

DRAFT MINUTES Wildlife Commission Legislative Committee Meeting - January 7, 2010

Present: Committee Chair Commissioner Daryl Capurro, Commissioner Gerry Lent, Commissioner Charlie Howell, Chief Game Warden Rob Buonamici, Game Warden Captain Cameron Waithman, Program Officer 3/License Office Supervisor Maureen Hullinger, Game Warden Dave Patula, Conservation Education Chief Kelly Clark, Game Warden Mike McCusker, Ali Cheney, Tina Nappe, Bob Brunner representing the Coalition for Nevada's Wildlife, Chris MacKenzie, Kyle Davis representing the Nevada Conservation League, and Management Analyst 3/Legislative Liaison Kim Jolly (Committee Staff).

1. **Chair Capurro called the meeting to order** at 11:00am.

2. **Called for public comment**, there was none.

3. **Approval of Minutes** – made a motion to approve the April 28, 2009 Legislative Committee meeting minutes, seconded, all in favor.

4. Review and Discussion

DEPARTMENT BILL DRAFT REQUEST (BDR) IDEAS (LAW ENFORCEMENT TOPICS)

Management Analyst 3/Legislative Liaison Kim Jolly noted the handout on the table which contains the same list of BDRs that she presented at the December 4th Commission meeting, with a few changes. Chief Game Warden Rob Buonamici expanded on the BDR ideas that are Law Enforcement related, and there was brief discussion after each one.

The **wanton waste** proposal was discussed and the draft language reviewed.

Next, the **Child Firearm statute (NRS 62C.060, Custody and detention of child alleged to have committed offense involving firearm)**; which needs cleanup. Currently law requires game wardens to arrest if a child is hunting and doesn't have the plug in shotgun and the intent of this is to change so they don't have to do that. This is part of the "clean-up" they desire. The Sheriff's and Chiefs Assoc. would be included in the drafting of language. There was discussion about parental liability and responsibility. Commissioner Howell said he would be in favor of the parent having to be responsible.

The **Guidance on penalties (in NRS chapter 62E, Disposition of Cases by Juvenile Court)** for poaching by juveniles proposal was discussed. This statute is broader than just wildlife, it spans across all LE across Nevada. The original intent was for gang members. With the current system juvenile courts look for statutory language as a guideline to assess penalties. This was requested by judges, since currently they have no guidelines or clarification for the punishment of juveniles for a violation of 501.376: poaching. There was discussion regarding the subjectivity and variation in punishments, (write an essay, monetary fine up to the juvenile court, incarcerated in JV hall, etc.). Draft language was reviewed, which provides for specific options available to justice courts of penalties and revocation of licenses for certain offenses concerning unlawful killing or possession of wildlife, including having the child pay a fine or perform community service, having the parent or guardian pay a civil penalty, suspension of hunting, fishing, and trapping privileges, revocation of any license, and/or placing the child on probation. There was discussion again about parental liability.

Next, there was general discussion about poaching becoming a felony and increased penalties, and how last session NDOW proposed this but it had other clean-up items included so it was not successful. There was agreement that each law enforcement idea should be separated from the other ideas in order to increase the probability of success.

Chief Game Warden Buonamici next introduced the legislative idea to increase **to a felony the release of unauthorized wildlife and invasive species for injurious aquatic wildlife** like pike and piranha. The reason is that releasing pike into a body of water costs several thousand sportsman's dollars to clean that up. It was noted that the Fisheries Division will be reviewing it to determine if any other species should be included. There was discussion about ability to enforce, and focusing on species released knowingly and intentionally, such as people

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who intentionally tried to release piranha in Lake Mead. Other species that would not be included would be Quagga or other mussels because those could be accidentally and unknowingly released.

Another legislative idea discussed included the **regulation of wildlife fluids**, due to the dollar value involved with deer semen and an additional market. For example, hunters with a highly coveted tag have hired a private veterinarian to take the semen of deer or other big game, transport it to another state, and then artificially inseminate an animal on their private land, or game farms. There was discussion about whether to create a large fine structure, to regulate or prohibit the sale of it. Law Enforcement staff expressed the desire to make it unlawful to take or transport, or sell, and make it a felony. Following that, there was discussion about existing law that even with a harvested deer the tag holder cannot sell the deer meat; the underlying premise being just because an animal is legally harvested, that doesn't give free range to do anything. Lastly, there was discussion whether to curtail making money off of Nevada's wildlife, and the complicated legal standing.

Next was the proposal to **raise the Misdemeanor penalty structure to be compatible with other misdemeanors**. Wildlife violations are currently at a \$500 maximum, while all other general misdemeanors are at \$1,000 maximum. Commissioner Howell was supportive of the steeper fine, as was Commission Capurro. NDOW tried to increase the penalties last session in a combination bill, so this time the agency will split out each issue as separate rather than clean-up, to increase success chances.

Next BDR idea discussed was to create a **reciprocal Interstate Compact statute**, similar to what NDOW has with Arizona. The draft language would need to incorporate the language that other states use now, so that all have reciprocal wording. Currently the only interstate jurisdiction with California is at Lake Tahoe and Topaz Lake on the water/shorelines. There was also discussion about creating a **State Lacey Act** through Nevada Revised Statute.

BDR idea #5, was to **simplify state hunting and boating laws** - Change the boat accident reporting requirement from \$500 to \$2,000 to be compatible with federal regulation, and to repeal the 30 feet of rope requirement. There was discussion that there are too many complicated laws, making it too complex and discouraging participation. The boat accident reporting is just creating more work for, as the Federal law already sets limits what NDOW has to report. There was discussion that the 30 foot of rope requirement was unrealistic and excessive and was passed because of the emotional aspect after a serious boat accident. The general law enforcement philosophy is to simplify these laws.

The next discussion was about Department BDR idea #6, to **Expand Nevada Special Fishing Permit** in order to include organizations, foundations, programs, and educational institutions for the benefit of all children. Currently many scout groups and schools apply but because they are not listed, they do not qualify. NDOW wants the law to encourage children to start fishing before they become at-risk, not just restrict it to clubs for at-risk. Other groups that continue to qualify would remain (mental health facilities, correctional or detention of juveniles, rehab centers, elderly care facilities, and foster care facilities for those not delinquent). Program Officer Maureen Hullinger described how the Special Fishing permit has been in statute for a long time, but changes in 2003 removed some groups from qualifying. As part of the negotiations to save the fee bill in 2003, the permit was further restricted to only groups for disadvantaged children, mental health facilities, juvenile centers, etc. Then there was discussion about advertisement about this permit, and how currently it is not listed in the fishing book. There was agreement that any expansion of the permit would be more widely used if advertised.

Staff introduced the Substantive Bill Draft ideas of the Department (non-Law Enforcement topics). **Nuisance/Wildlife Human Conflict funding** was the first BDR idea - requesting money and staffing to address human-wildlife conflicts in the urban interfaces of Nevada, primarily in Washoe, Douglas, Carson City and Clark Counties. Since public safety is at risk due to increased numbers of black bears in and other nuisance wildlife in the state, would like to include a toll-free telephone line for all Nevadans to access to identify issues and concerns so that human-wildlife conflicts are resolved promptly, safety is increased, and citizens take corrective actions. Commissioner Howell expressed that it was a good idea, and there was discussion about possible costs. There was discussion about how other states fund nuisance wildlife, and a strategy to set ground work and continue to bring

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up nuisance wildlife funding to the Legislature, similar to how OHV registration was brought up every session, and then someday when things are better nuisance wildlife might get permanently funded. There was discussion about the laws regarding wildlife, and the fact that Nevada does not have a statewide law prohibiting the feeding of wildlife, nor a requirement for wildlife proof containers. Staff then described the past attempt at the legislature with this, and how they department has been working with each local government to pass local ordinances to do this, but not all have. Commissioner Capurro mentioned that this was a good idea and it was smart to lay the ground work now.

Staff introduced the next BDR idea, **protecting the Right to Hunt/Fish on public land**– to preserve the heritage of hunting, fishing and shooting on our Federal public lands. Encouraging the U.S. Forest Service and the Bureau of Land Management to utilize the "multi-use" mandates in their agencies' respective land management plans to promote sportsmen's access to forest and public lands, enhancing the ability of Federal land managers to provide, promote, and plan for recreational uses that balance the needs and interests of all outdoor enthusiasts. It would be modeled after the Congressional Sportsmen's Caucus legislation Recreational Fishing and Hunting Heritage and Opportunities Act. There was discussion about existing NRS 501.102 (value of hunting), and also discussion that this was more addressed to the federal land agencies so it might be both a joint resolution to make a point. Commissioner Lent recommended looking at the language that the NRA has gotten other states to pass.

NON – DEPARTMENT BDR IDEAS

Commissioner Lent introduced Non-Department BDR idea #1, to **create a fee reserved for litigation**, with the intent of discouraging the anti-hunting lawsuits or wild horse lawsuits. Then there was discussion about how a large litigation fund could be an enticement rather than a deterrent. There was discussion about the source of funding, and whether it would be mandatory or voluntary. Commission Lent suggested it be a "protection fee" that would build up, like the predator fee. There was discussion about the current \$10 application fee, and where that is going, and if that was being used.

There was discussion about Non-Department BDR idea #2 proposed by Commissioner Lent, **to require the Department to look at all possible solutions when there is an ungulate problem**, as there are similar proposals in Idaho and Alaska. There were questions about how the Department analyzes the problem and determines what steps to take when there is a deep drop in the number of a species. Currently, biologists do look at everything, including the veterinarian looking at carcasses and links to diseases.

Commission Capurro introduced Non-Department BDR idea #3, **to amend the Heritage Statute** to allow more spending. There was discussion about how the Heritage Fund first started, the previous sessions when the Heritage Account was amended, the portion of the money that was restricted from use, and how the only spendable portion was the interest. Currently there is a reserve of almost \$5.7 million dollars that cannot be spent. Commission Capurro cautioned how when the state gets in a bind, lawmakers seek any areas to make up the shortfalls, and he would rather be proactive, and amend the law to permit more use of the fund, and some of the reserve to be used for the purposes of habitat, development, or any issues that would benefit habitat of Nevada in certain situations. Essentially, the intent is to protect it from being used by the State of Nevada for general fund shortfall, by permitting more of its use for wildlife projects as it was intended. There was discussion about using the reserve for emergency-type repairs to the helicopter that could be completed with that money, or more projects on the ground, but still keeping a minimum balance in the reserve. Chair Capurro asked for input from staff.

Staff Comments

There was comment by Chief Game Warden Buonamici that it might appear more of a risk to draw attention to that account, by opening this statute. Mgmt Analyst 3/Legis. Liaison Jolly read statement from the Chief Financial Officer regarding the Heritage Account, who was not present.

(CFO statement) Since the Wildlife Heritage Fund Account is based on donations from the public for a specific purpose that account is separate from the Executive Budget and outside that process. It is not State (as a whole)

money and not eligible for a sweep. The accounts that the State (as a whole) has been sweeping are the fees for professional licenses that monitor certain professions and services to the public, and fees like Health immunizations. There is more likelihood of the State taking all of NDOW's general fund portion, and then going after license fees before going after the Heritage money.

Public Comment

There was public comment regarding the previous Legislative Session when the Heritage Account usable portion was expanded to 75%, and a concern that the interest rate was down. There was comparison to a "double-edged sword" that by bringing up that statute it's just drawing attention to that money. There was public comment that this is a time where there is a large amount federal money coming in, more should be done to require projects funded by Heritage to have a federal match, because it is a mistake to use Heritage money for any projects that aren't federally matched. There was also comment that they hope the CFO is right, and that is more advice than the Commission received in previous years.

Contrasting, there was public comment that recently at the Commission meeting the Heritage money was misused, and how it was unusual to see a grant process where there was so with little criteria for who was bidding and qualifications. There was question about whether the intent was to expand the ability in order to spend on predator management as that has been a primary goal of the Commission, and general opposition if that was the intent. There was comment that no one has supported using the money for staff salaries, yet it is used to fund jobs for Wildlife Services to kill predators. If the money is used for those jobs, then similarly the Heritage money should just go directly to the Department since NDOW has very few people on the ground and doing additional studies. There was public comment that in order to support such a measure there would need to be strong criteria specifying how funds would be granted through this process.

There were no other public comments.

Chair Capurro said he wanted the Legislative Committee to have another meeting before the Feb Commission meeting.

Staff will clean up these BDR ideas based on the feedback at this meeting, and at the next Legislative Committee they will be voted to support or oppose the concepts, rather than the exact language.

It was noted that the Wildlife Commission agenda for the February meeting reads that they will be taking action to support or oppose BDR ideas as recommended by the Legislative Committee. The problem with having a Legislative Committee meeting right before the Feb. commission meeting is that the CABs have already met, and wouldn't have the results in time to react. It was recommended that the Committee meet well enough in advance of the Commission meeting so that if the Committee votes, the sportsmen and CAB members have an opportunity to attend before their CAB meets.

The committee chair will work with staff to schedule their next meeting to provide about 2 wks prior to the Commission Meeting.

There was a motion made and seconded to adjourn. All in favor.

Adjourned after 1:00pm.