

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 20, 2020

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, Stennett, and Jordan

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:31 p.m.

MINUTES APPROVAL: **Chairman Heider** delayed approval of the Minutes of the January 13, 2020 meeting until the presenter arrived.

DOCKET NO. 13-0000-1900 Department of Fish and Game omnibus pending rules, under IDAPA 13, page 4.

Paul Kline, Deputy Director Programs and Policy, Idaho Department of Fish and Game (IDFG), introduced himself and other IDFG staff present: Director Ed Schriever, Jerry Meyers, Scott Reinecker, Tom Curet, Frank Edelmann, Tricia Hebdon, Michael Pearson, Martha Wackenhut, and Toby Boudreau. He also introduced Deputy Attorney General Kathleen Trever. **Mr. Kline** explained the omnibus rules and that IDFG, in line with the Governor's Red Tape Reduction Act, removed obsolete and outdated sections of the rules. He stated IDFG also received input from two deputy attorney generals. He reported that IDFG consolidated rules and chapters, improved clarity, and eliminated restrictions. He stated it was his belief that through these actions IDFG rules are lighter, better organized, and easier to navigate. He reassured the Committee that IDFG's edits did not change the meaning of the rules. He explained that no public comment was received by IDFG and that at the one public hearing held, IDFG received testimony from an organization in support of this docket and it's corresponding fee docket.

MOTION: **Senator Patrick** moved to approve **Docket No. 13-0000-1900**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0108-1903 Department of Fish and Game rules governing the taking of big game animals, page 126.

Mr. Kline presented this docket and advised that a notice of negotiated rulemaking had been published in the June 5, 2019 administrative bulletin. IDFG received comments from the public via 160 responses from online submissions, with no interest in negotiated rulemaking; the only comments received were regarding capped zone hunt tags. He explained that capped zone hunts differ from controlled hunts because tag sales occur on a first-come, first-serve basis rather than a random draw. He stated that if this rule is approved, IDFG may establish a waiting period of five days whereby an applicant for a controlled hunt will have to wait before purchasing a capped zone tag.

- DISCUSSION:** **Senators Patrick** and **Guthrie** and **Mr. Kline** discussed negotiated rulemaking comments received from the public, and how the comments were mixed-close to 50/50 for and against the subject of limited capped zone hunt tags.
- MOTION:** **Senator Jordan** moved to approve **Docket No. 13-0108-1903**. **Senator Bair** seconded the motion.
- DISCUSSION:** **Senator Bair** asked several questions and Mr. Kline deferred to IDFG Director Ed Schriever. **Mr. Schriever** discussed elk tags, tag caps, and favorable hunting zones. He discussed that the IDFG needed a different model to manage the sale of these tags.
- Senator Johnson** asked if Chairman Jerry Meyers, Region 7 Fish and Game Commissioner, would stand for questions. He and **Mr. Meyers** discussed the fact that there existed more demand than supply, so IDFG implemented controlled hunts.
- Senator Guthrie** and **Mr. Meyers** discussed the number of tags and that 55 to 60 percent of applicants that apply for limited cap zone hunts also apply for controlled hunts.
- Senator Stennett** and **Mr. Meyers** discussed the elk population and the fact that the herds are thriving; overall, these hunts were not jeopardizing the herd. **Senator Stennett** noted that she was uncomfortable to let controlled hunts increase and not allow the herd to recover; however, she also stated that with hesitation she supports this docket.
- Mr. Schriever** explained that the IDFG used the controlled hunts to manage the herd for the objective their commission had set. He pointed out that capped zone tags versus controlled hunt tags were just the mechanism to distribute the total number of tags. He elaborated that this docket addressed the people side of the rule and how many people wanted to hunt; the animal side being controlled elsewhere.
- TESTIMONY:** **Benn Brocksome**, Idaho Sportsmen's Alliance (ISA), addressed the Committee and spoke in support of the dockets. He informed the Committee that ISA had worked diligently with IDFG on all the rules. He stated the IDFG procedures helped to manage supply and demand with the hunters. He informed the Committee there was a letter of support in their folders (see attachment 1). He reiterated that ISA supported this and all IDFG dockets on the day's agenda.
- VOICE VOTE:** The motion to approve **Docket No. 13-0108-1903** passed by **voice vote**, with **Senator Guthrie** requesting that he be recorded as voting nay.
- DOCKET NO. 13-0108-1904** Department of Fish and Game rules governing the taking of big game animals, page 129.
- Mr. Kline** summarized this docket and advised that a notice of negotiated rulemaking had been published in the June 5, 2019 administrative bulletin. IDFG received 366 responses from online submissions, with no interest in negotiated rulemaking.
- He explained that this docket addressed hunter congestion and hunt quantity, specifically the crowding caused by the growing number of non-residents interested in hunting. He stated that the IDFG Commission may limit the number of tags for non-resident hunters.

DISCUSSION: **Senator Bair** and **Mr. Schriever** discussed that there were 12,815 over-the-counter elk tags for non-residents, and on December 1 of each year residents could purchase any left over tags that were not sold, as a second resident tag. He further explained this rule intends to give the IDFG Commission a mechanism to limit the number of tags available to non-residents, distributing tags across the state by zone or big game unit.

MOTION: **Senator Bair** moved to approve **Docket No. 13-0108-1904**. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0109-1902 Department of Fish and Game rules governing the taking of game birds, page 132.

Mr. Kline explained this docket governs the taking of game birds in the state and IDFG published in the June 5 bulletin the notice of negotiated rulemaking. He elaborated that they received 101 responses via online submission. He commented that this docket had no impact on the General Fund. He followed up explaining this rule came from hunters supporting new hunters, eight and nine years of age, to participate in several classification of hunts for turkey for which they are not currently eligible. He informed the Committee that this rule included turkey hunts as well as the flexibility to add turkey and stock pheasants to the passport program for youth hunters.

DISCUSSION: **Senators Stennett** and **Guthrie** and **Mr. Kline** discussed the logistics of stocking farmed pheasants, and that increasing the number of birds IDFG stocked would be on an experimental basis. **Mr. Kline** discussed the program and its cost, and expounded that even though this program operated at a loss and was down to having only one vendor produce the pheasants, IDFG still wanted to expand the pheasant stocking program and has asked for an increased budget to do so.

MOTION: **Senator Jordan** moved to approve **Docket No. 13-0109-1902**. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0110-1901 Department of Fish and Game rules governing the importation, possession, release, sale, or salvage of wildlife, page 137.

Mr. Kline explained this docket relates to restrictions on hunting techniques and that the notice of rulemaking was published in the June 5, 2019 bulletin. He explained they received 101 comments through online posting and no commenters expressed interest in negotiated rulemaking. He clarified that this docket had no impact on the General Fund.

Mr. Kline elaborated that the IDFG Commission has a priority to provide the IDFG with the tools needed to minimize the risk of introducing chronic wasting disease (CWD) in Idaho. He explained that this rule would give IDFG authority to not issue any permits for the import of any live cervidae into Idaho not regulated as a domestic cervidae by the Idaho Department of Agriculture, including mule deer, white-tailed deer, and wild-origin elk. He further explained that the IDFG Commission's priority included restrictions on importing carcasses or other parts of game harvested in other states or Canadian Provinces with CWD, as well as restrictions on the use of natural urine as a scent, and the public feeding of deer and elk in CWD management zones.

DISCUSSION: **Senator Bair** discussed with **Mr. Kline** how this rule would affect domestic animals. **Mr. Kline** assured the Committee that this rule did not include domestic animals, and he read the definition of wildlife, explaining that IDFG only manages wildlife. **Mr. Kline** expanded on the fact that this rule does not impact the import of domestic cervid.

- MOTION:** **Senator Mortimer** moved to approve **Docket No. 13-0110-1901**. **Senator Bair** seconded the motion. The motion carried by **voice vote**.
- DOCKET NO. 13-0117-1901** Department of Fish and Game rules governing the use of bait and trapping for taking big game animals, page 140.
- Mr. Kline** introduced this docket and stated the notice of intent was published in the June 5, 2019 bulletin; IDFG received 311 submissions via online submission. He stated that one organization asked for negotiated rulemaking and that component was held until a future date. He assured the Committee that this rule had no impact on the General Fund.
- Mr. Kline** explained that the trapping community was worried about wolf trapping effectiveness. He informed the Committee that ground set class snares are inconsistent and this docket would reform trapping requirements for wolves to increase their effectiveness. He clarified that this rule removes the current requirement for the use of a diverter device on wolf ground set snares.
- DISCUSSION:** In response to a question from Senator Bair, **Toby Boudreau**, Chief of Wildlife, IDFG, explained what a diverter is and how it works to protect animals larger than a wolf from the snare. He further explained that diverters are not as successful in Idaho as in other states, and removing them will make wolf trapping easier.
- Senator Stennett** queried if the rule proposed to stop using breakaway devices, or if they are still required to protect unintended wildlife trapped in snares. **Mr. Boudreau** explained that if other animals are unintentionally trapped they are required to be reported IDFG. He also discussed that the diverter requirement can be added back in if necessary, if it is approved to remove them at this time.
- TESTIMONY:** **Justin Webb**, Executive Director, Foundation for Wildlife Management Inc., testified in favor of IDFG's wanting to remove the diverter requirement. He explained that diverters cause snare failures due to our weather conditions, mainly snow. He then displayed a current regulation snare, with diverters attached, to the Committee, as well as what the snare would look like with the new requirements. He discussed that Idaho's wetter snow stuck to the diverter wire thereby weighing them down and making them ineffective. He followed up that without the diverters, the success rate of snaring wolves will increase.
- MOTION:** **Senator Bair** moved to approve **Docket No. 13-0117-1901**. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**, with **Senators Stennett** and **Jordan** requesting that they be recorded as voting nay.
- DOCKET NO. 13-0000-1900F** Department of Fish and Game omnibus pending fee rules, under IDAPA 13, page 4.
- Mr. Kline** presented this omnibus reauthorization of existing fee rules for IDFG. He confirmed that each rule had been previously reviewed and approved by the Legislature. He specified that examples of fees in the major chapter sections include fees charged for hunter, archery, and trapper education programs in the state, processing fees for issuing license refunds to non-residents, bonding fees for large commercial wildlife facilities, and for vendors. He emphasized that no fee amounts were changed, and reminded the Committee that the IDFG fees for licenses, permits, and tags are in statute and not repeated in the rule.
- MOTION:** **Senator Patrick** moved to approve **Docket No. 13-0000-1900F**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

RS 27202

Relating to Fish and Game, to provide for game tags for swan, to revise provisions regarding upland game bird permits, to revise hunter orange requirements, and to make technical corrections.

Mr. Kline explained that constituents asked the IDFG Commission to develop a season to hunt swans since currently there is no season. They also requested to expand the stocked pheasant program to include additional properties to the nine areas where pheasants are currently stocked. This Routing Slip (RS) provides the IDFG Commission flexibility to grant Upland Game Permits (UGP) to hunt farm-raised pheasant on additional properties.

He further detailed that this RS extends the current requirement to wear visible hunting orange to be seen at least 36 inches above the waist anywhere the IDFG Commission requires a UGP. He expounded that UGP language is for wildlife management areas and this RS would remove specific references to wildlife management areas when used in conjunction with Upland Game Bird Permits.

DISCUSSION: **Senator Guthrie** and **Mr. Kline** discussed the use of the specific language of tundra swan and swan within the RS. **Mr. Kline** elaborated that this RS was for an experimental three-year season to hunt tundra swans, and the IDFG made the language broad for rules definition. He spelled out that there currently are two species of swan in Idaho, and this RS addressed a season specifically for tundra swan.

MOTION: **Vice Chairman Brackett** moved to send **RS 27202** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Vice Chairman Brackett** moved to approve the Minutes of January 13, 2020. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:01 p.m.

Senator Heider
Chair

Erin Miller
Secretary