

**Idaho Fish and Game Commission
May 15-16, 2013
Idaho Department of Fish and Game
Coeur d' Alene, Idaho**

May 15

Commissioners Tony McDermott, Fred Trevey, Bob Barowsky and Will Naillon participated in a tour of the Pack River and Clark Fork Deltas.

Public Hearing

Acting Chairman Bob Barowsky called the hearing to order at 7:00 p.m. The Chairman introduced Commissioners Tony McDermott, Fred Trevey, Kenny Anderson and Will Naillon. Chairman Randy Budge was excused. Director Moore introduced Department staff and stated that staff would be available after the meeting to answer questions.

Acting Chair Robert Barowsky explained the procedure for the public meeting. He stated that all comments would be reviewed at the Thursday meeting. He stated that Commissioners are appointed by the Governor and set policy for the Department.

The following individuals testified: Merlyn Nelson, John Walters, Phil Pontre, Jack Hammack, Juergen Nolthenius, Cecilia Nolthenius, Jeff Smith, Rick Marosi, Pete Feist, Frank Frutchey, Bob Moate, Jim Warner, Douglas Sayer, Derrick Reeves and Matthew Scott. Written comment was received from Butch Suor and Ann Sydow (Appendix 46, Exhibit 49).

Testimony topics included wolves, wolf hunting and trapping, wolf management, Coeur d'Alene Lake fisheries, steelhead fishing, elk restoration, depredation claims, snow goose hunting, 2012 Unit 11 raincheck for bighorn sheep, and unmanned vehicle systems (drones).

May 16

MISCELLANEOUS

Opening Comments

Acting Chairman Bob Barowsky called the meeting to order at 8:00 a.m. with Commissioners Tony McDermott, Fred Trevey, Kenny Anderson and Will Naillon present.

Agenda Changes

Acting Chair Barowsky stated that there was a need to amend the agenda to allow discussion on the Unit 11 rain check due to comments received at the public hearing.

13-30 Commissioner McDermott moved and Commissioner Anderson seconded a motion to amend the agenda to allow discussion on the Unit 11 raincheck and the good faith purpose is in response to public comment received. The motion carried in a unanimous vote.

Commissioner Budge joined via phone conference for the discussion. The Commission has the authority to issue tags, rain checks and refunds. The Commission delegated this authority to the Director to evaluate special requests we receive each year due to military deployment, fire closures, health issues, and other extenuating circumstances.

Commissioner Naillon stated that he feels from the feedback he has received from sportsmen that it warrants discussion.

Commissioner Trevey stated that he does not feel the Commission should overturn the good faith decision to issue the rain check.

13-31 Commissioner Budge moved and Commissioner Naillon seconded a motion to reconsider the decision made by the director's office to issue a rain check for Unit 11 to the customer and to reconsider as an agenda item at the July Commission meeting in Pocatello. Motion failed with Commissioners Randy Budge, Kenny Anderson and Will Naillon voting ayes; and Commissioners Fred Trevey, Tony McDermott and Bob Barowsky voting nays.

Acting Chair Barowsky asked if there were any other motions or did the Commission want to add to the agenda for the July Commission meeting to discuss the Commission policy on issuing rain checks. Commissioner Trevey suggested that the Director and Chairman discuss and review the proposed agenda item prior to the meeting as they do for all agenda items prior to the meeting.

Review of Public Comment

Public comment from the May public hearing was reviewed and discussed by the Commission. Director Moore summarized comments from the public hearing. He noted that the comments received regarding the Unit 11 rain check were addressed in the previous discussion. Other items were baiting for wolves specific to road kill state wide; these comments will be sent to the Wildlife Bureau. Also, year round hunting of wolves on state and private property and time check for use of snares. There is a need to communicate that drones are illegal to use under current rule and the Department will work on how to better communicate this message. Director Moore stated that no rule change is needed for this but a definition of an aircraft from Idaho Transportation /Aeronautics. The Department will follow up on the comment regarding the spring snow goose season and why the white fronted geese could not be included in this hunt. Several comments received regarding fish and fish management; the Region will follow up on these comments. There was some incorrect information out regarding northern pike on Lake Coeur d'Alene; there is not a control effort. Other comments heard regarding wolf trapping some in favor and some opposed.

Commissioner McDermott referenced a proposal submitted by Frank Frutchey for “in kind payment” in lieu of monetary depredation compensation by the Idaho Department of Fish and Game.

Consent Calendar

The consent calendar included the following items:

- Minutes, March 18-19 and 28, 2013
- Financial Report

13-32 Commissioner Naillon moved and Commissioner Anderson seconded a motion to approve the minutes as presented in the consent calendar. All commissioners voted in favor.

13- 33 Commissioner Anderson moved and Commissioner McDermott seconded a motion to approve the financial report as presented in the consent calendar. All Commissioners voted in favor.

RULES

Season Setting: Chinook Salmon Fishery

Peter Hassemer, Anadromous Fish Manager, reported that due to the uncertainty on the run size there would not be a proposal at this time for the South Fork Salmon River and Upper Salmon River. The Department will hold a conference call in early June to address.

Proposal to Amend the 2013 Chinook Salmon Fishery in the Clearwater River Drainage

Mr. Hassemer presented a proposal to amend the season.

Areas opened to fishing for anadromous Chinook Salmon:

- Mainstem Clearwater River – From the Camas Prairie Railroad Bridge at Lewiston upstream to the Cherrylane Bridge and from the Lenore Bridge upstream to the Highway 11 Greer Bridge.
- South Fork Clearwater River – From its mouth upstream to the confluence of American and Red Rivers.

13-34 Commissioner Trevey moved and Commissioner Naillon seconded a motion to accept the staff recommendations to revise the spring Chinook fishery on the Clearwater River as described. All Commissioners voted in favor.

Temporary Rule Proposal to define ‘single point hook’ and ‘no water craft’

Ed Schriever, Chief, Fisheries, stated that a temporary rule is needed to define single point hook and no water craft to support the regulations that are already in place.

The current definition of a “hook” found in Idaho rules states a hook ‘can have one, two, or three points.’ In certain situations where fish are large, visible, and congregated, hooks with more than one point create a higher probability that anglers could intentionally or unintentionally snag a fish. This can lead to increased illegal harvest or unintended mortality. This is of particular concern in fisheries for salmon and steelhead in tributary river systems.

The purpose of the rule:

- To create a definition of a “single-pointed hook” that can be applied to waters where fish are vulnerable to snagging by anglers.
- Reduce incidental mortality associated with snagging of fish because of the use of a hook (s) with more than one point.

Definition of No Watercraft

In some reservoir and large river fisheries with concentrated angler use, there can be conflicts and/or unsafe conditions for bank/wading anglers created by wake from watercraft use. Boats anchored in desired fishing areas can also monopolize fishing areas to the point bank/wading anglers have no opportunity to fish. These events are rare but can occur in waters with high use salmon and steelhead fisheries.

The purpose of the rule:

- To reduce conflicts between boat and bank/wading anglers.
- To extend fishing seasons and reduce “take” in unique situations where fish are highly concentrated and more vulnerable to boat angling techniques.
- To address public safety in high angler use areas.

13-35 Commissioner Trevey moved and Commissioner Naillon seconded a motion to accept the staff recommendations defining single point hook and no watercraft as temporary rules. All Commissioners voted in favor.

REPORT

Idaho Fish and Wildlife Foundation Report

Sharon Kiefer, Deputy Director, presented the Idaho Fish and Wildlife Foundation report.

- At its April 2013 Board meeting, the Foundation elected new officers of the Board of Directors and renewed the three-year terms of several members. The Board also is actively recruiting candidates for service on the Board. It currently has 17 voting members.
- As the sponsor of the Wildlife license plates, the Foundation has tracked the sales of plates for the first quarter of 2013. A preliminary analysis indicates that sales of new Bluebird plates are up 26% from the previous year. New elk plates are up 22%, and new trout plates are up 3% from the same period a year ago. Renewals for each plate are down an average of 5% from last year.

- There is a June 1 deadline for applying for the Foundation's annual grants program. Up to \$25,000 in funds are available for restoration, preservation and conservation education projects.
- The Foundation has approved its audit and IRS 990 for 2012.
- The Foundation is reviewing a request by the Department to release funds for the repair and code upgrades to the Nampa Fisheries Research office pump house.

RULES

Nonbiological Rule Proposals

Jeff Gould, Chief, Wildlife, presented the update to the Commission (Appendix 46, Exhibit 50).

Annually or biennially, the Idaho Fish and Game Commission considers proposed changes for two types of hunting rules, season setting (biological) and IDAPA rules (nonbiological). The Commission has unique authority to establish seasons via proclamation, rather than through IDAPA rulemaking. Proclamations are published annually (i.e. Big Game, Waterfowl) or biennially (e.g. Moose, Bighorn Sheep, and Mountain Goat; Upland Game) and include seasons, limits, size, sex, and harvestable species. IDAPA (nonbiological) rules include all other rules adopted by the Commission. Examples of IDAPA rules include methods of take, tagging requirements, evidence-of-sex requirements, and controlled hunt eligibility requirements. IDAPA rules are officially published in the Idaho Administrative Code (<http://adm.idaho.gov/adminrules/agyindex.htm>) and included in hunting regulation brochures. Any IDAPA rules must be published in the Administrative Bulletin for public comment and must be upheld by the Legislature to become a final rule.

Recent legislation (SB 1366, 2012) strengthened the requirement for consideration of negotiated rulemaking to adopt, amend, or repeal a rule. In short, the agency shall determine whether negotiated rulemaking is feasible or not, and proceed according to statutory procedures identified in 67-5220 (Idaho Code).

A workshop dedicated to the administrative procedures involved in negotiated rulemaking was conducted at the March, 2013, Idaho Fish and Game Commission meeting. Representatives from DEQ and ISDA described how their agencies accomplish negotiated rulemaking and what staff resources are needed. Following the workshop, Wildlife Chief Jeff Gould provided the Commission with a list of 20 potential rules that were being considered for the upcoming rulemaking process. A Committee reviewed the proposed list with the Director's Office and considered both the urgency and importance of each proposal. The four proposals that are recommended to move ahead for negotiated rulemaking by publishing a Notice of Intent include:

- Remove requirement for mentors of Nonresident Junior Tag holders to have the same species tag for the same area.
- Successful completion of grizzly/black bear identification course is mandatory to hunt in those units where both black bears and grizzly bears may be encountered.

- Modify definition of legal black bear bait in specified game management units where grizzly bears may be encountered.
- LAP adjustments to existing program to resolve concerns expressed by landowners in Unit 45 regarding program restrictions.

The Department will file the Notice of Intent to promulgate these rules with draft language on June 7, 2013. Based on public comments received by July 24, 2013, the Department will determine whether or not negotiated rulemaking will be feasible for each rule. Proposals will either move forward through negotiated rulemaking or fall back to formal rulemaking (temporary and proposed rules) based on a feasibility evaluation performed in late July.

LEGISLATION

Sharon Kiefer, Deputy Director, provided a final 2013 legislative update and gave a recap of the bill status table (Appendix 46, Exhibit 51). She noted that Senate Bills 1003 and 1004 will require substantial administrative and media work.

Ms. Kiefer stated that the 2014 legislative process begins in July. She noted that the 2014 legislative proposals will be presented to the Commission for approval at the July meeting.

Ms. Kiefer reported that the Department made a commitment to address House Bill 278 (vetoed by the Governor) and House Bill 336 (failed) dealing with wolf depredation and compensation. The Directors of Department of Agriculture and Idaho Fish and Game asked the Idaho Fish and Game Advisory Committee to work on these issues and provide recommendations to the Commission for a path forward. The recommendations will be presented at the July Commission meeting.

FISCAL

FY 2015 Budget Direction

Michael Pearson, Chief, Administration, reported that the Department has begun the planning process for preparation of the fiscal year 2015 budget request to be submitted to the Governor's Office by September 1. Mr. Pearson's presentation (Appendix 46, Exhibit 52) provided an update to the Commission on the current financial status of the Department and discussion of revenue and expense expectations.

REPORT

Controlled Hunt Drawing Odds

Regan Berkley, Regional Wildlife Biologist, gave a presentation on controlled hunt drawing odds (Appendix 46, Exhibit 53). The Department has a random system of drawing for controlled hunts. Each hunter has an equal chance of being drawn. For example, in a controlled hunt for which 100 hunters apply for a hunt for which 20 tags are offered, an individual applicant has a

20% probability of drawing a tag for that hunt. Further, statistically, a hunter who consistently applies for that hunt should expect to draw a tag for that hunt once every 5 years. However, because the selection is random, many applicants do not actually realize those odds. That is, some hunters may draw 2 times in 5 years, while others may not draw for 8 or 10 years or more. Because of this, even though all applicants have an equal chance of drawing despite their past drawing success, some hunters perceive the current system as unfair.

In June 2010, Department staff solicited public input on a proposed Bonus Point System to address public concerns and requests from the public to adopt a system to improve odds of drawing a controlled hunt tag. However, public response was fairly evenly divided and the Commission opted not to implement a bonus point system at that time.

Hunter interest in improving drawing odds remains high. In fact, one of the directives in the 2008 Mule Deer Management Plan is to “Implement changes in the controlled hunt application process that would result in better drawing odds for hunters.”

Besides a bonus point system, there are several other potential changes that may affect drawing odds. The first step is to assess the effects different changes would potentially have on drawing odds. Because these changes would likely involve tradeoffs such as reduced opportunity or increased cost, these factors must be included in the analysis. This information is vital to making informed decisions about how to change drawing odds, and what those changes would mean to sportsmen.

The presentation covered different methods of affecting drawing odds, potential costs or restrictions associated with these methods, and predicted changes in odds should any of these methods be implemented.

These methods include:

- Implementing longer layout periods for successful applicants in antlered-only controlled hunts (currently, successful applicants must wait one year before applying again for an antlered-only hunt)
- Restricting controlled hunt applicants to applying for one species only (deer, elk, or pronghorn)
- Restricting applicants who apply for quality or high quality deer, elk or pronghorn hunts to applying for one species only
- Differential pricing for quality or high quality deer, elk, or pronghorn hunts
- Any combination of the above methods

MANAGEMENT PLAN

Draft Management Plan for the Conservation of Westslope Cutthroat Trout

Ed Schriever, Chief, Fisheries, provided a short executive summary of the plan (Appendix 46, Exhibit 54). The goals of the Management Plan for the Conservation of Westslope cutthroat Trout of the Idaho Department of Fish and Game are to: 1) ensure the long-term persistence of

the subspecies within the current range in Idaho; 2) manage populations at levels capable of providing angling opportunities; and 3) restore westslope cutthroat trout to those parts of its historical range where feasible. Mr. Schriever stated that Commission approval was needed to release the plan for public comment.

13-36 Commissioner McDermott moved and Commissioner Trevey seconded a motion to release the draft Westslope Cutthroat Trout Management Plan out for a 60 day public comment period. All Commissioners voted in favor.

MISCELLANEOUS

Election of Commission Chair and Vice Chair

13-37 Commissioner McDermott moved and Commissioner Anderson seconded a motion to appoint Bob Barowsky as Chairman and Fred Trevey as Vice Chairman. The motion carried unanimously.

Hunter Ed Instructor Awards

Commissioner McDermott and Pete Gardner presented the Commissioner's 'Continuing the Heritage' Award. The recipients were Ernie Brately of Ponderay w/ 33 years, Dave Davis of Dalton Gardens w/ 12 years, Rich Gerhard of Coeur d'Alene w/ 30 years, Johnny Gonzales of Coeur d'Alene w/ 11 years, Gerald 'Nick' Hogamier of Wallace w/ 33 years, Alan Phillips of Sandpoint w/ 10 years, Jerry Umphres of Hayden w/ 16 years, and Ed Vieth of Hayden w/ 16 years.

FISCAL

Revenue Status Options

Director Moore anticipates that as a result of the presentation and discussion today that it will assist the Department in preparing items for the July meeting relative to the budget and legislative proposals related to revenue for Commission consideration.

Director Moore stated that there are three objectives that Idaho Department of Fish and Game is calling the 3 prong approach to the Department revenue situation. They are:

- Increase revenue from sale of licenses, tags, and permits to maintain operations and services and provide for desired service enhancements.
- Increase Non-License Revenue to support Wildlife Diversity Program.
- Increase Non-License Revenue as part of long-term, sustainable funding for broad range of wildlife management and conservation needs.

Ed Schriever, Fisheries Chief presented a revenue status report (Appendix 46, Exhibit 55) covering the three objectives and suggestions and ideas to accomplish.

Commissioners were provided copies of the seven Regional Working Group reports that generated ideas for mechanisms to fund the Wildlife Diversity Program. Ideas covered a wide range of new mechanisms including creating products and services for voluntary purchases, allowing for an income tax credit, assessing impact-type fees, using the Idaho Lottery, and developing various taxing mechanisms. There also were many ideas on how to expand or alter existing mechanisms to increase the revenue they generate. Between now and the July Commission meeting, Department staff will propose to evaluate all ideas against a standardized set of criteria to assist the Director and Commission in deciding which ones to actively pursue.

Position Statement Concerning Grizzly Bears

Deputy Director Unsworth stated that in November 2010 the Commission approved a Yellowstone Grizzly Bear statement. Since that time Commissioners McDermott and Trevey have expressed concerns to see more emphasis on Northern Idaho. Staff has provided a draft position statement addressing that issue (Appendix 46, Exhibit 56).

13-38 Commissioner McDermott moved and Commissioner Trevey seconded a motion to approve the Idaho Fish and Game Commission position statement on grizzly bears as written. All Commissioners voted in favor.

Director's Report

Director Moore reported that the Department continues to support the governor's Sage-grouse Alternative and it is moving into the final phases. Idaho is the second state to have a plan in place that is active on the ground for sage-grouse; Wyoming is the other state with a plan. Idaho Fish and Game staff is assisting Montana with their plan.

Director Moore stated that the Director's report in the agenda book stands as written.

Commissioner Reports

Commissioner Trevey reported that last July the Commission appropriated \$1,000 for use in raising pheasants on the Palouse. These pheasants are ready to be released and Commissioner Trevey feels it was a good investment.

Commissioner McDermott reported that an 18 pound rainbow trout won the spring derby at Lake Pend Oreille.

Commissioner Naillon reported a slow steelhead season in the Salmon Region.

Commissioner Anderson reported that the Yellowstone Ecosystem Subcommittee of the Interagency Grizzly Bear Committee reports a new population estimate for the Greater Yellowstone Ecosystem of 718 grizzly bears. In the 1980s, there were only about 200 bears in

the ecosystem. On May 14th in the Idaho Falls regional office, the USFWS presented a daylong seminar on grizzly bear management.

Commissioner Barowsky reported that the deer survival rate was tremendous for the Boise and McCall areas. He referenced the 2012 Hunter Education Course Summary for the Southwest Region in the written report.

Commission Reports stand as written (Appendix 46, Exhibit 57).

MISCELLANEOUS

Executive Session

13-39 Commissioner Naillon moved and Commissioner McDermott seconded a motion to hold an executive session pursuant of subsections (c) and (f) of Idaho Code Section 67-2345 to discuss personnel and legal. Roll Call Vote: Ayes: Anderson, Barowsky, Trevey, Naillon and McDermott.

The executive session ended at 5:00 p.m. with no official action taken.

13-40 Commissioner Anderson moved and Commissioner Anderson seconded a motion to adjourn.