

**LAKE FIVE CITIZEN ADVISORY GROUP
RECOMMENDATION FOR MOTORIZED USE ON LAKE FIVE
SEPTEMBER 13, 2023**

Background

On October 3, 2022, Fish, Wildlife & Parks (FWP) received a petition asking to prohibit wake surfing and the use of ballast tanks and devices to increase wake size on Lake Five year-round. Additionally, the petition requested a no wake requirement for all boats from April 1 to July 15. At the February 22, 2023, Fish and Wildlife Commission meeting, the commission voted to take no action on the petition and directed the department to form a citizen advisory group, tasked with developing recommendations for potential Administrative Rules regarding Lake Five motorized restrictions.

Advisory Group

FWP requested affected members of the public apply to serve on the citizen advisory group. Ten members were chosen from a variety of backgrounds and perspectives and based on their willingness to work as a team to develop collaborative recommendations. The members were:

Suzy Boylan	Peter Martin
Sean Hinchey	Jean Pinski
Sammi Johnson	Dan Simonson
Rachell Lietz Wilde	Duane Van Dyke
Gail Linne	Austin Zomer

The group met on August 24 and September 5, from 10am – 3pm. The meetings were streamed on Zoom and the public was invited to attend virtually, or in person at FWP’s Kalispell office. Public comment was accepted at both meetings via Zoom and in person. FWP staff were present to answer questions and provide information to the group.

Meeting #1

Objective: Lay the groundwork for and work toward developing collaborative recommendations for potential Administrative Rules of Montana (ARM) regarding Lake Five motorized restrictions.

Goals:

- 1) Agree to a decision-making process.
- 2) Establish a baseline understanding of the ARM process and existing ARM that apply to Lake Five.
- 3) Have a common understanding of concerns from Lake Five users and lakefront owners.

The advisory group unanimously supported consensus-based decision making and adopted a 2/3 majority rule for making decisions. This meant seven out of 10 people must vote for a decision to be considered consensus. Consensus was further defined to mean the members would live with and support the decision inside and outside of the room.

After a short presentation and Q&A on ARM, FWP staff explained the department would review the recommendation through the lenses of natural resource impacts, safety, and enforceability of the

recommendation. The commission would consider the department’s input on these three categories and also consider social issues.

The group then moved on to identifying concerns regarding motorized use on Lake Five. The list was long, and they decided to group the concerns into four categories, based on information provided by FWP. Some concerns were included in multiple categories. After grouping the concerns, they individually ranked them in order of importance within each category. Their individual rankings were merged to form the following ranked lists.

Category	Ranking	Concern
Safety	1	Competition between different user groups
	2	Crowding
	3	Impacts of the public access (FAS)
	4	Realistic public use
	5	Safety
	6	Enforceability of rules
	7	July 15 date
	8	Expansion of Paul's Memorial
	9	Future commercial development
	10	Concern to address what to do with ballast boats & time period expansive to more than ballast boats
	11	Complexity of future Paul's and work group recommendations
	12	Future development
	13	Public policy behind public access
	14	Enforceability of directional driving
	15	Lake is not protected by a no-wake zone
Natural Resources	1	Water quality
	2	Balancing competing rights
	3	Lake is limited resource
	4	Impacts of the public access (FAS)
	5	Balancing competing interests
	6	Competition between different user groups
	7	Future development
	8	Science
	9	July 15 date

Category	Ranking	Concern
Natural Resources	10	Ballasted boats are the main cause of erosion
	11	Addressing private property owner rights
	12	Concern to address what to do with ballast boats and time period expansive to more than ballast boats
	13	Property damage
	14	Realistic public use
	15	Wildlife habitat
	16	Expansion of Paul's Memorial
	17	Future commercial development
	18	Complexity of future Paul's and work group recommendations
	19	Relationship of cause and effect is questionable
	20	Loon nesting
	21	Public policy behind public access
22	Lake is not protected by a no-wake zone	
Enforceability	1	Concern to address what to do with ballast boats and time period expansive to more than ballast boats
	2	Realistic public use
	3	Impacts of the public access (FAS)
	4	Enforceability of rules
	5	Future development
	6	Property damage
	7	Over-regulation
	8	Expansion of Paul's Memorial
	9	Complexity of future Paul's and work group recommendations
	10	Future commercial development
	11	Public policy behind public access
Social	1	Realistic public use
	2	Prohibiting boating in general (risk and slippery slope)
	3	Balancing competing interests
	4	Concern to address what to do with ballast boats and time period expansive to more than ballast boats
	5	Crowding

Category	Ranking	Concern
Social	6	Addressing private property owner rights
	7	Balancing competing rights
	8	Impacts of the public access (FAS)
	9	Competition between different user groups
	10	Property damage
	11	Restricting opportunities
	12	July 15 date
	13	Future development
	14	Lake is limited resource
	15	Over-regulation
	16	Expansion of Paul's Memorial
	17	Financial loss (boats and property)
	18	Complexity of future Paul's and work group recommendations
	19	Future commercial development
	20	Public policy behind public access
	21	Lake is not protected by no-wake zone
	22	The resort may not limit capacity at the beach front
	23	Noise
	24	Limiting boat use from out of state users
	25	Music

At the conclusion of the meeting, the group had requests for information to help them with crafting a recommendation. The requests were:

- Loon nesting data and chick hatch dates (FWP)
- Boat accidents on Lake Five (FWP)
- Hydrology report/erosion study on Lake Five (Whitefish Lake Institute)
- Paul's Memorial Fishing Access Site visitation and use information (FWP)

Meeting #2

Objective: Develop collaborative recommendations for potential Administrative Rules regarding Lake Five motorized use.

Goals:

- 1) Review prioritized list of concerns.
- 2) Understand each other's perspectives and concerns.
- 3) Use consensus-based decision making.

The group first reviewed their decision from the previous meeting on consensus and then was provided the information they requested in August. Nothing could be found regarding a hydrology report or erosion study specific to Lake Five. The Whitefish Lake Institute did provide water quality data.

For the remainder of the meeting, the group was engaged in robust discussion on the concerns and how to develop a recommendation. They were reminded that their recommendation should tie back to their prioritized lists of concerns.

A great deal of the discussion focused on erosion, loons, other lake users, and dates to allow for multiple users to enjoy recreating on the lake. Ultimately the group voted in support (seven for and three opposed) of the following recommendation:

Wake surfing and wake enhancements are prohibited on Lake Five until July 1. Wake surfing and wake enhancements can only be used between noon- 6pm after [beginning] July 1.

Dissenting Views

Two of the three people opposed to the recommendation provided the following reasons:

- They believed evidence to support "motorboats cause erosion to shoreline and poor water quality" was either lacking or non-existent. Had this evidence been presented, it would have greatly influenced their support for the recommendation.
- While they prefer human-powered watercraft, they did not feel their personal bias should prohibit motorized boating.
- They allege the original Lake Five petitioners have commercial and monetary interest at the lake and thus, are biased against motorized watercraft under the guise of natural resource and wildlife protection and safety.

One of the three people in opposition to the recommendation provided these reasons:

- They contend most ballast boat activity on Lake Five occurs during the timeframe that this recommendation supports, so there will be no real benefit or noticeable decrease in impact. Implementing this recommendation will take unnecessary time and energy.
- They believed the recommendation would not change the concern for public safety or natural resource degradation.
- They did not believe the advisory group was balanced. They asserted that too many members of the group were neighbors or relatives and that the group did not represent the public at large. They stated there were no anglers on the group and thought there were too many ballast boat enthusiasts (they believed four out of 10 members).
- They did not think shore damage or negative impacts caused by ballast boats were fully addressed.

- They find that Lake Five is not adequate to handle the impacts of wake surfing and wake enhancement; it is too small, shallow, and narrow.