

**Idaho Fish and Game Commission  
Special Meeting September 1, 2021  
Idaho Department of Fish and Game  
Videoconference  
Southwest Regional Office**

Chairman Cameron called the meeting to order at 9:00 a.m. MDT. Commissioners Dave Bobbitt, Don Ebert, Tim Murphy, Lane Clezie, Derick Attebury and Ron Davies were present. Welcome Dave Bobbitt, new Panhandle Commissioner.

**SEASON SETTING AND RULES**

**Rulemaking**

Jim Fredericks, Deputy Director presented.

**Background:**

Item 1.a: The Department currently has one ongoing Negotiated Rulemaking related to the Outfitter set-aside for deer and elk tags. At their December 22, 2020 meeting, the Commission directed the Department to conduct Negotiated Rulemaking in response to a petition from the Idaho Outfitter and Guides Association. The petition requested the number of tags the Commission sets aside for use by outfitted hunters be set at the statutory maximum of 25% of the nonresident quotas for deer and elk tags.

Following an assessment of the number of tags required in the set aside to accommodate outfitter tag allocation in 2021 based on historical verified use, and discussion with the outfitting industry and the Licensing Board, the Commission adopted a temporary rule in December, 2020 to increase the outfitter set-aside for elk tags from 2,400 to 2,800, to be effective for the 2021 tag allocation. The 400 tag increase was sufficient to cover elk tag allocation based on reported, verified use from the 2018 and 2019 hunting seasons and sufficiently addressed the issue for the 2021 season.

On September 1, the Commission will consider the 2022 deer and elk tag allocation. Outfitter tag allocations for the 2022 season will be based on historical, verified use from the 2019 and 2020 hunting seasons (i.e., updated use information). Using the updated, verified use numbers, the deer tag set-aside is sufficient to cover allocation. However, the 2,800 elk tag set-aside is slightly insufficient to accommodate allocation in newly limited zones based on updated, verified use. For that reason staff recommend amending the previously adopted temporary rule to increase the outfitter set-aside for elk tags from current (temporary) rule of 2,800 to 2,900. If adopted, this rule will expire sine die of the 2022 Legislative Session.

Department staff will continue the negotiated rulemaking process on this subject. A negotiated rulemaking meeting was held on March 31, 2021, and subsequent meetings have been held with both IOGA representatives (May 3, August 24) and individual outfitter interests (April 28). During those meetings, parties recognized the complexity of the issue and understood that increasing the set-aside to 25% may not affect the number of tags available to individual

outfitters because of other limitations on non-residents and factors governing tag allocation and Board designation. There was a recognition that the temporary rule that increased the set-aside for elk was instrumental in making elk tags available for outfitter use. There was also a recognition that the improved reporting system, implemented in 2021, will provide much more reliable information to inform issues surrounding allocation and set asides. For that reason, staff recommend deferring additional action related to the petitioned rule change.

Item 1.b: On June 3rd, the Commission adopted omnibus fee and non-fee rules as temporary per direction from the Division of Financial Management (DFM) to be effective July 1st. DFM has recently issued direction to all state executive agencies to proceed with rulemaking to submit necessary rules for 2022 legislative review as an omnibus rulemaking. The Department is seeking Commission approval of all IDAPA Section 13 chapters (Fish and Game administrative rules), to advance as proposed rules. Staff recommendation for proposed omnibus rules includes changes to existing rule in Chapters 4, 7, 8, and 9. If approved, these changes would correct typographical errors, clarify points of confusion and/or make language across chapters consistent, provide for the use of crossbows as a method of take for upland game birds, and make minor adjustments to Geographical Management Units (GMUs) to better align with management and enforcement objectives. Staff also propose including the adjustment of the elk tags set-aside for outfitter allocation (above) in the omnibus package so it would remain effective beyond the 2022 Legislative Session. All other rules are unchanged from what was approved by the Commission on June 3rd.

Following publication of proposed rules and opportunity for public comment, the Commission may consider action on pending rules to submit for review by the 2022 Legislature.

Staff recommends the Commission adopt fee and non-fee rules as proposed, consistent with the Commission's prior omnibus rulemaking actions in February (fee) and May (non-fee) and June (both fee and non-fee). Because of differences in approval processes for adoption of fee and non-fee rules, these are separated into two different rulemaking actions.

**21-61** Commissioner Davies moved and Commissioner Ebert seconded a motion that the Commission adopt a temporary rule adjusting the number of outfitter set-aside elk tags from current (temporary) rule of 2,800 to 2,900, with an effective date of September 2021. Motion carries.

**21-62** Commissioner Attebury moved and Commissioner Bobbitt seconded a motion that the Commission adopt proposed fee rules as presented by staff, with authority for the Department to make non-substantive edits in the proofreading process that do not alter the sense, meaning or effect of the rules. Motion carries.

**21-63** Commissioner Murphy moved and Commissioner Clezie seconded a motion to that the Commission adopt proposed non-fee rules as presented by staff, with authority for the Department to make non-substantive edits in the proofreading process that do not sense, meaning or effect of the rules. Motion carries.

**Set general hunt deer and elk tag limits for nonresidents and outfitter allocation in units/zones not having resident tag limits**

Rick Ward, Deer & Elk Coordinator, presented an overview on 1) Allocation of general hunt tags to outfitted hunters and 2) Nonresident general hunt tag limits (Appendix 54, Exhibit 47).

Commissioners were provided a handout for the following (Appendix 54, Exhibit 48):

Table 1. Proposed Outfitter Allocation and Nonresidents Elk A tag limits.

Table 2. Proposed Outfitter Allocation and Nonresidents Elk B tag limits.

Table 3. Proposed Outfitter Allocation and Nonresident Regular Deer tag limits.

Table 4. Proposed Outfitter Allocation and Nonresident White-tailed Deer tag Limits.

To address resident hunters concerns about hunter congestion, the Commission set nonresident tag limits, beginning with 2021 hunts, for all individual game management units for deer and for all previously uncapped elk zones (Elk A tags in 20 zones, and Elk B tags in 6 zones). Resident participation in these zones and units remains unlimited.

At its November 20, 2020 meeting, the Commission adopted a “sliding scale” framework for 2021/2022 total nonresident tag limits for deer units and previously uncapped elk zones, based on prior nonresident participation and the backcountry nature of certain units. The Commission also allocated a portion of the limited nonresident tags for outfitter use, based on the highest outfitted use in the zone/unit during 2018 and 2019, the 2 most recent years for which use data were available from the Idaho Outfitters and Guides Licensing Board (IOGLB). Because the use totals for elk tags exceeded the outfitter tag set aside limit, the Commission pro-rated allocated elk tags among the newly limited zones.

Two developments resulted in the Commission revising the 2021 limits in January 2021 (elk) and March 2021 (deer). IDFG and IOGLB determined that reported use information received from outfitters via IOGLB for 2018/2019 was incorrect/incomplete, particularly for outfitted deer tag use. IOGLB provided outfitters a short time period to revise their use reports. The other development was that the Commission received temporary rulemaking authority from the Governor to increase the statewide outfitter elk tag set-aside from 2,400 to 2,800 to accommodate reported use, and the Commission adopted this rule change in December 2020. Following these developments, the Commission revised the individual elk zone limits in January 2021, consistent with 100% of highest reported outfitter use (based on the revised reports), where outfitter tag allocation had previously been prorated, and the Commission revised deer unit limits after IDFG staff made recommendations based on a review of revised outfitter report information. The Commission deferred action on 2022 limits to allow additional discussion and coordination with IOGLB regarding outfitter use data.

Following Commission direction, staff continued to work with the IOGLB and the Idaho Outfitters and Guides Association (IOGA) to refine outfitter reporting information and develop recommendations for 2022 tag limits. At the request of IOGA and individual outfitters, the Commission is considering the setting of nonresident and outfitter allocated tag limits earlier in the year relative to the December 1 sale date for 2022 nonresident tags.

**Staff Recommendation:**

- **Newly limited (uncapped) Elk Zone A and B tags** – Staff recommends the Commission allocate tags for use by outfitted clients based on the highest reported outfitter use in each zone during the most recent 2 years for which completed data are available (2019 and 2020). The number of tags available for non-outfitted nonresidents in each elk zone A or B tag equals the non-resident limit set for that A/B zone tag by Commission action in November 2020 *minus* the number of outfitter allocated tags the Commission sets for the 2022 season.
- **Regular Deer Tags** – Staff recommends the Commission allocate tags for use by outfitted clients based on the highest reported outfitter use in in each unit during the previous 2 years for which data are available (2019 and 2020), as long as the highest use does not exceed 50% of the total nonresident tags for that unit. In any unit where the highest outfitted use exceeds 50% of the total number of nonresident tags available, allocation would be set at 50% of the number of nonresident tags. The number of regular deer tags available for non-outfitted nonresidents in each game management unit equals the non-resident limit set for that unit by Commission action in November 2020 *minus* the number of outfitter allocated tags the Commission sets for the 2022 season.
- **White-tailed deer Tags** – Staff recommends the Commission allocate tags for use by outfitted clients based on the highest reported outfitter use in in each unit during the previous 2 years for which data are available (2019 and 2020), as long as the highest use does not exceed 50% of the total nonresident tags for that unit. In any unit where the highest outfitted use exceeds 50% of the total number of nonresident tags available, allocation would be set at 50% of the number of nonresident tags. The number of white-tailed deer tags available for non-outfitted nonresidents in each game management unit equals the non-resident limit set for that unit by Commission action in November 2020 *minus* the number of outfitter allocated tags the Commission sets for the 2022 season. Staff have made some reasonable interpretation related to outfitter use data for white-tailed deer, with the recognition that some outfitters reported use based on species rather than tag type (white-tailed deer may be taken with either a regular or white-tailed tag, depending on the seasons).

**21-64** Commissioner Davies and Commissioner Ebert seconded a motion that the Commission adopt staff recommendations for 2022 elk tag limits for nonresidents and outfitter tag allocation, as provided in Tables 1 and 2 of the handout ( see Exhibit 48), for elk zones that are unlimited for residents. Motion carries.

**21-65** Commissioner Ebert moved and Commissioner Murphy seconded a motion that the Commission adopt staff recommendations for 2022 deer tag limits for nonresidents and outfitter tag allocation, as provided in Tables 3 and 4 of the handout (see Exhibit 48). Motion carries.

**Season Setting: Fall Steelhead and Coho 2021 Run Updates and Season Modification**

**Fall Steelhead**

The steelhead forecast for 2021 was projected to be one of the lowest returns in the last 2 decades. Current counts of steelhead at Bonneville Dam are lower than the 10-year average and are tracking below the forecast. Staff monitored daily fish passage updates and considered necessary modifications to the fall 2021 season.

Staff recommendation is to reduce the bag limit to one fish per day and three in possession (Appendix 54, Exhibit 49). Modifications to fisheries targeting hatchery-origin Steelhead on the Salmon, Clearwater, and Snake Rivers.

Lance Hebbon, Chief, Fisheries presented the proposal the Coho Salmon Fishery.

## **I. SEASONS – COHO SALMON**

### **A. OPEN DATES AND BOUNDARIES**

Fishing for Coho Salmon will open September 3 in the following area:

- **Snake River** from the Idaho/Washington border upstream to Hells Canyon Dam.

### **B. CLOSING DATE**

The Snake River will close to fishing for Coho Salmon at midnight October 31, 2021, or may close earlier by emergency order of the Director.

### **C. FISHING DAYS**

Fishing for Coho Salmon will be open 7 days/week.

## **II. LIMITS**

### **A. DAILY AND POSSESSION LIMITS**

- **Daily** = Two (2) Adult Coho Salmon, no limit on Jack Coho Salmon.
- **Possession** = Six (6) Adult Coho Salmon.

### **B. SEASON LIMIT**

There is no Season Limit on Coho Salmon.

### **C. DEFINITIONS PERTAINING TO LIMITS**

- Adult Coho Salmon are defined as Coho Salmon greater than or equal to 20 inches in length.
- Jack Coho Salmon are defined as Coho Salmon less than 20 inches in length.

### **D. OTHER RULES**

- Anglers may harvest Coho Salmon with or without an adipose fin.
- Anglers must cease fishing for all Coho Salmon (including Jacks) once they have retained their daily or possession limit of Adult Coho Salmon.

**21-66** Commissioner Ebert moved and Commissioner Bobbitt seconded a motion to approve the fall steelhead modifications as presented by staff. Motion carries.

**21-67** Commissioner Ebert moved and Commissioner Attebury seconded a motion to approve the Coho Salmon season as presented by staff. Motion carries.

**Season Setting: Correction for Pheasant Season Closing Date in Area 3**

Jeff Knetter, Upland Game & Migratory Bird Coordinator presented.

Background: The Commission took action to delay the opening day of pheasant season for nonresidents by five days on July 14, 2021. Following that action, Fish and Game staff became aware of an error in the materials presented to the Commission that resulted in an inadvertent extension of the pheasant hunting season in Area 2. The correct dates are presented below.

Unlike the rest of the state, Area 2, (Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton counties) pheasant season has historically been open through November 30, whereas Area 1 and Area 3 are open through December 31.

Staff recommendation is for the Commission to adopt the season dates as corrected below for the identified pheasant seasons:

Pheasant seasons in Area 2:

Residents: October 16, 2021 – November 30, 2021

Nonresidents: October 21, 2021 – November 30, 2021

**21-68** Commissioner Clezie moved and Commissioner Murphy seconded a motion to adopt the staff recommendation to correct the pheasant season dates as identified. Motion carries.

**Season Setting: Report on Wildfire and Related Closures on Big game Hunts and Hunt Modifications**

Toby Boudreau, Chief, Wildlife presented (Appendix 54, Exhibit 50).

Background: Several wildfires have burned large areas in the Salmon, Clearwater, and Panhandle Regions. Landowners and land management agencies restrict access during active fires and in some areas during situations of high fire danger. The department maintains a web page with active fire data that is updated on a regular basis. The department has taken steps in the past to offer rainchecks or exchanges for certain tags affected by wildfires in some cases.

Staff will continue to monitor the situation and take actions as situations progress on an as needed basis. No action taken on this item.

**LANDS**

**Disposal of Powerline Administrative Office Parcel**

Michael Pearson, Chief Administration reported that the Department's Powerline Regional Office in Nampa is an administrative site that has been used as the southwest Idaho center for field operations since 1991. This facility of 10,101 square feet, originally constructed by the Permanent Building Fund with costs repaid by the Department, served as the center for hunter education, license permit sales, regional needs, and wildlife/fisheries field operations. Recently replaced by the new structure in Nampa on North Gate Blvd, it has been used in the interim as temporary offices for headquarters Fisheries and Enforcement staff while the new headquarters is constructed.

This facility is anticipated to be fully vacant by the end of January 2022, and ready for disposal from Fish and Game ownership. In preparation of this process, the Department has already gotten approval from Canyon County for a parcel split that will allow IDFG to retain ownership of Wilson Pond, and only dispose of the office building, fabrication shop, and attached parking lots.

Idaho Code 67-5709A establishes the process for the sale, transfer, or disposition of state administrative facilities.

Staff recommends declaration of the Powerline Road property in Nampa as surplus.

**21-69** Commissioner Murphy moved and Commissioner Clezie seconded a motion that the Powerline Administrative Site be declared surplus, and be disposed of consistent with Idaho Code, with sale proceeds returned to the Department less any costs of sale. Motion carries.

### Season Setting and Rules

#### Request for Accommodation by Bighorn Sheep Auction Tag Holder

Director Schriever presented.

The Snake River Complex wildfire began on July 7, 2021, with three fires merging following lightning starts. As of perimeter containment on August 15, it burned approximately 110,000 acres. This fire affects Game Management Unit 11 and Bighorn Sheep Hunt Area 11.

Because of the fire, Bighorn Sheep Auction Tag Holder Shelly Sayer has asked for accommodation with the preference of adding area in Units 13 and 18 to Hunt Area 11.

In alternating years, the auction tag includes Hunt Area 11 in addition to other controlled hunt units statewide. There is one other bighorn sheep tag in Hunt Area 11 for 2021, which is drawn in a controlled hunt limited to Hunt Area 11. The controlled hunt tag holder has also indicated the preference for expanding the hunt area, or a secondary preference of extending the season into November. Neither hunter has hunted pending the Commission's review today.

IDFG monitors collared sheep in Unit 11, representing 47% of the female population and 13% of the Class III and larger rams. To date, no mortality on collared sheep has been documented or observed in un-collared sheep. No collared sheep have left the unit and we have not observed increased numbers of sheep on the other side of the Snake or Salmon rivers in Washington,

Oregon or Unit 13. There has been movement of sheep within the Hunt Area. Although the fire affected much of Hunt Area 11, there are mosaic burns. The lower end of some drainages are intact, and we have observed groups of sheep using those areas.

Units 13 and 18 were included in Hunt Area 11 in 2017 based on ram availability. Following ram harvest in 2017, these units were not included in Hunt Area 11.

The Commission has authority to define Hunt Area boundaries. The Commission has not delegated authority for issuing rainchecks or refunds for controlled hunt tags awarded via auction or for bighorn sheep tags, unless related to widespread environmental incidents where opportunity or access is severely limited.

Wildfire occurrence in Bighorn Sheep Hunt Area 11 has prompted request for hunter accommodation.

Staff recommend addition of Unit 13 to Bighorn Sheep Controlled Hunt Area 11 for 2021.

**21-70** Commissioner Clezie moved and Commissioner Attebury seconded the motion to add Unit 13 to Bighorn Sheep Controlled Hunt Area 11 effective immediately for 2021. Motion carries.

## MISCELLANEOUS

### Executive Session

**21-71** Commissioner Murphy moved and Commissioner Clezie seconded a motion that the Commission go into Executive session under Idaho Code 74-206 (1)(d)(f).

Roll Call Vote Ayes: Dave Bobbitt, Don Ebert, Tim Murphy, Greg Cameron, Lane Clezie, Derick Attebury and Ron Davies.

The Commission reviewed a legal advice memo and discussed litigation matters with legal counsel.

**21-72** Commissioner Murphy moved and Commissioner Clezie seconded a motion that the Commission come out of executive session with no action taken. Motion carries.

### Adjourn



Greg Cameron  
Chairman



Ed Schriever  
Secretary

