailing, there are indeed hazards to be educated about and guarded against. This piece is not intended to be a comprehensive safety treatise. However, the reader (especially the non-boardsailor) should be made aware that boardsailing safety is a major concern to boardsailors. We are all aware that there will be restrictions put on boardsailing if we develop a poor safety record. Education on safe practices is the major answer to safety. PFD's, for those who wish to use them, are only a tiny part of the answer.

3. " But when you fall in, can't you be stunned or knocked unconscious? I'll bet all boardsailors have been asked this dozens of times by well-meaning members of the public.

The obvious explanation is, "It just doesn't happen." Even for beginners, the forces of nature are on your side. Most of the time, the sailor is gripping the boom as he slowly sinks into the water underpowered. The sail comes down gently with no question of being struck. At other times, such as with a sudden gust, the sail falls away from the boardsailor on the opposite side of the hull, so there is no problem of his/her being hit by the boom or mast.

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There are still two circumstances which happen occasionally to expert or intermediate boardsailors. These are not beginner situations. In one case, you can be thrown while hooked into the harness. Here, there is no time to think. Action is instantaneous and automatic. With the skill of the gymnast, in a fraction of a second, you can maneuver to minimize the impact, and certainly to avoid hitting your head. The other case is in the advanced maneuvers, such as aerial loops mainly in wave-prone coastal waters such as California and Hawaii, and practiced by possibly one tenth of one percent of boardsailors, i.e. one in a thousand. Some such maneuvers are aborted and if not done properly, there could be a danger of being struck by the hull. Some safety is achieved by the sailors splashing into and under the water so the hull cannot strike him. If he were wearing a PFD he could lose his safety-enhancing maneuverability in both the above cases, and the ability to find safety beneath the water in the latter case. Refraining from sailing alone (at least in conditions or with maneuvers that might be more than you can handle) seems by far the most practical means of dealing with this proper but very rare concern.

4. Windsurfers are different--in the hull! The boardsailors may be faced with the use of either a Class III PFD with a buoyant force of 15-1/2 pounds, or he may wish to rely on the sailboard/hull itself. In the case of a typical beginner's 12' board, this will have about 400 pounds of flotation (over 20 times the life vest). It will be made of virtually indestructible material, it will ride the user out of the water, and it has excellent visibility. The life jacket with its 15-1/2 pounds rides you almost totally immersed in what may be quite numbing water, and it gives you very little visibility to be seen by a searcher. A container of Hy-Fly hulls (a sailboard brand) was sunk and broke up at sea in a storm off Labrador in the early 1980's. About 6 weeks later the Hy-Fly hulls began showing up on the beaches in Portugal. Many of them were recovered by a Hy-Fly representative there, refitted, and sold as sailboards.

Is it any wonder that new boardsailors are continually drilled to "stay with your hull"? In emergency, they are instructed to tether themselves (for example by the ankle) with a line taken from the rig or harness to the hull.

BOARDSAILORS KNOW THAT PFD'S ARE SOMETIMES A HAZARD!

1. Some PFD's may prevent you from swimming back to your hull if you are thrown into the water. Perfectly legal Class I, Class II, and Class IV PFD's in active use make it very awkward to swim at all. In a strong breeze they can easily prevent the user from quickly returning to the hull before it is caught in the wind and begins to drift rapidly away. In a 1986 Lake Michigan drowning tragedy, the unfortunate victim indeed carried a PFD. When the deceased was recovered the PFD was not attached. We do not know the details of this sorrowful event as there were no witnesses. But one visualizes the terrible ironic tragedy of this woman being thrown into the water in the increasing winds at the time, finding she was unable to swim fast enough with the PFD to reach her hull, taking time to remove her PFD so as to swim faster, but finding that too much time had been lost with the PFD, and the hull had gotten permanently away. What greater tragedy could there be in the name of the false security of "always wear a PFD" and in the name of "uniformity of law enforcement"? It would seem that governmental bodies which mandate PFD carriage imply that they provide safety, and such bodies must share some of the blame in tragedies of this sort.
2. In case of collision, boardsailors without a PFD can sometimes escape by going deep or quickly swimming out of the way. "This sounds far-fetched", the inexperienced might say. But consider some incidents -- not too frequent but not too rare either:

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Ideas for use by local committees to educate local officials

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- a) At the U.S. Boardsailing Association National Championships in July 1985, Anthony Spada of Port Washington, NY, was winning the first race at the time when his ~~boat~~^{board} was hit and badly damaged by a 50 foot powerboat: "I have taken a Power Squadron Course and they say a sailboard is not a sailboat." Spada dived to safety before the collision and was not injured. (Emphasis added.) One hates to imagine what injury or fatality might have happened if, because of wearing a PFD, Spada had not been able to dive to safety.
 - b) According to the written description of the Tender Skipper, on April 13, 1986, in San Francisco Bay one of the 12 meter (America's Cup) series "ran right over a downed sailboard and rig. Luckily the rider was able to swim aside and was unharmed. There were four very highly skilled yachtsmen on the bridge of this yacht at the time of the incident. "The sun was low as it was late in the afternoon and the glare was very strong..." True, the downed boardsailor must share responsibility in this incident. But what tragedy might have resulted if the boardsailor, encumbered by an approved PFD, had been unable to swim aside quite quickly enough?
 - c) Your author on Long Island Sound late one afternoon in the summer of 1986 was patiently treading water with a downed rig, waiting for a sufficient puff to waterstart. Despite being in a rocky area usually avoided by powerboats, he notice one coming at him into the sun on a collision course. Quickly getting up on the hull and waving and shouting to attract attention, it was apparent that no one was tending the wheel of the powerboat (the skipper was doing some chore). I was hyperventilating and just getting ready to time my plunge for the depths when the powerboat skipper re-appeared and swerved aside. I would have been totally helpless if wearing an approved PFD.
3. In surf, boardsailors like surfers, often need to dive below a breaking wave to avoid potential injury. A PFD of course prevents diving beneath the surface. Ken Winner, a national champion in several categories and some time resident of both Maryland and Hawaii writes: "Surfing a sailboard is much like surfing a surfboard. A sailor in surf is generally within swimming distance from shore, he frequently needs to swim short distances to recover his board after a fall, and he will dive under breaking waves and surges of whitewater so as to avoid their full force. Thus gear that impedes efficient swimming, on the surface or below, can be a hazard." (emphasis added).

BOARDSAILORS HAVE BEEN LEFT IRRITATED AND FRUSTRATED BY UNREASONABLE "SAFETY" ENFORCEMENT.

By arbitrary enforcement of unreasonable regulations, these authorities have given "safety" a very bad name. They have made it difficult to almost impossible to work for reasonable safety education.

No doubt there are as many wise guys and punks* who enjoy taunting the police in the boardsailing community as any other. (Some of them are tremendous fun to sail with!) Hopefully, where this condition exists in a locality, the more level-headed boardsailors can influence the police-baiters to cool it. In the interests of safety, we need a truce with the authorities, not more war.

*Note: Statistics of readership show that the boardsailing community is ~~made~~^{made} up also of far more than its share of well-educated, professional, and above average income people, with overall average age around 30.

Every boardsailor who has sailed in a Draconian jurisdiction can tell you horror stories such as:

- a) Police in Lakeville, Connecticut formerly hiding in the bushes ready to arrest boardsailors without PFDs.
- b) Police in Oklahoma arresting boardsailors not carrying a whistle or other audible device.

WHY PFD'S AREN'T THE ANSWER TO BOARDSAILING SAFETY

Ideas for use by local committees to educate local officials

page 6

- c) Police in Ohio arresting a boardsailor without a PFD sitting on his hull in 12 inches of water on a riverbank.
- d) Police taking boardsailors shivering in their bathing suits into the police station for booking, because the boardsailor did not have positive identification on his person while sailing.
- e) Police in powerboats charging up to a boardsailor sailing in light air without a PFD so as to dump the boardsailor into the water with the police-boat wake before issuing a summons.
- f) Police issuing a summons to a boardsailor for not having a PFD while a few feet away unaccompanied distance swimmers swim past, obviously without PFDs.
- g) Law-abiding Canadian Sailors, many of them true experts, complying with the "always wear a PFD regulations" in Canada -- but never once wearing them in Florida, Hawaii, Barbados, or at Cape Hatteras.

Boardsailors know these stories, they know that PFDs don't work, PFDs can sometimes be dangerous, and compulsory PFD carriage is a mis-application of a concept to boardsailing which may be quite proper for other vessels and powerboats.

In view of the above, is it any wonder that some boardsailors become cynical about the true requirements of safe boardsailing practices? (See box for major examples of true boardsailing safety education needs.)

It would appear necessary for us as experienced boardsailors to explain the problem and these overall facts to legislators and other proper authorities in a convincing manner.

Thus we can contribute to removal of improper and sometimes harmful regulations, and in a newly-healthy atmosphere we can focus much needed proper safety education on the factors where it is truly needed!

(End: but see boxes 2 & 3 as integral part of story)

RESPECT THOSE BOARDSAILORS WHO STILL USE PFDs!

Perhaps 2 to 5 percent of today's boardsailors, even in jurisdictions not requiring PFDs, use them at least some to the time. Why?

On being asked, some refer to force of habit rooted in childhood requirements in sailing programs. Others apparently are not totally confident about their health or their swimming abilities. Barring severe conditions of wind or waves where a PFD might be dangerous (see above) it would seem only prudent that if a boardsailor feels the least bit safer with a PFD, he or she should use it! Obviously, as discussed above, such boardsailor should observe all the other boardsailing safety precautions (hypothermia, offshore winds, etc.) He should not be trapped into a false sense of security.

We have no quarrel with voluntary use of PFDs as outlined above when and where the user deems advisable. We do have a quarrel with compulsory at-all-times mandatory use of PFDs for all boardsailors, as discussed in this paper.

WHY PFD'S AREN'T THE ANSWER TO BOARD SAILING SAFETY

Ideas for use by local committees to educate local officials

page 7

EXAMPLE OF SAFETY EDUCATION DEEMED TRULY IMPORTANT BY BOARDSAILORS IN A SPECIFIC LOCALITY

SAFE BOARD SAILING

WARNING IN THIS AREA --- ASK IF IN DOUBT:

Stay clear of swimmers.

Experts only in the channel.

Ask where rocks are located (they are there!)

Beware: Only experts can get back to this beach in brisk north wind and falling tide!

Watch out in offshore winds: Sail with others, not alone.

Hypothermia sneaks up: Sail with others, not alone.

Check equipment daily: Breakage is main rescue cause.

Watch to the east: Power boats are blinded by afternoon sun.

EXPERIENCED SAILORS: WATCH FOR AND HELP OTHERS IN TROUBLE.

A key point is these safety guides (which were later outlined on a safety sign) were devised by a committee of about 10 boardsailors, all of whom will feel party to explaining them to other sailors and making them work. See our publication "Safety Guides"

Obviously such guidelines must be particularized to the local situation, whether sea urchins or other hostile marine life, undertows, hidden obstructions. This committee felt that the last point (educating/reminding experienced sailors to watch for and help others) was the most important.

[Note: I have a 23 page packet dated December 1984 of sample materials that the Connecticut Sailboard Safety Committee actually used with the legislature and others to get the Connecticut sailboard safety law improved. The specific ideas in here are now somewhat dated, but the general principles are still germane. Possibly this should also be offered by USBA to those facing the same problem. If you or Lee don't have a set, I can send one to you to use as a master. Some of the material is a little blurry, but it was done on my Apple-DOS and I am now solely on IBM-DOS. Please advise if you would see a use for this as a further handout.]

PACKET OF MATERIALS USED IN SUCCESSFUL CONNECTICUT LEGISLATIVE EFFORT TO CHANGE LAW AVAILABLE FROM USBA

A packet of actual materials used in the successful 1983 Connecticut effort to obtain more sensible sailboard safety legislation is available on request. Although some of the specifics in this package are now dated, the general concepts remain valid and applicable.

SAILBOARD
NEWS
JANUARY
1989

EXHIBIT # 04
DATE 1/24
HB 288

Oregon exempts PFDs for boardsailors

PORTLAND, Ore. — At a meeting in Portland on December 21, the Oregon State Marine Board voted to exempt sailboards from the state's PFD requirement. The board made its decision after meeting with law enforcement officials and members of the sailboard industry during the past year.

The newly rewritten law reads, "Sailboards are exempt from the provisions of this rule (that requires all boats to carry PFDs). An addendum to the exemption states that the Marine Board will continue to monitor boardsailing accidents and make changes in the law if necessary."

According to Marty Law, education and information supervisor for the Marine Board, the increasing popularity of boardsailing in the early 1980's prompted the board to classify sailboards as sailboats and thus require boardsailors to wear/carry PFDs. The current law states that boats must carry PFDs on board, but passengers are not required to wear them. The board heard numerous arguments against the PFD law from boardsailors including Stephanie Eng-Warren, Doug Campbell, Larry Brown, Ken Maddox, and the Columbia Gorge Boardsailors Association. According to Law, sailors involved in meetings with the board were all genuinely concerned about boardsailing safety but felt educating sailors was better than telling them what they can and can't do.

These sailors pointed out to the Marine Board that a majority of the states in the Union, including Washington, do not require boardsailors to wear PFDs. Sharing a boundary with such a state in the Columbia Gorge has made enforcement of the law difficult and, in some instances, may have convinced some sailors to launch only from the Washington side. This concerned the board. Law said, "because from an economic standpoint, Oregon doesn't want to run people off by being too regulatory."

Others argued that in some instances, such as surf-sailing on the coast, PFDs may actually be detrimental, making it difficult to maneuver in dangerous water. But most boardsailors who lobbied to change the law argued simply that wearing a PFD should be a matter of personal choice. And because statistics from states without PFD regulations failed to demonstrate an increase in boardsailing-related fatalities, the Marine Board sided with the boardsailors.

The change in the law will not eliminate the Oregon State Marine Board's involvement in the sport of windsurfing. "The Marine Board is still interested in the safety aspect of sailboarding," Law said, "and will continue to inform and educate boardsailors, especially beginners, about when to wear a PFD."

The women's top 10 list was rounded out by Angela Cochran (Serengiti/Angut) of the U.S., Marlene Van Soelingen (Fanalic/A.R.T.) of Holland, Herma de Jong (Fanalic/A.R.T.) of Holland, Nathalie Simon (Tiga/Neil Pryde) of France, Barbara Kendall (Gastra/Alpine) of New Zealand, Jutta Mueller (Aquatipi) of West Germany, and Jorunn Horgren (Sprite/Matana) of Norway.

Maui wave event winds up PBA tour

MAUI, Haw. — The inaugural PBA World Tour '88 reached its dramatic climax at the Peter Stuyvesant Travel World Wave Sailing Championship, held at Ho'okipa Beach here October 29-November 6.

Difficult conditions on November 1 provided the most spectacular setting for any wave event this year, with most high-plus waves and Force Five winds.

Out early in the second round was world champion contender Anders Bringdal, bested by Hawaiian Rush Randle and essentially knocked out of the overall chase with that defeat. His only chance would have been to win two heats in the losers' bracket.

Dunkerbeck advanced to the semifinals against Hawaiian Mark Aquilo. Robby Naish, who was still in contention to defend his world title, advanced to the quarter-finals, meeting Ian Boyd of Hawaii. In the end, however, the final were a local confrontation between Hawaiians Aquilo and Dave Kalama.

Adverse weather conditions prevailed for three days as competitors and the press corps worried that the World Championship might be decided by default.

The men's wave final, held in Force Five winds and logo-high waves, was a showcase for Kalama and Aquilo, who traded forward loops and radical off-the-lips, with Kalama more smooth while Aquilo went for broke and fell more.

The final decision went to Aquilo, based upon jumps because the two had virtually tied on waveriding.

The women's final was also an all-Hawaiian affair, with Dana Dawes using superior wave riding and judgment to defeat Angela Cochran.

In stalom competition, Bringdal and Dunkerbeck came together once again and battled it out in the season's finale. Four laps through the surf dictated the course of the final, with Bringdal leading for three. Dunkerbeck chose his moment on the final leg, going out through the surf, he snatched the lead and held it to the finish, putting the final touch on his claim to the 1988 World Championship.

Editor's Note: Information compiled by PBA and Kean Rogers (Wind Surf Magazine).

Robby Naish (Mistral/Gastra) of the U.S., third with 8.7 points. Rounding out the top 10 positions overall were Phil McCain (Bic/Gastra) of Australia, Alex Aguera (Neil Pryde/Hi-Tech) of the U.S., Bruce Wylie (Gastra) of Australia, Robert Terlitshau (Fanalic/Gastra) of France, Eric Groenewoud (Yamaha/Gastra) of Holland, Rafi Bachschuster (Mistral/Mistral Sails) of West Germany, and Svein Rasmussen (F2/Wild Wind Sails) of Norway.

Individual discipline winners were Dunkerbeck in stalom, Naish in wave performance, and Bringdal in slalom.

For the women, le Livre's 4.4 points, based on wins in stalom and course and a third place finish in wave performance, outdistanced second place finisher Britt Dunkerbeck (F2/F2 Sails) of Spain, who had 8.0 points, and Natalie Siebel (Gastra/O'Neill) of West Germany, who finished with 11.7 and the waveriding discipline title.

WE COULDN'T HAVE SAID IT BETTER OURSELVES

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Paul Johnson, Marketing Manager
O'Brien Sailboards

"Northwest Sailboard magazine has proven to be our largest single source of new clients."

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Peter Juen, President
Fanatic/A.R.T.

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John Springer, Owner
Marsh and Sun, Los Gatos, CA

SEE FOR YOURSELF CALL US TODAY

NORTHWEST SAILBOARD

P.O. Box 918
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Competition Scene

Dunkerbeck is PBA '88 World Champion

MAUI, Haw. — A new king of men's boardsailing was crowned on Maui when Bjorn Dunkerbeck (F2/F2 Sails) of Spain staked his claim to the PBA World Championship with a strong finish at the Peter Stuyvesant Travel World Wave Sailing Championship, the 16th and final stop on the PBA's World Tour 1988. Nathalie de Lievre (Kim/North Sails) of France regained the women's title she had lost to Anick Graveline in 1987. Dunkerbeck finished first in stalom and third in wave and course for a total of 6.7 points, narrowly defeating year-long rivals Anders Bringdal (Tiga/Neil Pryde) of Sweden, who was second with 7.7 points, in the biennial world champion



EXHIBIT #07
DATE 1/24
HB 288

HB 288
January 23, 1989

Testimony presented by Ron Marcoux, Department of Fish, Wildlife and Parks.

The legislature has previously designated the Fish and Game Commission (Sec. 87-1-303) as the agency empowered to adopt and enforce rules governing water-related recreational activities. These rules shall be adopted in the interest of public health, public safety and protection of property.

The commission, in its rule making process, recently conducted hearings on a proposed rule change to delete sailboards from the definition of vessel and adopt commission regulations specifically addressing PFD requirements associated with sailboard activities.

The final adoption of this rule change will be considered on January 25 at 1 p.m. at the Fish and Game Commission meeting.

The department proposal will be:

- (1) All persons under the age of 12 must wear a Coast Guard approved personal flotation device while using a sailboard.
- (2) All persons 12 and older while operating a sailboard must wear:
 - (a) Coast Guard approved PFD or
 - (b) A neoprene wetsuit or drysuit with a minimum thickness of 1/8 inch. The wet or dry suit must cover at least the body area from the mid-thigh to the shoulders.

At the June 1988 Fish and Game Commission, the department was requested by the commission to study the matter of personal flotation requirements on sailboards and make a recommendation to them. This proposed rule change is the result of that study.

The following rationale was used to develop this rule change:

Montana's waters are cold throughout the year and storms are frequent even during the summer months. The possibility of hypothermia is a grave danger.

We are concerned for the safety of all water recreationists. Non-experts are at serious risk when exposed to the elements of cold water and cold storms in the larger lakes in Montana.

We believe the Fish and Game Commission currently has the authority to address this issue and thus do not believe HB 288 is necessary.

time and place specified in the call for the meeting. A majority of the members of the commission shall constitute a quorum for the transaction of any business which may come before it. The commission shall keep a record of all the business transacted by it. The chairman and secretary shall sign all orders, minutes, or documents for the commission.

History: En. Sec. 3, Ch. 193, L. 1921; re-en. Sec. 3652, R.C.M. 1921; amd. Sec. 1, Ch. 77, L. 1923; amd. Sec. 1, Ch. 192, L. 1925; re-en. Sec. 3652, R.C.M. 1935; amd. Sec. 1, Ch. 114, L. 1945; amd. Sec. 1, Ch. 52, L. 1957; amd. Sec. 1, Ch. 119, L. 1959; amd. Sec. 23, Ch. 271, L. 1963; amd. Sec. 2, Ch. 511, L. 1973; R.C.M. 1947, 26-103(part).

87-1-303. Rules for use of lands and waters. (1) The commission may adopt and enforce rules governing uses of lands acquired or held under easement by the commission or lands which it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules shall be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements shall itemize uses as listed in 87-1-209.

(2) The commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams which are legally accessible to the public or on reservoirs and lakes which it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules shall be adopted in the interest of public health, public safety, and protection of property in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas which are legally accessible to the public. These rules are subject to review and approval by the department of health and environmental sciences as to public health and sanitation before becoming effective. Copies of the rules shall show that endorsement.

History: En. 26-104.9 by Sec. 10, Ch. 511, L. 1973; amd. Sec. 1, Ch. 332, L. 1975; R.C.M. 1947, 26-104.9.

Cross-References

Seasonal rules adopted annually, 2-4-102.
Adoption and publication of rules — Montana Administrative Procedure Act, Title 2, ch. 4, part 3.

Adoption and enforcement of rules, 23-1-106.
Boating rules, 23-2-523, 23-2-526, 23-2-529.

Navigable waters, 85-1-112.
Adjudication of water rights, Title 85, ch. 2, part 2.
Cooperative agreements over jointly controlled land, 87-1-210.
Use regulations, 87-3-203.

87-1-304. Fixing of seasons and bag and possession limits. (1) The commission may fix seasons, bag limits, possession limits, and season limits; open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing animal as defined by 87-2-101; and declare areas open to the hunting of deer, antelope, elk, moose, sheep, and goat by bow and arrow permit holders and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, and goat in those areas. It may declare areas open to deer or elk or both deer and elk hunting where only bow and arrow or shotguns or both may be used to hunt or kill deer or elk. In areas where deer or elk or both deer and elk hunting is open to the use of

WITNESS STATEMENT

EXHIBIT #08
DATE 1/24
HB 288

NAME John George

BUDGET _____

ADDRESS 2941 W. Shore Dr.

WHOM DO YOU REPRESENT? Sailboarders in the Helena Area &

SUPPORT X Big Sky Windsurfing OPPOSE _____ AMEND _____

COMMENTS: I feel sailboarders should be unrestricted
in the use of a Coast Guard approved PFD. Most state
don't require a PFD on a sailboard for good reason. When
wearing a PFD a positive hazard could result.

The existing law doesn't include sailboards with-
in it and it would clear up the confusion between law enforcement
and sailboarders to change the law, with Bill 288.

As a windsurfing instructor I have to remind some
sailors that wearing a PFD gives them a false sense of security.
I feel it should be up to the person sailing after^{all} who
knows better.

The sailboard itself exceeds the requirement of a Coast
Guard approved PFD by 10 to 20 times. Now what other boater
goes on the water with 10 to 20 PFD's.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HB 288

1-24-89

EXHIBIT 09
DATE 1/24
HB 288

WITNESS STATEMENT

NAME DAVID WISTEY BUDGET _____

ADDRESS 12 BIG HORN DRIVE, LIVINGSTON, MT 59047

WHOM DO YOU REPRESENT? SELF

SUPPORT OPPOSE _____ AMEND _____

COMMENTS: WE ARE REQUESTING BY THIS BILL THE RIGHT TO CHOOSE AS TO WHICH GEAR INVOLVING THE SPORT OF WINDSURFING OR SAILBOARDING IS APPROPRIATE BASED UPON PERSONAL CHOICE. CONDITIONS OF WIND, WATER, & AIR & WATER TEMPERATURE VARY GREATLY, AND NOBODY KNOWS BETTER THAN THE INDIVIDUAL SAILOR WHAT MIGHT BE NEEDED FOR SAFETY & CONVENIENCE AS HE OR SHE PREPARES TO SAIL. WE PREFER TO BE UNREGULATED REGARDING OUR CHOICE OF EQUIPMENT, & WEARING APPAREL.

PFD'S ARE OFTEN UNSAFE TO USE & OFTEN PROVIDE A POSITIVE HAZARD TO SAILORS. THE PFD PREVENTS SUBMERSION WHEN A POWER APPROACHES MAY TANGLE & HOLD THE USER UNDERNEATH A SAIL. SAILBOARD USE IN MAJOR AREAS ^{ALL OVER THE WORLD} HAVE GIVEN THE SAFETY OF THE SPORT. MOST STATES DO NOT REQUIRE USE OF PFD'S WHILE SAILBOARDING. MOST RECENTLY OREGON HAS DROPPED THE PFD REQUIREMENT. THOUSANDS OF SAILORS USE THE COLUMBIA RIVER ANNUALLY. ~~IN~~ MINNESOTA, WYOMING, IDAHO, WASHINGTON ARE SOME OF THE OTHER STATES WHICH HAVE EXEMPTED THEIR USE.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATISTICS ARE VERY DIFFICULT TO COMPARE REGARDING SAILBOARD INJURIES & FATALITIES DUE TO THE EXTREME RARITY OF THESE EVENTUALITIES,



COMSENSE INC.

A TELECOMMUNICATIONS MANAGEMENT SERVICE

EXHIBIT 10
DATE 1/24
HB 284

January 24, 1989

To Whom It May Concern:

I personally feel that (PFD) or personal floatation devices should not be required of sailboards over the age of 12. In the five years of my sailboarding I have never been around where anyone was injured or in danger of their life by not having one on. On the contrary, several of us have witnessed boats with drinking drivers almost running the sailboarder over. When this happens the sailboarder has had trouble diving deep enough to escape being hit by the boats propellers. The sailboarders have been very courteous of fellow water enthusiasts.

We also take pride in the very low injury rate and this low injury rate had nothing to do with wearing PFDs.

Sincerely yours,

Vicki L. Becker
President

"A Common Sense Approach To Communication Cents."

P. O. Box 1413

Bozeman, Montana 59771

(406) 587-4614

EXHIBIT # 11
DATE 1/24
HB 288

January 24, 1989

To Whom It May Concern:

I personally feel that (PFD) or personal floatation devices should not be required of sailboards over the age of 12. In the five years of my sailboarding I have never been around where anyone was injured or in danger of their life by not having one on. On the contrary, several of us have witnessed boats with drinking drivers almost running the sailboarder over. When this happens the sailboarder has had trouble diving deep enough to escape being hit by the boats propellers. The sailboarders have been very courteous of fellow water enthusiasts.

We also take pride in the very low injury rate and this low injury rate had nothing to do with wearing PFDs.

Sincerely yours,



Bruce E. Becker
City Attorney of Bozeman

EXHIBIT 12
DATE 1/24
HB 288

WITNESS STATEMENT

NAME Vicki h. Becker BUDGET _____

ADDRESS P.O. Box 1413, BOZEMAN MT 59771

WHOM DO YOU REPRESENT? WINDRIDERS OF MONTANA

SUPPORT X OPPOSE _____ AMEND _____

COMMENTS: I feel that PFD's should not be required for boardsailing over the age of 12 yrs., because the ^{sail}board is a total flotation device in it-self.

I also feel that out of all the sports I have ever been in this sport is one of the very safest. When the sail goes down the board quits moving.

many times I have been in the lake sailing (low winds: high winds) when swimmers have been out with no PFD's; my wet suit and I feel in more danger than ~~the~~ myself. I always a ^{flotation} device within my reach, my board.

24 of 37 States do not require PFD's.

I am a 5 year advanced sailor. I also have ^{children} a 15 yr old, & a 7 yr. daughter who windsurf.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT 13
DATE 1/24
HB 288

WITNESS STATEMENT

NAME Tim Weamer BUDGET _____

ADDRESS 1827 GRAND AVE BILLINGS MT 59102

WHOM DO YOU REPRESENT? WINDRIDERS OF MONTANA

SUPPORT HB-288 OPPOSE _____ AMEND _____

COMMENTS: WINDSURFING IS A RELATIVELY NEW SPORT THAT NEEDS TO BE LOOKED AT ON AN INDIVIDUAL BASIS NOT LUMPED TO GETHER WITH ALL OTHER WATERSPORTS. WIND SURFERS HAVE SPECIAL AND DIFFERENT REQUIREMENTS AND SHOULD BE TREATED AS SUCH.

FURTHERMORE I BELIEVE ^{NEW} LAWS SHOULD BE BASED ON EXISTING LAWS AND IN AS MUCH AS 34-37 STATES HAVE EITHER EXEMPTED SAILBOARDS FROM THEIR PFD LAWS OR HAVE LEGISLATION PENDING I FEEL IT IMPORTANT THAT WE ADDRESS THIS NOW!

SAILBOARDS HAVE THEIR OWN FLOATATION AND ARE UNSINKABLE. ANY ADDITIONAL FLOATATION IS UNNECESSARY AND COULD ALSO INHIBIT A SAILOR'S ABILITY TO MANEUVER SAFELY.

MISTAKE! MANUAL NO PFD REQUIREMENT

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT 14
DATE 1/24
HB 289

PADDLEFISH ROE PROPOSAL
House Bill 289
Rep. John Johnson
Glendive Chamber of Commerce

JOSEPH F. CRISAFULLI
P.O. BOX 1354
GLEN DIVE, MONTANA 59330
406-365-2474

January 23, 1989

Rep. Bob Ream, CHR
Fish and Game Commission
Helena, MT 59601

RE: House Bill 289

Dear Sirs:

I have long felt that the roe of the paddlefish, which is of considerable value as caviar of excellent quality, should not be wasted because it would be a good source of income for the state.

All paddlefish roe should be the property of the state instead of being donated.

In fact, many years ago I wrote Ted Schevinden concerning this matter, but it was not considered feasible for the state to engage in this sort of business.

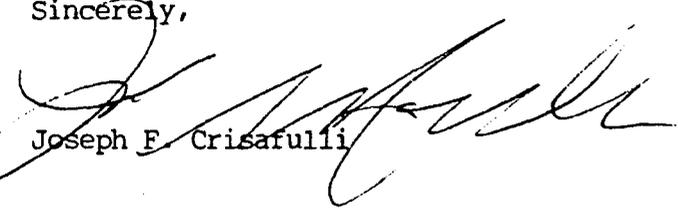
I recently suggested that the Glendive Chamber of Commerce look into the possibility of producing the caviar as a revenue source.

I have offered to donate a commercial sized pressure cooker and some expertise. My family once canned sweet corn.

There are numerous empty buildings in Glendive which could be leased for two or three months during the paddlefish run, or perhaps "donated" for that short period.

My feeling is that the cost of producing the caviar should not be prohibitive. This should be a project that will not cost the taxpayers, but should make some income for the state and local community.

Sincerely,


Joseph F. Crisafulli

JFC/jjp

Glendive Area Chamber of Commerce and Agriculture

200 N. Merrill • P.O. Box 930
Glendive, Montana 59330
Phone (406) 365-5601



January 22, 1989

Rep. Bob Ream, CHR
Fish and Game Committee
Helena, MT 59620

Dear Members of the Fish & Game Committee:

A committee of the Glendive Area Chamber of Commerce and Agriculture has studied and drafted a proposal to use a presently discarded natural resource to benefit not only our community, but impact Eastern Montana as a whole. In our present stage of economic struggle, we need to view this proposal from three aspects.

1. The proposal will generate revenues to enhance fishing accesses, fund recreational improvements and develop tourist centers to provide hunters, fishermen, snowmobilers and travelers information as they enter Montana from the east.
2. The proposal is two-fold because again we have an added value as a "Made in Montana Product."
3. By using tagged fish, only on strictly volunteer basis, which only a non-profit organization could justifiably afford to do, we are protecting and preserving the species.

The Glendive Area Chamber of Commerce and Agriculture has established the ground work necessary to process and market the product and we have proposed the distribution of profits. The break down of which is included in the project summary you have been supplied.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Nedens".

Kathy Nedens
Executive Director

KN/re

RANGER REVIEW
Glendive, MT
Nov. 13, 1988

Chamber readies local caviar proposal

By GINNY ARCHDALE
Ranger-Review Staff Writer

With less than two months to go before the beginning of the 1989 Montana legislative session, the Glendive Area Chamber of Commerce and Agriculture is kicking into higher gear its efforts to develop a local caviar business.

The idea was first discussed by the chamber last April.

Mike Carlson, chamber president, Thursday reviewed with other chamber board members a draft written proposal for using paddlefish roe to make caviar.

He said he will be taking the proposal to a meeting with the chairman of the Montana Fish and Game Commission later this month.

One section of the proposal notes that state laws which currently prohibit the use of any game animal for commercial interests may have to be changed.

The proposal suggests that a bill be drafted to that effect, and that the bill

also define where the income from the caviar would be spent.

The chamber proposes half the net profits of the operation go to the chamber, with half going to the state Department of Fish, Wildlife and Parks.

The chamber would use its share for projects such as a year-round staffed Gate City Visitor Center near Interstate 94 to provide information to tourists, sportsmen and snowmobilers. It also suggests fisheries or biology scholarships to Dawson Community College and other community projects such as swimming pool improvements, library, fairground improvements and a community center.

The proposal suggests FWP use its share of the caviar profits for Eastern Montana projects such as replacing the existing bridge into the Intake fishing area, paving the road into Intake, improving campgrounds on both sides of the river at Intake,

building more access sites to the Yellowstone River for fishermen, repairing and maintaining off-stream dams in Eastern Montana, constructing new dams, paving the Makoshika State Park road and improving campsites in Makoshika.

The amount of money available would depend on the contract price for caviar and the extent of the paddlefish run in a given year.

The chamber estimates 15,000 to 20,000 pounds of roe would be available each year.

The written proposal doesn't list a price for caviar, but in April Chamber Director Kathy Nedens noted it sells for between \$30 and \$50 an ounce.

The chamber's proposal calls for the chamber to hire people who would be at Intake around the clock during paddlefish season to clean the paddlefish, extract the eggs and keep them refrigerated.

The roe would be transported to Glendive where it would be washed,

salted and canned before being sold to a retailer. Or another option would be to do minimal initial processing in Glendive and then send it in drums to a retailer who would properly age, can and market it.

The proposal states the chamber would need to find capital and expertise to develop the processing facility.

Carlson noted Montana Gov. Ted Schwinden has been opposed to the proposal in the past.

In a letter to businessmen Joe Crisafulli Sr., in 1985, Schwinden cited fears that a commercial operation would adversely affect the paddlefish population and create enforcement problems.

Crisafulli had done some research into the possibility of making paddlefish caviar.

The chamber's proposal addresses concerns about controlling violations, saying that due to the two fish limit and tougher enforcement at Intake, violations shouldn't be a pro-

blem.

The proposal states no more would be paid to fishermen for roe, which would be voluntarily donated to the chamber. The roe would be accepted from tagged fish only.

Carlson also noted the government is changing hands, which could mean changes on the Fish and Game Commission as well. While it makes starting a push for approval the project difficult, he said it has been done now because of the need to change laws in the upcoming legislative session.

He noted local members Walleyes Unlimited have been vocal about the proposal and have indicated their approval especially if the profits can be used to make fishing better in the area.

"I see no difference between the paddlefish eggs and selling hides," Carlson said.

RANGER REVIEW
Glendive, MT
May 1, 1988

Chamber wants local caviar developed

By ROGER LOCKWOOD

Ranger-Review Staff Writer
The Glendive Chamber of Commerce in the caviar business?

According to Kathy Nedens, chamber director, it's a good idea for the community as well as the Department of Fish and Game.

The Glendive Chamber of Commerce has resurrected an old idea which has been tried and inquired about in the past by local and out-of-state businesspeople. That idea is the commercial processing of paddlefish roe, otherwise known as caviar. According to Businessman Joe Crisafulli Sr., he has had the idea to sell the paddlefish eggs for years.

Twenty years ago Crisafulli sent a sample of the roe to a New York firm. Their only reply was they wanted to know when it could be sent. The paddlefish roe, according to Crisafulli, is as high a quality as the famous Russian sturgeon variety.

But Crisafulli's idea was stopped by a state law which states that no part of any game animal can be used or sold for commercial interests.

In an advisory capacity only, Crisafulli is providing the basic infor-

mation to the chamber needed to begin an operation to process the roe to caviar. Crisafulli said he has canned corn commercially in the past and understands the basics of the process.

According to Nedens, the first step will be to write a proposal to the Department of Fish, Wildlife and Parks (FWP) officials on what they plan to do with the roe and how they plan on carrying the project out.

If the proposal is approved, the chamber would hire three to five seasonal employees to collect the eggs at Intake from anglers, where the paddlefish are caught. Anglers would bring the fish to a central area and have them cleaned. The roe would be processed and taken to Glendive for canning.

The most difficult step would be a lobby effort to change legislation prohibiting commercialization of wildlife products at next year's session.

Nedens said Carl Knutson, a BN employee in Glendive, will be actively lobbying to change the law and also helping the chamber with

writing a new bill.

The third and final step would be to carry out the plan. Crisafulli feels there are enough empty buildings in town to handle a processing facility. Crisafulli also plans on donating a 500- to 600-gallon pressure cooker, which is used in the canning process.

In past inquiries by Crisafulli, the state officials have rejected the idea of commercialization of paddlefish roe.

In a letter dated Jan. 10, 1985 to Crisafulli, Gov. Ted Schwinden cited several problems with the idea:

—The fragile character of the paddlefish and the effect a commercial effort would have on its population.

—The difficulty of management because of its slow maturation period and the high turnover which commercialization would induce.

—With commercialization there would be a number of enforcement problems.

—The high commercial value might add additional incentives for some anglers to violate regulations.

In the letter, FWP also acknowledged they know roe is being

tossed into garbage cans and represents a wasted resource. They stated they "fear that an attempt to legalize the sale of roe would jeopardize both the Yellowstone and Missouri paddlefish populations and destroy the sport fisheries that depend on them."

But according to Nedens, the proposal they are going to offer FWP would make the roe the property of the state. The chamber would collect the roe, return the rest of the fish to the angler and split the profit 50/50 with FWP.

Nedens said they will not be taking anymore fish than are currently being harvested. They will simply be taking the roe. Currently the roe is either taken home by the angler or thrown in the dumpster. Both Crisafulli and Nedens feel it is a wasted resource.

The chamber plans on using the money primarily for promotion of the Glendive area and fishing resources. Nedens said the very least the chamber stands to make would be around \$750,000 a season. Caviar sells for around \$30 to \$50 an ounce, ac-

ording to Nedens. The female paddlefish can contain up to 30 pounds of roe at the best.

"Even if we only made \$10,000 a season, it would help the chamber out," Nedens said.

Gerald Frank, a representative of Walleyes Unlimited in Glendive, said he is personally in favor of the proposal. "Anything that will promote fishing and help improve the fishing accesses I would be for," Frank said. He added that he will approach the state Walleye association soon to ask for support for the proposal.

RANGER REVIEW
Glendive, MT
January 22, 1989

DCC, paddlefish hearings scheduled

By Ranger-Review Staff

Two matters of direct concern to Glendive — Dawson Community College's budget and a proposal to turn paddlefish roe into profitable caviar — will be before the Montana Legislature this week.

DCC President Don Kettner presented his budget request Thursday morning to the education subcommittee of the legislature's appropriation committee.

He said Friday he felt "fairly good" about the presentation until getting a call late Friday to meet with the subcommittee again Monday.

"I don't know what's happening," he said.

The Fish and Game Committee of the Montana House will hold a hearing at 3 p.m. Tuesday on a bill which would allow Intake fishermen to donate the roe of their paddlefish to a nonprofit corporation for use in caviar production.

Rep. Betty Lou Kasten, R-Brockway, whose District 28 encompasses West Glendive, sits on the Fish and Game Committee.

House Bill 289 is being promoted by the Glendive Area Chamber of Commerce and Agriculture.

The chamber hopes to be designated as the nonprofit corporation involved in caviar production from Intake paddlefish.

The bill specifies that only the roe of tagged paddlefish taken during regular paddlefish season at Intake may be donated for caviar.

The Department of Fish, Wildlife and Parks is given the responsibility of supervising the collection of the roe.

It also states that after deducting

the cost of collecting paddlefish roe, the nonprofit corporation will use any profits to enhance and develop fishing access, habitat, campgrounds and fisheries in the area of the Intake fishing access site and to provide information on tourism and recreation in the area.

Glendive residents also will be watching later in the week as the Montana Fish and Game Commission meets Wednesday and Thursday to make a final decision on whether to begin charging entrance fees to state parks, including Makoshika State Park.

The fee proposal drew some support, but a great deal of criticism, at a public meeting in Glendive Jan. 11.

Kasten, during a telephone call-in session with local residents at the Dawson County Courthouse on Wednesday, said attempts are being made to "jar money loose" from the FWP's license revenues for state parks.

Her comment came in response to a question from Intake-area farmer Mary Sobotka who asked whether it would be possible to transfer some of the hunting and fishing license revenues to the general fund since the licenses are for game animals which are considered public property.

The call-in session was the first in what will be weekly conference calls with local residents while the legislature is in Helena.

The phone call comes into the Dawson County Courthouse community room and goes through a speaker so that everyone in the room can hear. Those wishing to ask questions of legislators use a microphone.

Bill backs Glendive caviar idea

By MARK HENCKEL
Gazette Outdoor Editor

Glendive would become the caviar capital of Montana under legislation proposed to allow the processing and sale of paddlefish eggs in the Eastern Montana city.

The legislation, House Bill 289 introduced by Rep. John Johnson, D-Glendive, would set up a non-profit corporation that would collect eggs donated by fishermen who snag paddlefish making their spring

spawning run up the Yellowstone River to Intake Diversion Dam.

Money generated by the eggs would then be used to fund outdoor recreational activities in Eastern Montana and act as seed money for community development projects in the Glendive area.

The bill was the brainchild of the Glendive Chamber of Commerce and proposes to make use of something that's presently being hauled away as garbage. At present it is illegal to sell the eggs, or any wild game.

"Right now, there are fish cleaned right there and the eggs are being thrown away," said Mike Carlson, chamber president. "Over the past 10 years, there has probably been a million dollars worth thrown away."

"We envision hiring somebody to clean the fish for free for fishermen who would donate the eggs to us. Those eggs have to be treated quite carefully."

(More on Caviar, Page 16A)

Caviar

From Page One

"We then could start a small facility to take care of the eggs which would be washed and salted. And we're thinking of setting up a small canning facility."

"It would be a Made-In-Montana produce. We'd call it Montana Caviar, I suppose."

Carlson said that Kathy Nedens, executive director of the chamber, explored the sales possibilities of the caviar and found there would be no problem in selling it.

"Paddlefish are just a shade under sturgeon for the quality of the caviar," Carlson said. "We contacted a food broker in California and she said she didn't even need a test. She knew what the quality was and could handle any amount we could get her."

The plan to market paddlefish eggs isn't new. It came up before about 10 years ago. At the time, however, the Montana Department of Fish and

Game opposed the plan, saying it could lead to widespread poaching and over-harvest of the fish.

Because paddlefish are such a long-lived species, over-harvest could hurt the Intake paddlefish population for decades.

Regulations at the time, however, were more wide open for paddlefish. Now, fishermen are limited to two a year and are issued tags which must be attached to paddlefish taken at Intake.

Carlson said that he met with Fish, Wildlife and Parks representatives last week in Miles City and they indicated the plan would likely be opposed again. The reasons were poaching, once again, and the possibility that violators might forge the plastic paddlefish tags and get around the law that way.

Although the annual paddlefish spawning run at Intake is relatively short, running just a couple of months each year, there's still a chance to make big profits on the eggs.

Nedens said her research found that about 1,777 female paddlefish are caught there each season and each one contains seven to 10 pounds of eggs.

"The eggs would sell for \$30 to \$40 per pound. If everyone donated their eggs, it would generate about 14,000 pounds of eggs that would be sold for

approximately \$400,000," Nedens said. "Even if you cut that in half, \$200,000 is a lot to work with."

The Glendive chamber would set up the non-profit corporation and a separate committee made up of representatives of outdoor organizations to decide where the money would be spent.

"Our proposal is for 50 percent of the money to go to enhance outdoor recreational activities in Eastern Montana like improving fishing access, habitat, campgrounds and fisheries," Carlson said. "The other half would go to the Glendive chamber which would solicit proposals for community development in the Glendive area. Our first priority would be a Montana entrance visitor center on I-94 for people coming into Montana."

Johnson said he has found support from other legislators since introducing the bill in the state house.

"It's a wasted natural resource. In a good year, there's a tremendous amount of eggs that get thrown away," Johnson said. "We have found a buyer for it. Why not use it for development in eastern Montana."

The bill will come up for hearing before the House Fish and Game Committee next Wednesday.



Holiday Lodge

January 20, 1989

Rep. Bob Ream; Chairman
Fish and Game Committee
Capitol Station
Helena, MT 59620

Dear Fish and Game Committee Members:

It would appear that we have at last opportunity in House Bill 289 to address the wasteful practice of discarding paddlefish eggs simply because we have not been big enough to work through accompanying problems.

I don't know how any one who believes Montana's wealth should not be wasted could in good conscience long tolerate this blatant disregard for the potential value of this natural resource. It not only could enhance Montana's economy for the eggs in the raw state, but it also has the potential for the value added in processing, marketing, and the sale in the form of caviar.

The Glendive Chamber of Commerce should be applauded for bringing this type of legislative opportunity to us and I urge your support.

Yours sincerely,

A handwritten signature in cursive script that reads "Curt Meeds".

Curt Meeds, President

CM:jc

My name is Mike Carlson and I am president of the Glendive Chamber of Commerce and Agriculture. I am here today to express my support for House Bill 289. I am a graduate of the University of Missoula school of Forestry in Natural Resource Conservation. I have worked 15 years now in the soil conservation field in Montana.

I have been working on this proposal for a year and it has considerable support in the Glendive area. Paddlefish have been caught at the Intake fishing area, 18 miles north of Glendive since 1962. At this fishing site on the Yellowstone River, there is a large rock diversion dam for irrigation purposes. The fish have a hard time crossing this barrier on their way upstream and congregate here. Fishermen come from all over the U.S. to catch these fish which average 60 lbs. and can weigh up to 100 lbs. The catch is limited by law to 2/per person. An average of 2,000 fish a year are caught at this site during a 2-month period. Many fishermen clean their fish here using a MT Fish, Wildlife & Parks cleaning station. Our organization would like to collect the eggs from the female fish as they are cleaned here. Presently they are disposed of in a landfill.

These fish eggs can be sold as caviar. Around 10 years ago, a private businessman in Glendive tried to collect the eggs but was turned down by MT Fish, Wildlife, & Parks. Our proposal is non-profit with all proceeds after expenses to be used in a beneficial manner.

Why do we want the potential income from this proposal? The Glendive area has been hit hard by the loss of our oil related industries and a depressed agriculture economy in the 1980's. Our tax base has been lowered and our economy is depressed.

We would like to find a source of revenue to upgrade some of our public services such as our library, parks, swimming pool and others. Dollars generated from the sale of caviar could be used as seed money when applying for many grants available.

We would also like to develop a MT entrance tourist center on I-94 to provide information to the many hunters, fishermen, snowmobilers, skiers, and tourists who come here from the east. We would like to retain 50% of the profits for these activities.

(Pg. 2)

We also would like to find a source of revenue to fund outdoor recreation improvements in eastern Montana. We hear of the need for improvements in our State parks & recreation areas but state funds are short. There are many ideas sportsmen have for improving outdoor activities. A special outdoor recreation committee would be set up to solicit proposals and fund worthwhile projects that are proposed. Fifty percent of the profits would be allocated to this committee. I would like to see Section 1 (3) (c) revised so that 50% of the revenue goes to the Glendive Chamber of Commerce & Agriculture for their use and 50% to the outdoor recreation committee as specified in our proposal.

Attached is a project summary on the proposal for the commercial use of paddlefish roe.



Mike Carlson, President
Glendive Chamber of Commerce &
Agriculture

FACT SHEET

STATISTICS

1983-1987 70% of all fish caught at intake are female. 1777 females per year, with an average weight of 60lbs. Approximately 8lbs. of eggs per female fish.

Price of caviar: \$30.00-\$40.00/lb.

PROCESS

Eggs are collected and transported to a state approved processing facility in Gldv. The eggs are washed, screened, placed in a brine solution, and packaged in 3 gal. containers. Containers are shipped, in refrigerated trucks, to food brokers for further processing and marketing.

FACILITY STATISTICS

Building site and processing equipment already available to the Glendive Chamber of Commerce. Expertise in processing and marketing of caviar has been acquired by the Gldv. Chamber of Commerce.

Employ 6-12 people for a 2 month period.

BUSINESS CONTACTS

Department of Commerce - Helena, Mt.

Small Business Administration - Gldv., Mt.

Bear Creek Fisheries - Libby, Mt.

Project Summary

PROPOSAL FOR THE COMMERCIAL USE OF PADDLEFISH ROE

**By: The Glendive Chamber of Commerce & Agriculture
January, 1989**

1. **PURPOSE:** To collect paddlefish eggs (roe) at the Intake fishing area each spring from paddlefish caught by fishermen. Presently they are disposed of in a landfill. After collection the roe can be processed, canned and marketed as caviar. The sale of this "Made in Montana" product could produce significant revenue.
2. **PROPOSAL:** The Glendive Chamber of Commerce would collect the eggs from tagged paddlefish only with permission of the Montana Fish and Game Commission and the Montana Department of Fish, Wildlife, and Parks. The Glendive Chamber of Commerce would provide free fish cleaning to those fisherman who would voluntarily donate the roe.
3. **DISTRIBUTION OF PROFITS:** An amount of the profits equal to that year's expenses will be reserved to fund the following year's operation. The remainder of the profits will be distributed as follows:

One-half of the proceeds from the sale of paddlefish egg products, in excess of the costs of collection, processing, marketing and administration, will be deposited in a state special revenue fund established for the department. . The fund and any interest earned thereon, will be used to benefit the paddlefish fishery, including fishing access, improvements, habitat and fisheries management and/or to provide information to the public regarding fishing in eastern Montana which could include the design and construction of interpretive displays. The department director will establish an advisory committee pursuant to 2-15-122 consisting of a member from the Montana nonprofit organization, an area local government representative, and two representatives for area sportsmen. The committee will work with the department in developing recommendations and reviewing projects for the expenditure of these funds.

The other half of the proceeds from the sale in excess of the costs of collection, processing, marketing and administration, will be paid to the nonprofit corporation which processes and markets the roe. This organization will solicit proposals for community development in the Glendive area. One of their priorities will be a Montana Entrance Tourist and Visitor Center on I-94 highway. This will be open year round to provide information to those entering the state from the east on tourism, recreation, sportsman, etc. The non-profit committee will review proposals and fund projects. These dollars can be used as seed money for various grants.

4. LEGISLATIVE CHANGES NEEDED

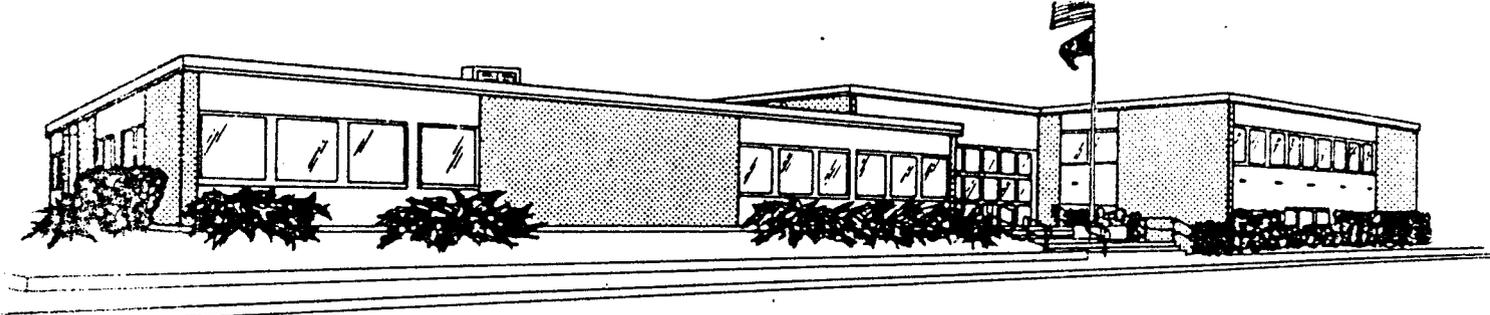
Change in State law to allow Glendive Chamber of Commerce to harvest and market paddlefish roe.

The Glendive Area Chamber of Commerce and Agriculture will develop a processing facility with the assistance of the Montana Small Business Development Center.

This proposal will develop new jobs in the Glendive area.

For more information contact: Glendive Chamber of Commerce

Mike Carlson or Kathy Nedens (365-5601)



County of Dawson

Office of:
County Commissioners
Phone 365-3562
Robert Ziegler
W.M. Harpster
Judy Reddig

207 W. Bell
Glendive, MT 59330
January 23, 1989

Office of:
Clerk and Recorder
Phone 365-3058
Patricia Peterson

Office of:
County Treasurer
Phone 365-3026
Cindi Hansen

Fish and Game Committee

Re: HB 289, The Paddlefish Roe Bill

The Dawson County Commissioners want to go on record as supporting this bill and ask you committee to give it your favorable consideration.

We are dealing here with a resource that is presently coming from legally tagged fish caught at the only place where licensing is required in Montana. The roe is now being thrown away and hauled to the local landfill. With proper processing this is a valuable by-product and could be a substantial source of income for the fish and game and our local chamber of commerce. Profits from the sale of the roe will all go to non-profit organizations and will stay in the community and state.

Sincerely,

BOARD OF COUNTY COMMISSIONERS


ROBERT ZIEGLER, CHAIRMAN


W. M. HARPSTER, MEMBER


JUDY REDDIG, MEMBER

Glendive, Montana
59330



Phone (406) 365-3318
300 South Merrill

January 23, 1989

Mr. Bob Ream
Chairman
Fish and Game Committee
Helena, MT 59601

Attention: Chairman Ream and Committee Members

Dear Gentlemen:

I am writing on behalf of the Glendive City Council and myself regarding HB 289. Please give this bill favorable consideration because we feel it will be of great benefit to our community.

This Paddlefish project will be a boost to our economy. Because of the drop in oil prices, our economy has been very poor and we need other small businesses to replace this loss.

Thank you for your time and consideration given to this matter.

Sincerely,

Lester Ollerman
Mayor

OTHER POINTS OF INTEREST:

- ★ Frontier Gateway Museum —
Fossils
Indian Artifacts
Homesteader Antiques
Many More Items of Interest
- ★ Makoshika State Park
5,935 acres of grandeur. Site of an
inland sea over 10 million years ago.
Fossilized remains of prehistoric ani-
mal and marine life are abundant.
- ★ Glendive Municipal Swimming Pool
- ★ Tennis Courts
- ★ Cottonwood Country Club Golf Course

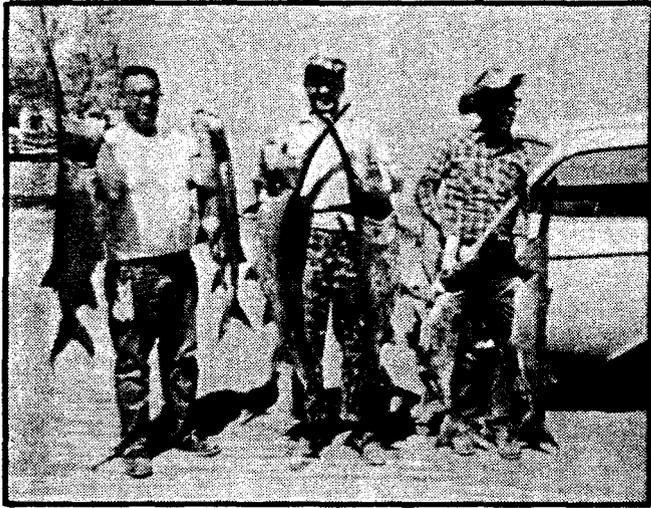
THE BEER JUG

Good Cold Beer & Wine
Complete Sandwich & Pizza Menu
Which Includes
The Famous Swiss Brat

Sporting Goods
Hunting and Fishing Information
Ammo
Rods and Reels
Bait
Lures — Flies
Video Poker

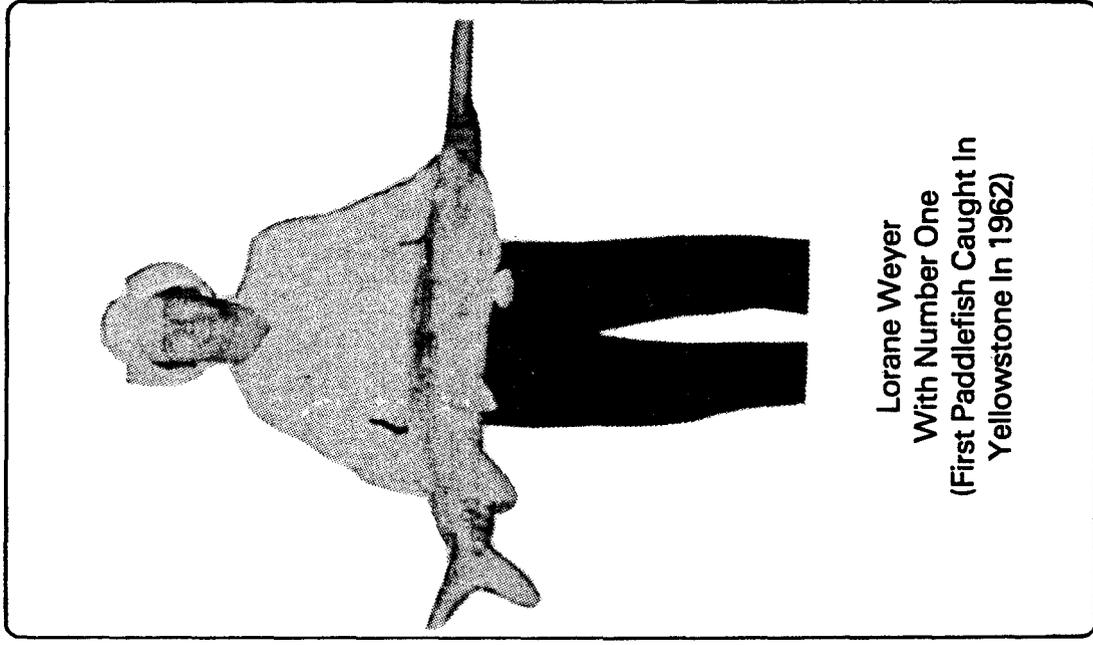
Across from the B.N. Depot
313 North Merrill
Glendive, Montana 59330

From _____



TO:

PADDLEFISH



Lorane Weyer
With Number One
(First Paddlefish Caught In
Yellowstone In 1962)

GLENDIVE, MONTANA
Gateway to the Sportsman's Paradise

EXHIBIT 15
DATE 1/24
HB 289

Mr. Chairman and members of the committee:

My name is Kathy Nedens and I am the Executive Director of the Glendive Chamber of Commerce. I am here today to urge your support of H.B. 289.

During May, June, and the early part of July, anglers from all over the U.S. travel to Intake Diversion Dam, 17 miles north of Glendive to rig up and snag the elusive prehistoric paddlefish of the Yellowstone. Over the years, the great influx of fishermen has given Intake the name "Paddlefish Capital of the World." Paddlefishing is a heritage Glendive has been proud of since 1915. In 1962 interest in the fish exploded and soon State Fish and Game officials had to impose a limit of two paddlefish a season per person. After consulting with wildlife biologists, the Glendive Chamber proposed collecting eggs from tagged fish only on a voluntary basis. This program will protect the paddlefish and insure the preservation of the species. Fishermen will be able to have their fish cleaned and packaged in exchange for donating the eggs, which are presently being hauled to a land fill. An additional measure of protection for the paddlefish species would be provided by an advisory committee. This committee would be formed with an intent to receive a percentage of the profits, after collecting and processing costs, and to use these profits to fund habitat and fishery management in Eastern Montana. The committee representatives should consist of a member of the nonprofit organization in charge of the roe collection, an area local government representative, soil and water conservator representative, and a representative of an area sportsman.

Setting up a facility, processing the roe to caviar, and marketing the product can all be accomplished for a minimal amount of capital and expertise. The unique concept by the Glendive Chamber of Commerce is to turn a presently discarded natural resource into a product capable of generating revenues to enhance and impact Eastern Montana. The Glendive Chamber of Commerce has received an overwhelming amount of public support for this project, because as a nonprofit private-sector organization we can insure a fair and equitable distribution of the profits to much needed community projects unable to be funded presently due to economic depression and cutbacks in Eastern Montana. Once again, a separate advisory committee should be formed with a percentage of funds set aside to act upon area tourism requests and various community development projects.

EXHIBIT 16
DATE 1/24
HB 289.

I'm Gary Mariegard and I serve as the Marketing Administrative Officer at the Small Business Development Center in Glendive, Montana. This office is an arm of the Department of Commerce, Business Assistance Division. The Glendive Chamber of Commerce and Agriculture and Representative John Johnson have requested I provide information on the economic impact, financial, and business rational for House Bill 289. The figures and information used was derived from the Census and Economic Information Center, U.S. Department of Commerce, Bureau of the Census and Eastern Montana College School of Business and Economics.

After studying the legislation I will identify how the program will economically impact the management of the programs, the philosophy behind the Bill and the implications of the make-up of agency responsible for allocation of the funds.

The harvest of the roe and the resulting profits would first, in part, be directed toward the preservation of the species and enhancement of the fishing access. The profits would also be directed toward the economic and community development in Eastern Montana.

I learned that this legislation would assist 78 miscellaneous retail stores, drug and proprietary stores, eating and drinking places, apparel and accessory stores, gasoline service stations, food stores and general merchandise group stores and significantly impact in the current 50+ million dollars in sales. This does not include other direct benefits to hotels, motels and other lodging places, automotive repair, personal services, business service, amusement and recreation services and direct benefits to other counties. These businesses will realize the economic benefit if the profits are used, in part, to increase tourism and invest in other local industry.

I have learned that in the last 10 years wage and salary job losses occurring in manufacturing equalled 6,100 workers. The previous/present administration has declared value-added Montana

products as a primary objective for economic revitalization. This project is value added. To ensure the sound management of the endeavor the business plan would be approved by local lending institutions and consultants in the Business Assistance Division. It would be evaluated on a yearly basis. The product would be first sold to a broker and later marketed directly. This would eliminate middle-men (brokers, wholesalers, etc.) and further increase margin.

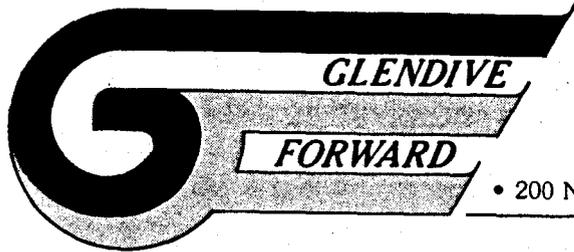
I learned from running my own Seattle-based company, Mariegard Merchandising and Consulting, Inc., that industry leaders report they are pressured more and more by the competitive nature of business. A leader said "We have to scrutinize all of our by-products...any extra profit we can realize through the marketing of incidentals may be the difference between the success or failure especially in light of narrow profit margin." No refinery would think of using the gas and wasting the other petroleum products - oils and greases. In the same way we must stop handling paddlefish roe to the landfill.

Finally, I have learned the mission and philosophy of organizations is reflected goals and objectives which it strives to accomplish. That point is especially pertinent in this issue.

Living in Glendive I learned the nonprofit organization has the wide support of the Chamber of Commerce, Glendive Forward and the admiration of the community at large for their entrepreneurial spirit, because they took the initiative attempting to change very hard economic times into something better, a future for the region. The decision to support this bill giving the funds to the local nonprofit development organization rewards local communities for their initiatives, builds their confidence and encourages them to work harder to stabilize local economies and is a step in the right direction.

This is about community revitalization! This is about community spirit!

EXHIBIT # 17
DATE 1/24
HB 289



• An Economic Development Corporation •

• 200 N. Merrill Ave. • P.O. Box 930 • Glendive, Montana 59330 • (406) 365-8612

January 22, 1989

Rep. Bob Ream, CHR
Fish and Game Committee
Helena, MT 59620

Dear Fish and Game Committee Members:

Glendive Forward, as the local development organization, is vitally concerned about the current economic conditions in Eastern Montana. We fully support the efforts of the Glendive Area Chamber of Commerce and Agriculture regarding the Paddlefish Roe project, and ask that you lend your support in endorsing HB 289.

The Paddlefish Roe project, is an example, that through the partnership of Glendive Forward, the city of Glendive, and the Glendive Area Chamber of Commerce and Agriculture, positive steps are being taken for the re-vitalization of the Glendive community.

In this time of economic downturn, drought, decreased oil and gas activity, this community is determined to move forward in a positive way, rather than be discouraged by current events. This resourcefulness and determination reflect the quality of people in Eastern Montana. We take pride in our ability to retrench and move forward in times of adversity.

The broad spectrum of support that the Glendive Area Chamber of Commerce and Agriculture has received from the entire community exemplifies the statement the "WORKING TOGETHER DOES MAKE A DIFFERENCE.

Once again, we urge your endorsement of HB 289.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Sparr".

Kathy Sparr
Executive Director

KS/re



HB 289
January 24, 1989

EXHIBIT 18
DATE 1/24
HB 289

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks.

The department has historically opposed bills which lead to the commercialization of fish and wildlife. These are public resources and have been traditionally valued for providing sport harvest, viewing and other recreational opportunities.

HB 289 proposes to legalize the collection, processing and selling of paddlefish eggs primarily for use as caviar. The paddlefish is of prehistoric origin and is one of the last relic species in the Missouri River basin. It is only found in one other river system in the world, and that is in China.

The present status of the paddlefish and another prehistoric fish, the pallid sturgeon, is a growing concern for Missouri Basin states. Both fishes are Species of Special Concern in Montana as designated by our department. The pallid sturgeon is presently being reviewed by the federal government for listing as a Threatened and Endangered Species. This could occur by June of 1989.

The paddlefish is a long-lived, migratory fish. Those spawning in the Yellowstone River reside part of the year in Garrison Reservoir, North Dakota. This makes managing them very difficult.

Over the years the popularity of this fish has increased. In response we have had to impose additional restrictions on harvest. At this time we require paddlefish fishermen to have a special tag and limit their harvest to two fish per season. We have also made it illegal to catch and release paddlefish to reduce the practice of high-grading and the subsequent delayed mortality which was observed.

Our concern over commercialization goes beyond a concern for tradition and exploitation of a public resource. With the paddlefish in particular, we have been concerned about the potential for overharvest and illegal harvest. They are limited in numbers and their long lifespan makes accurate management of harvest very difficult. If we make a mistake now by overharvesting spawners, we may not know it for many years.

Amendments to the proposed bill appear to address our concerns by limiting fishermen to a donation of their paddlefish eggs. This should reduce the motivation to overharvest or illegally catch paddlefish. The proposed amendments would also provide sufficient control by the department over the process to minimize the workload on our personnel and assure that a suitable organization was selected to carry out the work.

Regarding the disbursement of resulting funds, the department supports the proposed amendments to the extent that they maintain state and legislative control over expenditures. These monies originate from the sale of animal parts and should be utilized for purposes of maintaining or enhancing area fisheries. This could entail providing fisheries-related information, including interpretive displays.

We propose that an advisory committee be established to develop recommendations and review proposals for the expenditure of these funds. We also support the amendment for a sunset provision to provide the legislature the opportunity to review this program again if this bill is approved.

EXHIBIT 19
DATE 1/24
HB 289

TESTIMONY IN OPPOSITION TO HOUSE BILL 289

by George Holton representing
MONTANA CHAPTER OF THE AMERICAN ^{FISHERIES} SOCIETY

January 24, 1989

I am George Holton, speaking for the Montana Chapter of the American Fisheries Society. The American Fisheries Society is the oldest and largest professional society representing fisheries scientists. I was a fisheries biologist for 35 years, 30 of these with Montana Department of Fish, Wildlife and Parks as Chief Fisheries Biologist and Assistant Fish Division Administrator. I am now in private business, my wife and I have a gallery and gift shop here in Helena. We recently joined the Helena Chamber of Commerce. I say this so you will know I am not automatically against chamber of commerce projects.

In 1986 the North Central Division of the American Fisheries Society held a paddlefish symposium to address concerns about the well being of this species. The news wasn't all bad, paddlefish populations seem to be holding their own. However, a summary said something to the effect:

Paddlefish habitat and in some cases populations have been greatly reduced over the past several decades by water resource development projects. The range of the species has diminished. Now, a new threat has arisen. Within the past few years the demand for paddlefish eggs for caviar has put a severe strain on various populations.

In addressing the question "Is the paddlefish a threatened resource?" the summary concluded, the answer isn't yes and the answer isn't no: rather, the answer is, not yet.

A few years ago when I was still with the Department of Fish, Wildlife and Parks I asked scientists knowledgeable on paddlefish how many spawning areas still remain in the United States. The answer was six primary spawning areas, two of them being in Montana, one in the lower Yellowstone River and one in the Missouri River upstream from Fort Peck Reservoir.

This gives us a responsibility that extends beyond the boundaries of our state.

The Montana Chapter of the American Fisheries Society is opposed to the commercialization of paddlefish eggs, even the mild commercialization proposed by HB 289.

Our reasoning:

First, we feel there is no question but this will increase the harvest of paddlefish. I can even envision special paddlefish days to obtain money from egg sales for community projects.

However, in our judgement the annual take in the Yellowstone River of 8 to 10 percent of the paddlefish population each year is about all the population can stand. A very real problem is that our knowledge of paddlefish numbers, sizes and age composition is sketchy, and our harvest regulations have not been fully evaluated as to their effectiveness. Commercial eggs sales would require much closer monitoring of the population and with the present stress on economy in government this is not likely to happen.

Second, we are concerned that a black market will develop. At present, possession of 50 pounds of paddlefish eggs would be suspicious. With this bill, wardens would have to assume there was a valid purpose. State fines are simply not enough to deter violators who could collect several thousand dollars worth of eggs in a single night. The river stretch is long - 70 miles from the mouth of the Yellowstone to Intake - and remote. No amount of enforcement effort could stem an illegal paddlefish harvest.

The Montana Chapter of the American Fisheries Society opposes House Bill 289. The unique and rare paddlefish is too valuable a resource to jeopardize with commercialization.

EXHIBIT 20

DATE 1/24

HB 289

Testimony of Bill Holdorf, President of the Skyline Sportsmen Association, and also speaking for the Montana Wildlife Federation regarding House Bill 289.

For the record, my name is Bill Holdorf, I reside in Butte, Montana. I am the President of the Skyline Sportsmen Association and I am also here today as the representative of the Montana Wildlife Federation.

I am here today to speak in opposition to House Bill 289.

It is the strong opinion of the Federation that commercialization of wildlife is not in the best interest of the species in question. In this case the species of concern is pattlefish.

The important argument against any commercial sale of wildlife parts is fairly simple. When the sale of wild animal parts is allowed to become economically attractive it becomes more attractive for persons with only monetary concerns in mind. This segment of people who are only concerned with the economics of the species have in the past decimated populations often times in direct violation of game laws and regulations. The Fish and Game Department has historically had an extremely difficult time enforcing game regulations when the price of a part of that species is attractive. There are many examples of this problem such as bear gall bladders, elk horns, grizzly claws, and eagle feathers. When these parts are allowed to become a common place part of the market place it becomes difficult to track the origination of the parts, making prosecution of individuals taking illegal game extremely difficult.

The Federal Government has clearly recognized this problem. To address the problem the Federal Government has instituted several pieces of legislation, most importantly, the Lacy Act which prohibit the transport of wild animal parts across state lines. The problem is an important one and should also be recognized at the state level. Any attempt to increase the value of any wild animals body parts should be soundly rejected for the good of the resource. This is clearly the case for pattlefish and their roe.

Although the pattlefish roe will be donated by sportsmen to non-profit organizations it still attaches an economic incentive to the taking of additional pattlefish.

We strongly urge the committee to reject this legislation and give it a DO NOT PASS recommendation.

Montana
Audubon Legislative Fund



Testimony on HB 289
House Fish and Game Committee
January 24, 1989

EXHIBIT 21
DATE 1/24
HB 289

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society, with over 2500 members located throughout the state.

The Audubon Society opposes HB 289 as a dangerous precedent setting bill. Although it may sound like a great "all American" idea, this bill is designed to commercialize a wildlife resource.

The paddlefish is listed as a "species of special concern" by the Department of Fish, Wildlife and Parks. That fact indicates the rareness and importance of management for this animal. Fisherman are currently allowed to harvest two paddlefish per year. Because paddlefish are a fairly long-lived species, over-harvesting these fish could hurt the paddlefish population for decades to come.

Commercial use of paddlefish eggs place a market price on the fish - and ultimately pressures to over-harvest or poach. HB 289 is a dangerous precedent setting bill because

1. It commercializes wildlife a wildlife species of "special concern." Putting a price on the head of a wildlife species has historically led to poaching of that species, especially a rare species.
2. It commercializes a "wasted" animal part. Why not allow the sale of bear gall bladders - another "wasted" animal part?

We oppose the commercial use of all wildlife species.

EXHIBIT 22
DATE 1/24
HB 289

Replace amendment adding (3) to 87-4-601 with the following:

(3)(a) A person issued a paddlefish tag under 87-2-306 who legally takes a paddlefish at Intake Fishing Access Site, north of Glendive, during an authorized paddlefish season may donate the paddlefish roe, or eggs, to a Montana nonprofit corporation as specified in subsection (3)(b) for processing and marketing.

(b) The department shall develop rules for annually selecting one Montana nonprofit organization to accept paddlefish egg donations, process and market the eggs.

(c) The department may enter into an agreement with the Montana nonprofit organization selected pursuant to subsection (3)(b) specifying times, sites and other conditions under which paddlefish eggs may be collected. The agreement must require the nonprofit organization to maintain records of the revenue collected and the related expenses incurred and to make them available to the department and the legislative auditor upon request.

(d) One-half of the proceeds from the sale of paddlefish egg products, in excess of the costs of collection, processing, marketing and administration, will be deposited in a state special revenue fund established for the department. . The fund and any interest earned thereon, will be used to benefit the paddlefish fishery, including fishing access, improvements, habitat and fisheries management and/or to provide information to the public regarding fishing in eastern Montana which could include the design and construction of interpretive displays. The department director will establish an advisory committee pursuant to 2-15-122 consisting of a member from the Montana nonprofit organization, an area local government representative, and two representatives for area sportsmen. The committee will work with the department in developing recommendations and reviewing projects for the expenditure of these funds.

The other half of the proceeds from the sale in excess of the costs of collection, processing, marketing and administration, will be paid to the nonprofit corporation which processes and markets the roe. This organization will solicit proposals for community development in the Glendive area. One of their priorities will be a Montana Entrance Tourist and Visitor Center on I-94 highway. This will be open year round to provide information to those entering the state from the east on tourism, recreation, sportsman, etc. The non-profit committee will review proposals and fund projects. These dollars can be used as seed money for various grants.

Revise amendment adding (2)(c) to 87-3-111 as follows:

(c) the donation and sale of paddlefish roe under the provisions of 87-4-601.

Add new Section 4:

Section 4. Effective date - termination date. This act is effective July 1, 1989 and terminates June 30, ¹⁹⁹³~~1991~~.

VISITORS' REGISTER

Fish and game COMMITTEE

BILL NO. HB 289

DATE Jan 24

SPONSOR Johnson

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Mike Carlson	112 1st St. Glendive Mt.	X	
Kathy Sparr	Glendive Forward	X	
Kathy Nelson	Olds Chamber of Commerce	X	
C. J. Hunt	Glendive	X	
Kicia Knutson	MS/A	X	
Dany Mangard	Glendive	X	
George Holton			X
David Gentzer	Helena		X
BILL HOLDORF	BUTTE		✓
Tony Schoonen	Butte		✓
Ganet Ellis	Helena		✓
Ray Palmer	Helena		✓
Ron Marcoux	F.V.P		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

fish and game. COMMITTEE

BILL NO. HB 290

DATE Jan. 24

SPONSOR Giacomoto

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Adrienne [unclear]</i>	<i>Wadena</i>	X	
<i>C. J. Knutson</i>	<i>Glendon</i>	X	
<i>Kraig Knutson</i>	<i>MS/A</i>	X	
<i>Tony Scheenen</i>	<i>Butte</i>	X	
<i>BILL HOLDORF</i>	<i>BUTTE</i>	✓	
<i>Larry Thomas</i>	<i>Ansonia</i>	X	
<i>[unclear]</i>	<i>Alzada</i>	X	
<i>Don Maroney</i>	<i>Fwp</i>	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.