

Minutes of the Game, Fish, and Parks Commission
Teleconference May 22, 2014

Chairman John Cooper called the meeting to order at 11:01 AM Central Daylight Time. The locations for the public to attend the teleconference were located at the Game, Fish, and Parks Large Conference Room on the 2nd Floor of the Joe Foss Building, 523 East Capitol Ave, Pierre, SD; the Outdoor Campus Regional Office, at 4500 S Oxbow Ave, Sioux Falls, SD; and the Outdoor Campus Regional Office at 4130 Adventure Trail, Rapid City, SD. Commissioners answering roll call were: Paul Dennert, Barry Jensen, Gary Jensen, Cathy Peterson, Scott Phillips, Duane Sather, Jim Spies, and John Cooper. Present at the Joe Foss Building in Pierre, South Dakota, were Secretary Jeff Vonk, Division of Wildlife Director Tony Leif, Attorney Richard Neill, Chief Tom Kirschenmann, Program Administrator Keith Fisk, and Executive Secretary Debra Ascher. Roll was answered at the Sioux Falls location with one member of the public and one staff member present; the Rapid City location had a staff member present. A quorum was declared.

DIVISION OF WILDLIFE

Chairman Cooper stated the purpose of the teleconference was to consider a petition received from Brian Reynolds for the repeal of three trapping provisions. Cooper asked the Division of Wildlife to provide information.

Division of Wildlife Director Tony Leif indicated the petition submitted from Brian Reynolds requesting the repeal of three administrative rules was based on Reynolds belief that these rules were established outside Commission authority.

Leif indicated the Department reviewed the rule making process for each of the rules and disagrees with Reynolds' reasons listed in the petition. The Division of Wildlife recommends the Commission deny the petition request; and drafted Resolution 14-05 for Commission consideration.

Director Leif outlined the two alternatives before the Commission 1) to allow the repeal process move forward; or 2) deny the petition which requires a statement of reasons for denial.

Director Leif outlined the key elements of Resolution 14-05 which states the Commission received a copy of the petition along with the members and Director of the Interim Rules Review Committee; the Commission is required to take action within thirty days from the date of receipt of the petition; the Commission has been advised that a public hearing is not required at this time; and the Commission has received a copy of the rules the petitioner requested repealed. The Resolution states the reasons for denial as: the Commission has the authority in SDCL 41-2-18(14) to regulate these rules; the Commission and past Commissions have followed procedures in SDCL Chapter 1-26; and that Legislative Review Council reviewed the rules process for each of the rules petitioned by Reynolds for conformance with state statutes. The Resolution also contains the action required should the Commission approve Resolution 14-05.

Chairman Cooper opened discussion from Commissioners regarding the petition request, Resolution 14-05, and concerns or questions regarding the process before the Commission at this time. Having no discussion or questions, Cooper called for a motion regarding the petition.

Motion by Sather with second by Spies TO APPROVE RESOLUTION 14-05 AS PRESENTED (Attachment A). Roll call vote: Dennert-yes; Barry Jensen-yes; Gary Jensen-yes; Peterson-yes; Phillips-yes; Sather-yes; Spies-yes; Cooper-yes. Motion carried with a unanimous vote.

Secretary Vonk indicated a response was received from Beretta this morning and would be emailed to Commissioners later today with any discussion or questions to be reserved for the next meeting.

Cooper called for a motion to adjourn the teleconference. Motion by Peterson with second by Dennert TO ADJOURN THE MEETING. Roll call vote: Dennert-yes; Barry Jensen-yes; Gary Jensen-yes; Peterson-yes; Phillips-yes; Sather-yes; Spies-yes; Cooper-yes. Motion carried with a unanimous vote. The meeting adjourned at 11:15 AM CDT.

Respectfully submitted,

Jeffrey R. Vonk, Department Secretary

Appendix A

RESOLUTION NO. 14-05

Whereas, Brian Reynolds (PETITIONER) of Monroe, South Dakota, by email transmission dated May 2, 2014, with an original thereof delivered to the Department Secretary by U.S. Mail received on May 5, 2014, submitted his petition (PETITION) to repeal ARSD §§ 41:08:02:01 (Water-sets prohibited—Dates--Exceptions), 41:08:02:13 (Traps to be rendered inoperable--Removal of trapping devices) and 41:08:02:14 (Traps and associated equipment prohibited on public lands open to trapping--Dates) for the reasons stated in the petition; and

Whereas, all members of the COMMISSION have earlier been furnished a copy of the PETITION; and

Whereas, the COMMISSION has been advised that counsel for the COMMISSION served a copy of the PETITION on all members of the Interim Rules Review Committee and the Interim Director of the Legislative Research Council by email transmission and/or U.S. Mail, all dated May 5, 2014; and

Whereas, the COMMISSION has been advised that SDCL 1-26-13 requires that within thirty days of submission of the PETITION the COMMISSION shall either deny the petition in writing (stating its reasons for the denials) or shall initiate rule-making proceedings in accordance with SDCL 1-26-4; and

Whereas, the COMMISSION has been advised by counsel and is of the opinion that a hearing on the PETITION is neither required nor necessary; and

Whereas, during a special meeting held by teleconference on May 22, 2014, the COMMISSION reviewed and carefully considered the requirements and procedures contained in SDCL 1-26-13, the PETITION, and reasons advanced by the PETITIONER for repeal of ARSD §§ 41:08:02:01 (Water-sets prohibited—Dates--Exceptions), 41:08:02:13 (Traps to be rendered inoperable--Removal of trapping devices) and 41:08:02:14 (Traps and associated equipment prohibited on public lands open to trapping--Dates); and

WHEREAS, the COMMISSION has been granted the authority by SDCL 41-2-18(14) to regulate devices, weapons, ammunition, traps, tackle, bait, lures, and equipment which may be used to hunt, kill, capture, or locate any wild animal or fish if use of the above items would adversely affect the health, safety, or welfare of people or wildlife resources; and

WHEREAS, the administrative rules being petitioned for repeal were adopted by the COMMISSION in conformance with the authorities granted to the COMMISSION by SDCL 41-2-18(14); and

WHEREAS, the COMMISSION conformed with the laws and procedures within SDCL Chapter 1-26 for promulgation of the rules being petitioned for repeal; and

WHEREAS, the rule promulgation procedures and authorities for the adopting the rules being petitioned for repeal were reviewed by the South Dakota Legislative Review Council and determined to be in conformance with the state statutes of South Dakota.

NOW, THEREFORE, BE IT RESOLVED, that the Commission does hereby deny the Petition for the reasons hereinabove stated in this Resolution, which said Resolution as adopted by the Commission shall constitute the Commission's written denial of the Petition and reasons therefore.

BE IT FURTHER RESOLVED that the Petition, a record of the Commission's discussions concerning same, and this Resolution be made a part of the Minutes of the Commission meeting at which this Resolution is adopted, and further, that the Department be and it is hereby authorized and directed in compliance with SDCL 1-26-13 to serve a copy of an extract of that portion of the Commission minutes which pertain to the Commission's discussion of the Petition and its adoption of this Resolution, including a copy of the Resolution, on all members of the Interim Rules Review Committee and Director of the Legislative Research Council.