



# Legislative Research Council

## RULES REVIEW COMMITTEE MINUTES

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**Two Hundred Sixty-first Meeting (*Teleconference Call*)  
Monday  
August 29, 2005**

**Room 412  
State Capitol Building  
Pierre, South Dakota**

The two hundred sixty-first meeting of the Rules Review Committee was called to order by Chair Representative Jean Hunhoff via teleconference at 8:01 a.m. CT, August 29, 2005, in Room 412 of the State Capitol, Pierre, South Dakota. An additional conference call location was held at the South Dakota State University West River Ag Extension Office, 1905 Plaza Blvd. in Rapid City, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Eric Bogue (telephonically), Jim Hundstad (telephonically) and Orville Smidt (Vice-Chair) (telephonically); Representatives Roger Hunt (telephonically), Jean Hunhoff (Chair), and Bill Thompson (telephonically).

Staff members present included Doug Decker, Code Counsel, and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order.

### **Approval of Minutes**

The chair deferred the approval of the August 9, 2005, minutes to the next regularly scheduled meeting.

### **Chair's Remarks**

Chair Hunhoff stated that any one testifying must sign in and explained the procedural guidelines for the meeting: 1) department explains their rationale and proposed rules; 2) committee questions; 3) public testimony – proponents followed by opponents (30 minutes of testimony would be allowed for each side); 4) department comments; and 5) committee questions and action.

## Rules Reviewed

**Department of Game, Fish and Parks** - Amend rules relating to waterfowl hunting seasons and limits for ducks and geese pursuant to certain federal regulations relating to migratory birds.

**Mr. Doug Hansen** reviewed the proposed rules regarding the waterfowl hunting seasons.

*Representative Hunt moved, seconded by Senator Smidt, to approve the waterfowl hunting season rules proposed by the Department of Game, Fish and Parks. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.*

**Department of Game, Fish and Parks** - Adopt rules regarding a mountain lion hunting season and the license fee for issuance of the applicable licenses.

**Mr. Hansen** gave a brief history on the status of mountain lions in South Dakota and how they were once listed as threatened endangered specie and now are classified in state law as a big game animal. He stated that the Game, Fish and Parks Commission has carefully reviewed information on the topic and has chosen to manage the mountain lions as a big game animal.

**Mr. George Van Del** reviewed the proposed rules regarding the mountain lions. He stated that the harvest quota would be twenty-five mountain lions with a maximum of five breeding age females. The season would end once twenty-five mountain lions or five breeding age females had been harvested. He stated that the department is currently preparing brochures to be distributed to hunters that will explain the check-in procedures. In response to questions, he stated that the number of licenses may vary in future years. The department estimates the mountain lion population in the Black Hills to be about ten adult males, forty-five breeding females, and ninety subadults (estimated to be approximately a 50/50 ratio between male and female). Approximately twenty mountain lions are radio tagged. He stated the age of the animal is determined by various size measurements and a two to three year old female is considered "breeding age." An individual may purchase both a prairie and a Black Hills license; however, they may only harvest one mountain lion.

## Public Testimony

**Mr. Mike Authier**, Vivian, a member of the Game, Fish and Parks Commission, testified that the commission was briefed thoroughly by the scientists and believe it is time that the mountain lions are managed. He stated that the public input has been extensive statewide and the commission plans to follow the issue very closely.

**Mr. Jeff Olson**, Rapid City, a member of the Game, Fish and Parks Commission, stated in response to an earlier question that the gestation period for a mountain lion is 90 days. He stated that there are currently twenty-four mountain lions now collared. He is very confident with the numbers presented to the commission and does not believe the mountain lions will become extinct.

**Dr. Tom Huhnerkoch**, a veterinarian in Lead, thanked the committee for reading his prior written comments dated August 13, 2005. He testified in opposition to the proposed rules stating that there were insufficient reasons to support having a mountain lion hunting season. He questioned why the season was so long and why the license was so inexpensive. He also stated that there has been no recorded human injury or loss in South Dakota and very little livestock depredation.

**Mr. Eugene Koevenig**, Hill City, representing the Black Hills Mountain Lion Foundation, stated that the department has spent \$300,000 in research on the mountain lion issue. The original department recommendation to the commission was to harvest twenty mountain lions, four to be breeding age females. The original number included the removal of any problem mountain lions. The commission decided to raise the limits to 25/5 and expanded the season outside of the Black Hills. He asked the committee to not support the rules until a full environmental impact study was completed and until the limits are reduced to the original proposal of 20/4.

**Mr. Trevor Smith**, Rapid City, representing the Black Hills Mountain Lion Foundation, the Spirit of the Hills Wildlife Sanctuary, and Dr. Rick Hopkins of the Cougar Fund, testified in opposition to the proposed rules based on the lack of scientific merit of the research the estimated numbers are based on and the failure to provide a conservation plan to ensure the survival of the species in the Black Hills.

**Mr. Jack Ovitt**, Rapid City, testified in opposition of the proposed rules. He stated that there is a spiritual implication if wildlife sanctuaries are allowed to be hunted.

**Dr. Sharon Seneczko**, a veterinarian in Custer, stated she was part of the group that counted mountain lions in the Black Hills in 2000 and 2001. She is also a member of the Black Hills Mountain Lion Foundation and supports the management of mountain lions but strongly opposes the proposed rules because there are no safeguards to prevent extinction. She also believes the breeding age is too subjective. She stated the population numbers derived from the research conducted by South Dakota State University are unproven and urged caution on using that research until it has gone through peer review. She opposes the prairie unit season because there is no statistics available on the number of mountain lions outside of the Black Hills area. She was also concerned that the mortalities were not being included in the hunting quotas. She asked that the committee require the commission to collect additional information, listen to the biologists, and reconsider the original plan.

**Mr. Paul Robertson**, Rapid City, testified in opposition to the proposed rules. He stated that the tribal governments were not consulted prior to the commission expanding the season to the prairie unit and voiced concern that the proposed rules will create conflict regarding tribal jurisdiction on reservations.

**Ms. Nancy Hilding**, Black Hawk, representing the Prairie Hills Audubon Society, stated that she had previously mailed the committee a letter dated August 25, 2005, voicing concerns with the process of adopting the proposed rules. She opposed the proposed rules and stated that the commission had made substantial changes and asked the committee to not approve the rules.

**Mr. Mike Welchynski**, Spearfish, representing the Spirit of the Hills Wildlife Sanctuary, asked the department if there were any guarantees that the location of collared females would not be leaked. He also noted that it was in 2002 that the media reported all of the hype on the cougar attacks in California.

**Mr. Gardner Gray**, Pringle, rancher, testified in opposition to the proposed rules. He stated the total number of mountain lions is really an unknown because some of the animals come from Wyoming. He was concerned with the length of the hunt, the low cost of the license, and the ability to inform hunters in the woods that the season had ended.

Chair Hunhoff closed the public testimony at the end of the thirty-minute time limit.

**Ms. Donna Watson**, Deadwood, and **Mr. Lynn Namminga**, Deadwood, protested not being able to speak in opposition to the proposed rules. It was noted that there were additional people at the Rapid City location that had not spoken and who also opposed the proposed rules.

In response to the public testimony, Mr. Hansen stated that the harvest quota is a very effective means and has been used in other states. He acknowledged there is more to learn; however, they feel it is justified to move forward with the season.

Mr. Olson stated that there is DNA proof to show that the mountain lions are immigrating and migrating to Wyoming. He stated that sightings were not used as any model in the study and in managing them. He noted that in 2004, California killed 158 problem mountain lions and their numbers are higher this year.

In response to Senator Hundstad's question on why the original number was changed from 20/4 to 25/5, Mr. Van Del stated because the highest population is subadults there is a higher probability that the harvest will be of the immature animals.

*Senator Smidt moved, seconded by Senator Bogue, to approve the mountain lion rules proposed by the Department of Game, Fish and Parks. Motion prevailed on a roll call vote*

*with 4 ayes, 2 nays. Members voting aye: Bogue, Hunhoff, Smidt, and Thompson. Nay: Hundstad and Hunt.*

Senator Smidt commented that he had followed the issue over the past few years and now that there will be a season, adjustments could be made down the road.

Senator Bogue thanked the opponents for their concern and input. He stated that the committee is limited to the action that they can take. The mountain lion hunting season rules are clearly within the range of the statutory authority of the department to promulgate rules to harvest the mountain lions. He stated that if the public wants the rule-making authority changed, they should voice their concern to the Legislature.

### **Meeting Schedule**

The next meeting for the Rules Review Committee will be on Tuesday, September 20, 2005, in Room 413 of the State Capitol in Pierre.

*Representative Thompson moved, seconded by Senator Smidt, that the meeting be adjourned. Motion prevailed unanimously on a roll call vote with 6 ayes. Members voting aye: Bogue, Hundstad, Hunhoff, Hunt, Smidt, and Thompson.*

The chair adjourned the meeting at 9:29 a.m.



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