



# The Outdoorsman

Bulletin Number 12

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## F&G Conservation Officers Deserve Praise for Investigative Efforts

*by George Dovel*

On June 3, 2005, IDFG's Salmon Region Conservation Educator issued a news release advising that two F&G employees from the Region had received awards at the agency's In-Service Training School in Boise. Senior Conservation Officer (SCO) Tony Latham received the Shikar Safari International Wildlife Officer of the Year award for Idaho.

Latham's nomination cited his outstanding dedication to protecting Idaho's wildlife resources, exceptional investigative skills, desire to improve his knowledge and skills, exceptional training programs, and willingness to work with other agency personnel in the Salmon Region.

Several days later I had occasion to congratulate Latham for receiving the prestigious award and his modest reply told me something about him. "Just about every one of my successes over the last 17 years had at least one other 'gray shirt' standing next to me. Seldom does anyone get much done by himself."

I became involved with SCO Latham on June 8, 2005, when a reader called and asked me to check out and print the facts concerning a news item that appeared in *The Idaho Statesman* that day. The article described how an IDFG employee from the Southeast Region Office in Pocatello had plead guilty to a charge of failing to tag a deer he had killed, while a second charge of exceeding the bag limit of deer was dropped as a result of a plea bargain.

The article named SCO Latham as the F&G officer who issued the citations and said the story was based on records of the Valley County Magistrate Court for June 2. I emailed an information request to Latham and drove to Cascade to obtain copies of the court records and interview Prosecuting Attorney Matt Williams.

We often receive tips and requests to print facts and we usually take the time to check them out. However we rarely print the outcome because it usually involves singling out some individual or "F&G bashing."

After studying the court records and hearing the prosecutor's explanation for accepting a plea bargain which included dropping the more serious poaching charge, I felt that printing the facts would not help achieve our goal of restoring sound fish and game management. The fact that both of the crimes were based on laws that some hunters occasionally violate also influenced my decision.

But when the offender subsequently used the Pocatello media to make it appear that he was the victim rather than the perpetrator, it created the impression he should never have been charged with F&G violations in the first place. The following information provided by Officer Latham and Prosecutor Williams should help readers decide whether the outcome was unfair or just.

It may also make readers aware that when you kill a big game animal, which may or may not already have been hit by a bullet from another hunter, Idaho law requires you to immediately validate and attach *your* tag to that animal. And whether or not you tag that animal, you may not lawfully kill another of the same species that season unless you have multiple tags for that species.

On October 17, 2004, IDFG Southeast Region Conservation Educator Harry Morse and two hunting companions from California were flown from Challis to the Flying B Ranch on the Middle Fork of the Salmon River. They were packed out to a drop camp on that same day and the following morning Morse and the younger hunter, who was then 23 years old, went deer hunting.

They spotted a 3 X 4 point buck, which Morse later said was 300-400 yards away, and Morse told the younger hunter to rest his rifle on his back pack and shoot it while he (Morse) watched it through the binoculars. The deer was bedded and Morse said the first and second shots hit below the deer so he told the hunter to hold higher.

At the next shot the deer turned its head and then stood up. The hunter shot again and Morse told him he had

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hit the deer and told him to keep shooting. Later Morse told two IDFG employees that he had seen the buck "kind of flinch or wiggle" at the hunter's final shot.

The hunter was out of ammunition and Morse told him he was going to start shooting at the deer while the hunter retrieved more ammo from his back pack. Morse reportedly knocked the deer down with what was described as a shoulder shot, and killed the deer when it got up again by aiming above the top of the antlers and firing a bullet that entered the left side of its skull.

When Morse and the younger hunter reached the deer, they observed a gut shot and Morse told him it was his deer and he should put his tag on it. Morse later said they removed the back straps and packed them and the hindquarters back to camp that day.

The next day Morse hunted by himself and killed a 4-point buck. His IDFG digital camera contained dated photographs of him posing with each of the racks, both of which were partially caped with the heads not yet skinned out. A close look at the base of the left antler of the 3X4 rack shows it is hanging down at an abnormal angle.

The third hunter, who was also the father of the man who tagged the 3X4 buck, killed a forked-horn buck near camp and Morse killed a cow elk. They flew back to Challis on October 24, and on their way back to Pocatello, the three men checked the three deer and one elk through a big game check station operated by Latham at Moore, Idaho.

#### **Morse Described Hunt To Witnesses**

The next morning Morse returned to work and began describing the hunting trip to several F&G employees. Two written statements verify the following:

Morse said that the 3X4 buck flinched like it was hit when the California hunter fired the last bullet in his rifle so he (Morse) shot at the buck and knocked it down. The buck got back up and Morse missed a shot.

The California hunter had reloaded by then and shot two more times, but told Morse he was shaking too much to hold the rifle steady. Then Morse aimed at the top of the buck's antlers and fired the fatal shot, which cracked the buck's skull and the buck summer-salted down the mountain.

Morse then said he told the hunter, "Here is your buck," and said that's the way he hunts – whoever hits the animal first tags it. He also said there was a hole through the deer's paunch where he said the younger hunter's bullet had hit.

Also on the morning of October 25, Morse emailed a photograph of him posing with the 3X4 buck to another employee in the same office and then visited with him and began to discuss the hunt. When asked if he planned to mount the head, Morse said it was in California and explained that he had only knocked the buck down and then killed it with the head shot to save a tough recovery.

One of the listeners called SCO Tony Latham in Salmon and expressed his concern that Morse had knocked the deer down, killed it with a head shot when it got back up, and then instructed the California hunter to tag the animal unlawfully.

#### **No Different Treatment**

Latham quickly called IDFG Enforcement Bureau Chief Jon Heggen in Boise to notify him of the allegations since it involved a Department employee. Heggen told Latham, "We are not going to treat him any different than any other person."

According to an Incident Report signed by SCO Paul Alexander in Pocatello, Morse approached him on October 30, and said he took his friend's son on his first deer hunt, spotted the buck and told the "boy" that was to be his deer. He said the boy shot until his gun was empty and by that time the deer was standing up and acting as if it was going to leave.

He said he told the boy to re-load and that he (Morse) was going to start shooting. At that point Alexander interrupted Morse and told him he did not want to hear a story of how he shot the kid's first deer and then put the kid's tag on it.

Morse said, "Oh no" and then told him the deer was already hit by the boy and he was just trying to keep the deer from going into the next canyon where it would be a terrible job to pack out. Morse did not mention shooting the deer and simply said they got the deer and it was a tough pack out.

#### **Digital Photos Became Evidence**

Morse was unable to download some youth pheasant hunt photos, that were in the camera along with the deer hunt pictures, to his personal computer. On November 1, another Pocatello employee offered to save them to the Region's common drive and Morse asked him to use his computer to burn two CDs of the photos.

When the employee realized the photos might be germane to a criminal investigation, he burned two extra CDs and provided them to Latham and another officer. The following day Morse called yet another IDFG employee on Fish and Game business and also mentioned how he had put a couple of long range shots in the buck after the "boy" hit it with one shot.

On November 3, Enforcement personnel learned that Morse had insisted the photos in the F&G computer be destroyed and they perceived he was concerned about a potential investigation. On November 9, Latham and another officer visited with Morse and asked him to describe the hunt.

He failed to mention firing any shots at the deer until they confronted him with a statement from the California hunter saying Morse shot it in the head. He then claimed he fired only the one shot until he was confronted with his own statements, provided by witnesses, that he had also knocked the deer down with an earlier shot.

On November 12, 2004, Morse was issued citations for failure to tag the 3X4 buck deer he killed on October 18, and for exceeding the deer bag limit by killing a 4X4 buck deer on October 19, after he killed the 3X4 buck. On November 11, 2004 the 4X4 rack, hide and deer tag, and 29 packages of mule deer meat were seized.

At his appearance in Valley County Magistrate Court he was represented by legal counsel and plead not guilty to both charges. He also requested a jury trial.

According to Valley County Prosecutor Matt Williams, Morse's attorney offered a forfeiture of a \$2,000 bond in return for the Court dropping both charges. Williams said that he declined to agree to the offer because it would appear that the Department was buying his way out of the crimes he committed.

### **Plea Bargain Drops Poaching Charge, Penalties**

In a Rule 11 Plea Agreement signed by Morse, his attorney, Mark Manweiler of Boise, and Valley County Prosecutor Matthew Williams on April 6, 2005, it was agreed that Morse would enter an Alford plea of guilty to Count I of the Criminal Complaint filed on January 6, 2005. This was a charge of Failure to Attach Game Tag to Carcass in violation of I.C. Sec. 36-409(d).

The Plea Agreement stated that the defendant (Morse) would: pay a fine of \$500 plus \$63.50 court costs; perform 40 hours of supervised community service in Pocatello; be placed on one year of unsupervised probation; receive a withheld judgment; and if he completes the probationary period without any Fish and Game violations, the Court will set aside his guilty plea and dismiss the case.

The Plea Agreement stated that, if accepted by the Court, the State would dismiss Count II, Exceeding Big Game Tag Limit. The Agreement also provided that Morse would not: pay any restitution or any civil penalty; serve any jail time; or have his hunting, fishing or trapping license suspended.

On June 2, 2005, Valley County Magistrate Henry Boomer ordered the withheld judgment in accordance with the terms of the plea bargain including fine and court costs totaling \$563.50 plus \$24.00 Community Service Insurance. The withheld judgment was recorded on June 7, 2005, as reported in the June 8, 2005 Idaho Statesman.

### **Alternative to Plea Bargain**

If the case had gone to trial and Morse had been convicted of Count II, conviction required a mandatory license suspension for at least one year and mandatory reimbursement to the state of \$400 - in addition to a minimum fine and any jail or community service imposed. (Note: Even if the Boone & Crockett score of the 4X4 buck had exceeded 150, the \$2,000 trophy buck reimbursement fee would not have been applicable since the charges did not qualify as a flagrant violation.)

In an apparent effort to convince the public that he was innocent of both charges, Morse was quoted in a June

11, 2005 *Idaho State Journal* article as saying, "If this had gone before any other judge it would have been thrown out."

When the Valley County Prosecutor read Morse's claim, he provided the following response in a June 17, 2005 email to me:

First, some comments on Mr. Morse's quote in the paper about if this case had been before any other Judge. This case would have been tried before a jury. The jury, not Judge Boomer, would have decided the case.

If his case was that strong for acquittal, he should have taken the case to trial. Either he and/or his attorney felt there was enough risk to go to trial that he was better off pleading guilty to one count then taking the risk on two counts.

An Alford plea is a guilty plea. The plea is essentially that, although you think you are innocent, the state has enough evidence that a jury might find you guilty. In this case, that evidence was Mr. Morse, in his own words, bragging to co-workers about another head shot. Mr. Morse's bragging about how good a shot he was to his Fish and Game co-workers is what sparked the investigation.

Mr. Jennings confirmed that Mr. Morse shot the deer in the head and that the head shot was the final shot put into the deer. Mr. Morse's action of shooting the deer is not what constituted the crime. Only when Mr. Morse had Mr. Jennings tag the deer did he commit a crime.

That poor decision was followed by Mr. Morse killing a second deer. That action constituted a second crime. Mr. Morse admitted that he finished the first deer off and that the deer was still moving toward the ridge when he fired the head shot.

From the state's point of view, the statements collected from the various witnesses clearly show that Mr. Morse was guilty. However, there was no physical evidence to back up the statements. My main concern in this case was my ability to secure a conviction on statements alone without any physical evidence to back those statements.

I decided that it was in the best interests to hold Mr. Morse accountable for one count and dismiss one count. I felt that the jury would either come back with a guilty verdict on both counts or a not guilty verdict on both counts. The jury would most likely not come back with a guilty on one and a not guilty on the other. Just like with the Michael Jackson case, you never really know what a jury will do. Even though the evidence is there, juries do not always convict.

I felt it was more important to hold Mr. Morse accountable for at least one count than it was to take the risk of a not guilty verdict on both counts. Mr. Morse was held accountable for committing a crime.

Matt Williams

(The physical evidence Mr. Williams referred to could be the deer's skull with a bullet hole indicating a fatal wound.)

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### Photographs of the Two Bucks

The two photographs on this page are part of Criminal Case File CR-04-1054-C. The entire file may be viewed upon reasonable notice at the Valley County Court Clerk's Office in Cascade, Idaho (Photocopies are also available at \$1.00 per page).



Harry Morse with 3X4 point mule deer buck he shot and killed on October 18, 2004 above the Flying B Ranch on the Middle Fork of the Salmon River. Morse was later cited for failure to immediately validate and attach his tag to the carcass when he killed it.

(The primary purpose of this article is to recognize the professional manner in which F&G Enforcement personnel, from the Bureau Chief down, conducted their investigation. The employee who came forward and reported his concern that violations had occurred, deserves to be commended.

It is never easy to investigate "one of your own." Yet the employees assigned to various investigative tasks and others who provided information and assistance were all partly responsible for the fact that this incident did not get swept under the rug.

At a time when public confidence in Idaho wildlife managers may be at an all time low the attitude and actions

of the agency's Enforcement personnel, who deal with the public most, can be very important.- ED.)



Harry Morse with 4X4 point mule deer buck he shot and killed on October 19, 2004 above the Flying B Ranch on the Middle Fork of the Salmon River. Morse was later cited for taking this deer in excess of the limit after killing the 3X4 buck on the preceding day.

### First Super Hunt Winners Announced

In a drawing held at Fish and Game Headquarters in Boise on June 15, the first 2005 Super Hunt tag winners were decided. Billed as "The Hunt of a Lifetime," extra permits for eight deer, eight elk, eight antelope and one moose were given to hunt in any open hunt in the state.

At \$19.95 per chance on the "Super Hunt Combo," one man also won a tag to hunt all four species.

For the deer and elk hunters, that means they can hunt from mid-summer through December 31, 2005, and harvesting an extra "trophy" animal is virtually guaranteed. In an aggressive ad campaign F&G encourages applicants to buy multiples of 6 or 13 chances at a slightly discounted price to increase their odds of drawing a permit.

The hunter buying the most tickets for each species has the best odds of drawing a permit. One-fourth of the deer and elk permits were drawn by non-residents and that percentage is expected to increase once the news gets out.

# Letters Correct Misinformation

By George Dovel

*After we published the misinformation provided by SCI-Idaho Chapter concerning S 1171 in Outdoorsman Bulletin No.10, Fish & Game Advisory Committee member Bill Davidson sent the following email to the other Committee members on March 28, three days before the House hearing on S 1171:*

Kent (Committee Chairman Kent Marlor) asked me to send this information to you all.

The new sportsmen's organization, Sportsmen for Fish and Wildlife, are pulling an end run around our committee and has advocated putting another \$100,000 dollars into USDA Coyote Control programs in order to provide benefits to wildlife.

This money would be given to the US Department of Agriculture's Animal Damage Control Program - the guys that currently have charge of the coyote control program in Idaho. The question that should be asked, "Is this the best use for the money and is this the best place to put the dollars to accomplish a reduction in coyote numbers for the best price."

Here is some information that we should certainly be considering. About year 2000, a group of sportsmen in South East Idaho formed the SE Idaho Mule Deer Foundation. One of their projects was to decrease the number of coyotes, and provide some relief to wintering mule deer and spring dropped mule deer fawns.

They chose to do this by encouraging hunters to hunt coyotes for sport--ie-calling, etc. They asked coyote hunters to bring in the two front paws of coyotes they killed - and for this the hunter was given a ticket in a draw for prizes - the top one being a high class coyote rifle.

They have about \$2000 to \$3000 in Donated prizes each year. Hunters can drop off the paws at 3 or 4 sporting good stores in Southeast Idaho. People at the store exchange the raffle tickets for the paws, and keep a record of the coyote killed.

Here are the results:

2000-----about 500 coyotes brot in.  
 2001-----about 800 brot in.  
 2002 -----over 1000  
 2003 -----over 1100  
 2004 -----over 1400

Costs for this program amount to about \$2.15 cents per coyote killed.

I checked USDA figures for coyote control in Idaho for the year 2003. They report 4,333 coyotes killed Statewide at a cost of about 1.2 Million Dollars. This amounts to about \$277.00 dollars per coyote killed. So why don't we take the \$100,000 and fund programs sponsored by sportsmen organizations to buy the prizes and let sportsmen hunt coyotes for pleasure?

Bill

## Huffaker Says Coyote Control "Pretty Spendy"

IDFG's Steve Huffaker then sent the members an email "in the interest of fairness", providing the cost of coyote control in the Southeast Idaho Mule Deer Study conducted by Mark Hurley. In that study conducted from 1999-2004, the cost per coyote varied from \$103-\$163.

Huffaker explained that the \$130.75 average for the six-year study was different than Davidson's \$277.00 which he claimed was the cost per coyote killed statewide. Then he added, "Either way it's pretty spendy."

Committee member/rancher John Romero then sent an email to APHIS-Wildlife Services Idaho Director Mark Collinge, asking for clarification. Collinge sent him the following reply:

I have not been involved with SB 1171, but I've read the bill and have been seeing some of the e-mail traffic going back & forth about it. My understanding is that the \$100,000 would not be earmarked for any particular type of predator control efforts. It would probably be spent on whatever predator control efforts the Fish & Game Commission (in coordination with the State Animal Damage Control Board) so designated. That might be coyote removal to protect mule deer on wintering or fawning areas, or raven & red fox control to protect juvenile sage grouse, or coyote removal to protect antelope fawns, or whatever.

Regarding the cost-per-coyote figures, those numbers are typically going to vary depending on a variety of factors, but it's important to recognize some of the context regarding predator control efforts for protection of wildlife. When the Fish & Game Department has approached USDA Wildlife Services about conducting predator control efforts to protect wildlife, whether it be mule deer, sage grouse, pheasants, or whatever, we've suggested that predator control efforts should be focused where and when they will do the most good. That is typically going to be very different from where and when predator removal efforts can be done at the least cost.

The cheapest and easiest time to remove predators is in the fall and early winter months, which is fortunately also when furs are prime and private hunters and trappers are typically targeting predators. In the early fall and winter months, there are maximum numbers of coyotes available, most of which are young-of-the-year and relatively naive. It's only logical to let private hunters, trappers and recreationists harvest as many coyotes as possible during this time, at no expense to Fish & Game. Incentive programs like the ones where hunters turn in ears or feet for raffle tickets that might win them a valuable prize are great ways to encourage this harvest. As the fur harvest season starts winding down in January or February every year, coyotes have started becoming much harder to come

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by, and the efforts of private hunters and trappers have dropped way off. You've reached a point of diminishing returns, the easiest coyotes have already been harvested, and it now takes much more effort & expense to harvest fewer coyotes. There aren't as many coyotes out there, and the ones that are left are often wised up.

This is precisely the time when USDA Wildlife Services typically initiates efforts to control predators for protection of wildlife. The rationale is essentially to "hit 'em while they're down". All of our efforts at this time are additive to the efforts already undertaken for free by the private hunters and trappers. This way we're not competing with the private hunters and trappers, and our efforts have maximum additive effect. And they're occurring just prior to the time of greatest vulnerability of the resource (e.g., when fawns are being born & reared or when game birds are nesting and trying to rear hatchlings). So when someone comments about Wildlife Services' coyote removal efforts seeming "pretty spendy", it's important to put things into context.

The individual who made the simplistic comparison of Wildlife Services' total budget with the total number of coyotes taken by the program statewide came up with a number that's pretty meaningless. Wildlife Services deals with a wide variety of problems and species besides coyotes, including wolves, lions, bears, foxes, badgers, migratory birds, beavers, marmots, etc. It obviously makes no sense to infer that all of our budget goes to control coyotes. The numbers provided by Steve Huffaker are more realistic, but again, they should be considered in the context of the effort. And they need to be considered in relation to the benefits they provide.

Most of our coyote removal efforts are undertaken for protection of livestock. A conservative economic analysis of Wildlife Services' coyote removal efforts for protection of domestic sheep in southern Idaho suggested a 1:3 cost-benefit ratio. Livestock producers have long suggested that the efforts they help fund to protect livestock are providing significant ancillary benefits to wildlife at the same time.

Mark Collinge

APHIS Wildlife Services

### **Davidson Submits Letter**

Bill Davidson also submitted a letter to the Editor of the *Idaho State Journal* in Pocatello denouncing SFW-Idaho for its role in S1171. That letter, published on March 21, 2005, is re-printed here as submitted:

Dear Editor:

I have a real hard time understanding the thought processes of the leaders in the newly formed sportsman's organization, Sportsmen for Fish and Wildlife." Why would any group interested in increasing hunting and fishing opportunities take \$100,000 earmarked for wildlife habitat improvement and spend it on Predator Control. Yet this is exactly what SFW has done in their initial effort to "work with the Idaho Legislature" to improve hunting in Idaho.

Idaho Fish & Game employees have always been guided by the principles of getting the most for the limited

amount of sportsmen dollars they have in their budgets.

If I spent \$100,000 dollars cutting old age aspen stands in Southeast Idaho, I would get returns from that investment continually over a 60 year period. But if I spend \$100,000 killing coyotes, the resultant reduction in the coyote population only lasts until the next spring when coyote females give birth to their litters.

Work done on the Caribou National Forest several years ago showed that cutting old age aspen stands--stands that had about 400 stems per acre and all mature trees--would yield stands that had over 150,000 stems per acre---all young age class and available for fauns to eat. In addition, that density of aspen shoots would provide excellent hiding cover for mule deer females and their fauns.

The Animal Damage Control (ADC) people employed by the US Department of Agriculture (the Gopher Chokers) have been shooting and trapping coyotes for over 50 years, and they still are doing it. And coyote populations fluctuate annually, but they never have disappeared.

Actually, the SE Idaho Mule Deer program that encourages the sport hunting of coyotes by providing raffle tickets for drawings to successful hunters has probably resulted in more coyotes being killed every year than the ADC people.

So the question remains---If you want to spend the sportsmen's dollar wisely--will you go for short term questionable results such as that proposed by SFW or long term quality wildlife habitat results currently being advocated by the Idaho Fish and Game and supported by responsible sportsmen!!

Bill Davidson

Pocatello

On April 1, the *Journal* published the following response to Davidson's letter written by well-known Pocatello sportsman and conservationist John Kontes:

Dear Editor:

Bill Davidson is highly critical of the efforts of sportsmen's organizations to bring pressure on the Department of Fish and Game to undertake predator control as a means of restoring our decimated mule deer populations. He claims it will divert resources from habitat improvement efforts, specifically cutting stands of mature aspen trees to produce more young trees.

I doubt that outside of the Safari Club you could find enough sportsmen in southeast Idaho who believe that our current (12-year) mule deer disaster is primarily due to inadequate habitat, to organize a pinochle game.

Our deer herds went from world class to the endangered species list in the space of 120 days exactly 12 years ago right now. Does Bill believe that every quakie patch in southeast Idaho went from just right to over-mature in those same 120 days?

In the first place, sportsmen don't believe Bill and his cohorts at IDF&G. They know that our deer disappeared due to winter kill combined with the refusal of the department to even try to mitigate the natural disaster.

with supplemental feeding, and they know that the herds' utter inability to make a comeback coincided with the greatest explosion in predator populations since the arrival of the white men.

And in the second place, nobody believes that any money saved would ever actually produce improved habitat. We all remember where the "HIP" money earmarked for pheasant habitat actually got spent.

Any examination of the F&G budgets over the last 25 years reveals that any time they get more of our money we get more biologists, more supervisors and more vehicles, but no habitat improvements.

We see no indicators of that situation changing.

John Kontes  
Pocatello

A supporter of several sportsmen organizations, Kontes' long-term efforts to restore and maintain healthy wildlife populations was the subject of an extensive article in the *Journal* recently. He received an award from the Safari Club International national organization, and area sportsmen praised his long history of working to improve wildlife habitat and donating money and prizes to sportsmen fund-raisers.

When Idaho APHIS-WS Director Collinge responded to my request for permission to print his email to Romero, he added the following comments:

I realize there's been a lot of misinformation floating around about this bill. The inferences about it costing \$7,000 for each trophy buck produced don't take into account that there's any value to any of the other deer saved through coyote removal efforts. Most of the deer saved are going to be does, which are your buck factories. According to Idaho Code (36-1404), the State apparently feels doe mule deer are worth at least \$400 apiece anyway, since that's what the law stipulates for restitution if one is poached. It also doesn't consider the value of the sage grouse, pheasants, and other assorted game birds that this same statute values at \$50 apiece, and which those same coyotes are consuming when they're not eating mule deer or whatever else they happen to be dining on.

My standard response to those folks who complain that predator control is a waste because you have to do it every year is that predator control, like a great number of other wildlife management practices, requires recurrent effort, but that doesn't mean it isn't effective. Do you see the Fish & Game folks planting fish or stocking pheasants just once? No, they do it every year. What about all the money they spend flying helicopters to count deer and elk? It's very expensive and they do it every year. Does that mean it isn't effective? Obviously it doesn't. These things require recurrent effort just like predator control.

Mark Collinge  
APHIS - WS

Every time knowledgeable outdoorsmen combat Fish and Game sound bites and clichés with facts and logic

they educate others who are not as knowledgeable and must rely on IDFG for information. Outdoorsmen play a vital role in restoring sound resource management when they expose flawed information and its source.

### **Basic Biology/Mathematics**

In a June 2004 Outdoorsman article entitled "Controlling Predators," we reported the results of a General Accounting Office (GAO) study of APHIS-WS ordered by Congress in 2001. Using data provided by Utah wildlife biologists, the GAO report said WS coyote control increased mule deer fawn survival from nine percent to 42 percent and fox control decreased adult sage grouse mortality from 82 percent to only 33 percent.

Using the \$300 civil value for each Utah mule deer (in 2001), a total of \$54,421 spent for WS coyote control produced 3,340 extra surviving yearling deer worth *at least* \$1,002,000. That represents a direct cost-to-benefit ratio of at least 1:18.4 – a direct net gain of 1740 percent on the investment!

In Utah's Pahvant general-season unit, conducting coyote control for three years in a row resulted in a 1:22.6 direct cost-to-benefit ratio – a net gain of 2163 percent on the investment! But this still does not reflect all of the long-term benefits from controlling coyotes until mule deer fawn-to-yearling survival exceeds 40 percent.

Once proper predator management allows recruitment to increase beyond 40-50 per 100 does, healthy buck-doe-fawn ratios can be restored and mule deer populations will recover in a few years. Eliminating all mule deer hunting after October 31, when mature bucks become extremely vulnerable, will significantly increase the average age of bucks in the herd.

This automatically increases the opportunity for experienced hunters to harvest more older bucks, including some in the "trophy" category with a Boone & Crockett score of >150 points (worth \$2,000 each according to I.C. Sec. 36-1404.3.). With mule deer numbers restored to the 600,000 that IDFG Wildlife Bureau Chief Jim Unsworth says existing Idaho habitat can support, every deer hunter would have reasonable odds of harvesting a deer.

### **Contact Your Commissioner**

\$1171 more than doubled the number of sportsmen license dollars allocated to the F&G Commission specifically to control predators where they are limiting recovery of valuable game species. Instead of allowing IDFG to repeat the false claim that predator control is too expensive, the Commission has been given a clear mandate to designate where the money can best be spent to accomplish specific recovery goals.

The biological criterion for a 50% reduction in predator numbers in order to be effective in a given area may dictate intensive WS control in one problem area - or supplementing sportsman control in several areas. Sportsmen groups and individuals have a unique opportunity to help their Commissioner make the choices.

# F&G Told to Build Trust and Transparency, Show Where Money is Coming From, Going To

By George Dovel

*The December 2004 Outdoorsman article entitled, "IDFG Fee Increase Facts," explained why it is not possible to determine how many sportsman license dollars are being used to fund activities that do not support harvest of wild game and fish. For a number of years the IDFG Administrative Division has kept several different records of budgets and expenditures which cannot be reconciled with each other.*

*After we revealed extensive discrepancies between reported license sales and claimed license income, efforts were made to improve IDFG accounting practices. However differences between the budget in the "Stockholders' Report" provided to the legislature by IDFG and the "IDFG Income and Expenditures" provided by the Legislative Services Budget Analyst for the same period make it impossible to tie most IDFG expenditures to specific income sources.*

*Following direction from the Chairmen of the Joint Finance and Appropriations Committee (JFAC) and the House and Senate Resource Committees, Legislative Services Budget Analyst Ray Houston and Division of Financial Management Analyst Larry Schlict conducted a F&G Commission workshop on April 4, 2005. Both analysts emphasized that F&G must make major changes in record keeping and reporting to make its budget understandable to the average person and overcome the "appearance that the agency is 'hiding' something."*

*This article provides examples illustrating the potential for misuse of dedicated license funds and describes the analysts' recommendations to "build trust and transparency" with legislators and "stockholders."*

## **What Happened to Hatchery Set-Aside**

After Director Steve Mealey was fired in March 1999, Acting Director Jerry Mallet and Administration Bureau Chief Steve Barton presented a 2000 fee increase proposal to the Joint Finance and Appropriations Committee (JFAC) in Sandpoint on June 24, 1999. The inflated proposal included a request for several hundred thousand dollars for hatchery maintenance and development of fishing waters.

That raised a red flag because \$2 added to every fishing or combination hunting/fishing license sold was already dedicated solely "for the construction, repair or rehabilitation of state fish hatcheries, fishing lakes, or reservoirs" in I.C. Sec. 36-107(c). At a special sportsman fee increase meeting two weeks later, an SCI-Treasure Valley Chapter officer asked why F&G was not using the ~\$450,000 per year already provided by the \$2 add-on.

Mallet and Barton both responded with the false claim that language in the Code allowed them flexibility to spend that money elsewhere, but we knew better. When we pointed that out, Barton then claimed IDFG had spent \$120,000 of the dedicated money in FY1999 to construct the Lowman Ponds and said substantially more was spent for hatchery reconstruction in FY1999.

A few minutes of research revealed that only \$20,000 of the \$120,000 cost of the Lowman Ponds was provided by IDFG and the only license money spent for hatchery reconstruction/repair in FY1999 was \$4,223 reported in PCA code 31802. In 1998 there were 240,960 fishing or combo licenses sold with \$2 per license totaling \$481,920 in the dedicated fund, yet very little was spent.

The rest of the money could not be traced and we found that most of the money had been misappropriated from the dedicated fund for four years, yet no record existed of where it was spent. On July 13, 1999 I was part of a delegation representing sportsmen groups that met with Bureau Chiefs Barton, Pat Cudmore and Tracey Trent to find out what happened to the dedicated license add-on.

## **Barton Admitted Misusing Money**

After lengthy questioning, Barton admitted that he had been knowingly misusing the money for several years, causing a virtual halt in fish hatchery reconstruction and maintenance. He insisted that the blame must be shared by former Director Jerry Conley, who he claimed authorized it several years earlier, and by ex-Director Mealey who he said knew about it later.

I reported this and other financial irregularities to the Commission but it took no action to correct the problem. Later the Joint Legislative Oversight Committee (JLOC) directed the Office of Performance Evaluations (OPE) to investigate several of the alleged irregularities.

Even after IDFG transferred money spent on other projects in an effort to boost hatchery fund expenditures, OPE found that during FY 1996-1999, IDFG still failed to spend \$1,288,335 of the \$2 fee for the statutory purposes for which it was intended. It also found that although Legislative Auditors checked a "random" (single) sample of a qualifying expenditure each year, they did not detect that most of the money was not spent as mandated.

A February 29, 2000 response to OPE signed by Mallet and Commission Chairman John Burns admitted that this and other expenditures had not been properly tracked and promised to do a much better job of detailed cost accounting on high-profile projects and programs. The letter also agreed to assign a specific Program Cost

Account code (PCA number) to the dedicated income from the \$2 add-on and agreed to spend all of that money properly each year in the future.

### **Misappropriation Blamed on "System"**

During both this investigation and a separate one conducted by Legislative Services Budget Director Jeff Youtz, F&G officials first said they had only "borrowed" the money (yet they were never required to pay it back). Youtz's report agreed IDFG had not complied with the Idaho Code but added, "We're all to blame, insisting on accountability and control through setting up an intricate system of small, single-purpose dedicated funds."

When the Fish and Game Fund (Account 50) was the only F&G account in the Idaho Code, it was IDFG - *not the Legislature* - who proposed to set aside \$2 from each hunting or combination license sold into a "Big Game Range and Upland Bird Management Account." That money, which later became part of the "F&G Set-aside Account," is used as a match for federal funds to acquire or rehabilitate big game ranges and upland bird habitats.

IDFG also agreed to set aside not less than \$12,000 per year in the "Director's Predatory Animal Fund," with additional amounts to be determined by IDFG, to control predatory animals and predatory birds.

When the separate Set-aside Account (Account 51) was created, part of it resulted from IDFG seeking additional license fees to match a new source of federal income. The \$3 add-on to salmon and steelhead tags (now \$4) is spent primarily to build parking facilities in salmon and steelhead fishing areas, although it may also lawfully be used to pay for technical research or legal assistance.

Historically, license income in Account 50 had been used to control predators, conduct emergency feeding programs, maintain upland bird farms and fish hatcheries and fund other activities that perpetuate wild game and fish populations. But as more license dollars were used to support the ambitious non-game and non-fish programs former Director Conley implemented, there was not enough money to left to fund game and fish management.

### **New Scheme To Increase License Revenue**

During the extreme 1983-84 winter, IDFG failed to feed the starving deer, elk and antelope timely in southeast Idaho and quickly blamed it on lack of money in the license account (F&G Account 50). Sportsmen were upset so IDFG grabbed the opportunity to increase its license income with strong support from local sportsmen.

F&G contacted the Southeast Idaho Rod & Gun Club and promised if the club would support it in the Legislature, it would present a bill to add a fee to every deer, elk and antelope tag sold, with the proceeds set aside for winter feeding in a special dedicated account. The club met and quickly passed a motion by sportsman conservationist Harvey Peck agreeing to support the legislation.

When the bill, House Bill 596, got stuck in the

Committee, IDFG called on the sportsmen club to agree to accept some amendment and to muster support from area legislators. The amended bill added \$1.50 to every deer, elk and antelope tag to be spent for winter feeding, depredation prevention, and control of predators affecting deer, elk and antelope.

Since severe winters only occur once every few years, the House amended the bill to provide that any fund balance in excess of \$400,000 would be spent for rehabilitation of habitat on winter range. Providing nearly half a million extra dollars per year, the amended bill guaranteed mitigation of abnormal losses during the occasional extreme winter since the set-aside fund could not legally be spent for anything else.

### **F&G Misappropriated Dedicated Funds**

But once the bill became law, instead of spending the surplus money on habitat improvement or predator control, IDFG used it to pay for everything from routine vehicle maintenance to adding six new full-time employees with six new 4WD pickups. In two decades, the only money spent for habitat improvement from this fund was a single joint-agency re-seeding project in the foothills north of Boise following the 1992 "foothills" fire.

Nothing was spent for control of predators affecting deer, elk and antelope for 18 years until I reminded Huffaker and the Commission that the add-on money was available to fund predator control in the Southeast Idaho Mule Deer Study.

When the severe 1988-89 winter hit Southeast Idaho IDFG refused to feed with the claim that there was plenty of natural feed available. By the time it was forced to feed by Representative Pete Black, small groups of deer and elk had gathered in larger concentrations wherever any food source was available and many had already starved.

IDFG used the unhealthy "yarding," caused by its failure to feed the smaller groups early before they joined together seeking food, as another excuse not to spend the dedicated money to feed starving big game. Based on aerial surveys, F&G admitted it lost 20,000 deer in Region 5 that winter yet it spent nothing on predator control to mitigate the excessive losses to predators.

Four years later in 1992-93, the second worst winter in 50 years hit Idaho and neighboring states with all time record snowfall in December. Instead of using the dedicated feeding fund to feed the starving animals, IDFG once again said it was "monitoring" the situation.

Early feeding by private citizens saved a nucleus deer herd across southern Idaho but a majority of Idaho's mule deer and thousands of elk died from malnutrition, and from the excessive predator kill that always occurs during an abnormal winter. According to Winter Feeding Set-Aside Account records provided to the Legislature, Region 5 spent \$46,700 from the fund on panels to try to prevent the starving animals from eating ranchers' hay.

*continued on page 10*

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### **Only 560 Deer Actually Fed**

But those same records show that IDFG spent nothing to control predators killing the depleted herds, and spent only \$3,648 to feed the thousands of starving deer and elk in the Southeast Region. According to a memorandum entitled "Region 5 Winter Feeding" by then Supervisor Tracey Trent, only \$2,400 of that amount was actually spent for feed and transportation, providing 13 tons of pelleted feed to only 560 deer (and no elk or antelope) at seven sites.

That averaged only 46 pounds per deer at an average cost of \$4.29 per deer for feed (\$6.51 total cost). Similar token feeding efforts were attempted in six of the seven regions but aggressive media coverage in parts of the Southwest, Upper Snake and Magic Valley Regions forced IDFG to supply feed to augment feed provided by citizen volunteers during the early part of the winter.

### **New Set-Aside Added by 1994 Legislature**

In FY 1985 and FY 1986, the Southeast Region had spent a total of \$175,572 from the winter feeding set-aside. Of that total, only \$15,289 was spent for emergency winter feeding and \$160,283 was spent for panels to prevent crop depredation by hungry deer, elk and antelope.

Following the 1992-93 disaster, Senate Bill 1504 was passed providing that *at least* 75 cents of every \$1.50 collected must be set aside in a separate winter feeding account to be spent only for winter feeding of and rehabilitation of winter range for antelope, elk and deer. The bill amending I.C. Sec. 36-11(c) also said, "Moneys in the feeding account shall not be used for any purpose other than *winter feeding* until the total funds equal or exceed \$400,000."

In other words, the law guarantees that a minimum of \$400,000 will always be set-aside solely for winter feeding and that the excess may be spent for winter range rehabilitation. This worked fairly well until the F&G Commission approved setting aside 10 percent of sportsmen's total license dollars annually in a "rainy day" account called the "Budget Stabilization Fund."

### **"Rainy Day" Fund Allows Misuse of Set-Asides**

That fund was designed "1) as an emergency savings account in the event the state has a hard winter," or "2) to provide a buffer when there is a gap between revenues and expenses." Although the LSO Budget Office treats only that portion of license dollars that are *not* set-asides as license income, the Department also uses dedicated set-aside funds from Account 51 to make up the 10 percent of "license income" according to Steve Barton.

This allows IDFG to use dedicated add-on fees paid by sportsmen to make up a deficit in nongame funding or in any other non-game or non-fish activity. The less dedicated money it spends for winter feeding, the more it can divert to match federal nongame dollars.

House Bill 775, also passed in 1994, provided an

amendment so depredation money may be used by IDFG to prevent depredation to farmers' crops which would reduce depredation payments for crop damage. But every available dollar F&G does not spend to prevent depredation or settle claims is returned to the Department's general fund (Account 50) at the end of the fiscal year.

Instead of spending that money to prevent depredation, IDFG has been treating it as income to make up deficits in other programs once it is returned each July.

During the April 4, Budget Workshop, the Commissioners discussed SB1171 and whether that legislation stemmed from lack of transparency to the Department's budget. Huffaker admitted that people may sense there is no incentive for the Department to spend the money in the Depredation Fund because it reverts to the Department's general fund if it isn't spent.

Although Steve Mealey used the feeding fund properly during his brief tenure as Director, the incentive not to use the money to feed was too great for his successor. When the severe 2001-02 winter hit, IDFG again refused to feed early enough to mitigate the deer and elk losses in southern Idaho.

### **Set-Aside Spending Hidden**

The dedicated add-on fees that increased the cost of hunting or fishing licenses for specific purposes such as emergency feeding and fish hatchery repair, have been misused in a fashion that makes it impossible for the average citizen or legislator to detect. During the Budget Workshop, Financial Management Analyst Larry Schlicht explained why this can happen and how it must be corrected.

He stated that Fish & Game is unique in state government in that it is a large agency that relies on dedicated funds. The Department is not required to reflect each set aside but can commingle most dedicated and other funds in the state accounting system to create a "bucket fund."

This means that the public can't see how much of a set-aside is being spent and there is potential for the appearance that the agency is "hiding" something. He said the Department has a responsibility to provide information when it is requested and offered two options to solve the problem.

### **Two Options To Restore Credibility**

The first was simply to do away with the "bucket fund" by running each separate account through the State Controller's office. However this would involve a lot more work and would not offer the "spending flexibility" of the "bucket fund."

The second was to continue to use the "bucket fund" but to use it carefully and provide a more detailed breakdown of fund details. The Department should also provide reports and updates to the public and the Legislature on high profile issues or "sore spots" such as fleet management, land purchases, and weed control.

Another suggestion Schlict offered to restore public confidence was that information on land acquisitions should also be provided up front. "The public is interested in these issues, and information could be posted on the (F&G) web site."

#### **F&G Told To Show Actual Expenditures**

LSO Budget Analyst Houston suggested that the best place to start in building transparency and credibility is by showing clearly what the Department spent in the previous year. He said the goal is to make the budget tell a story understandable to the average person.

He commented that JFAC has only 1-1/2 hours to understand the Department's budget and get the answers they are looking for. The Department needs to show revenues and actual expenditures so JFAC will know how federal and state dollars are being used.

Houston reminded the Commission that JFAC has constituents who expect them to be engaged with the Department's budget and with the agency. He suggested that the Department spend some time updating the Fish and Game Facts and the Fiscal Facts booklet the LSO publishes.

He identified an ongoing problem caused by IDFG overestimating its projected revenue, which results in a large gap between its authorized budget and the actual amount of money it receives and spends. Lacking accurate records, this gives the Department blanket authority to spend more money for some projects than it takes in, without having to seek new spending authority.

Both analysts emphasized that revenue should not be included in IDFG's requested budget unless F&G is reasonably sure of getting the money. That way the money would stay in the set-aside accounts and the Department would simply request additional spending authority if necessary, rather than build up a large spending authority reserve.

#### **Rainy Day Fund Depleted**

When IDFG received the largest fee increase in its history in the 2000 legislative session (during FY 2001), it promised the money would last through FY 2005 and it would not need another fee increase until FY 2006. Several small fee increases since then and several million additional dollars in federal money should have made it even easier to live within its budget.

Instead, it has also spent much of the \$3 million that was supposed to be held in the Budget Stabilization Fund for a severe winter or other unforeseen emergency. And despite the 10 percent across-the-board license fee increase that takes effect on July 1, 2005, it predicts there will only be half a million in the account through FY 2007.

On April 4, Steve Barton gave the Commission a proposal to transfer \$1 million from the Fleet Management account into the Budget Stabilization account to make up part of the shortfall. He said this would maintain about \$1.5 million in the account through FY 2007.

#### **Commission Lowers Fund Minimum**

Instead of directing Huffaker to trim the fat from some of IDFG's "sacred cow" programs in order to restore the full \$3 million in the "rainy day" fund, the Commission agreed to a suggestion by Nancy Hadley to approve a policy change to show the fund "target" as 10% of license fees - yet authorize the Department to draw the balance down to 5% "as necessary."

In other words, instead of directing IDFG to live within a realistic budget as recommended by the analysts, Hadley's proposal provided Commission approval of the Department's failure to maintain the minimum contingency fund balance both now and in the future.

Before he was fired, Director Mealey described former Administrative Chief Steve Barton to the Commission as a "magician" because of his ability to produce money for new projects when none was available. But one Commissioner responded that misusing money from dedicated funds hardly qualified as "magic."

As the Budget Workshop ended, the Commission agreed on the need to prioritize projects and programs that support the objectives in the Strategic Plan and will generate goodwill with customers, legislators, and the public in general. Huffaker laid out a Department goal to be able to track every license dollar from the time it comes in, showing its spending priority and how it was spent.

#### **Lack of Leadership Cited**

During the May 18-19, 2005 F&G Commission meeting, House Resources and Conservation Committee Chairman Bert Stevenson addressed the Commissioners concerning their proper relationship to the Department. He expressed his concern that there is a feeling in the Legislature that they love to hate Fish and Game.

He emphasized the Commission needs to assume its role of policymaker in the Department. He also told the Commissioners as long as they have a Director they should give him direction - it is only fair to him.

He told them they need to meet with legislators more often. His "favorite" quote, "Meeting quarterly is great if you don't want to accomplish much," illustrates the need for the Commission to meet more often and be able to speak with one voice on issues.

#### **IDFG Assuming Role of Commission**

Rep. Stevenson added that the Commission should also take positions more frequently. He emphasized the importance of having the Department and the Commission speaking on the same page.

He reminded them that the Department has taken on the political role and taken positions by default. He said a lack of leadership from the Commission is to blame and he feels a shift needs to occur.

The Commissioners voiced strong support for his suggestions and discussed adjustments to correct problems in the 2005 Legislative session. They admitted the need to do a better job to avoid conflicts that occur.

# Editor's Comment

For many Outdoorsman readers, this issue is the 12<sup>th</sup> one they have received during the past 15 months. In Bulletin No. 11, a headline said the Senior Combo fee increase was 171% (rather than the 161.1% I calculated) and I apologize for not catching the typo in time.

Printing the canned news releases and opinions found in most other publications is easy but that's not what we do. The facts we print are carefully researched and then verified through other sources before they appear in this publication.

We don't owe allegiance to any advertiser, organization or philosophy - except providing accurate information with the knowledge that it will ultimately benefit wildlife and the dedicated hunters and fishermen, who value it enough to pay for its management.

When we publish facts about certain issues such as the impact of lion predation on deer, the success rates of archers, or the end result of limiting hunters rather than managing wildlife, a few individuals apparently consider it a threat to their sport. Perhaps they do not want to hear facts - or they do not like the way we present them.

To the rest of you who read and support this publication, you have my pledge that I will continue to "tell it like it is" to restore sound resource management.

Many readers are aware of the subtle changes that are quietly taking place in Idaho wildlife management. Using the facts we provide, dedicated sportsmen and legislators are fighting an uphill battle to overcome the prejudices and agendas that exist in the system.

As promised, we have used the first dozen issues to show that sound conservation biology exists to restore healthy game and fish populations for everyone to enjoy and for sportsmen to harvest. Articles that are already written or researched for future issues include more information on habitat and predator control (including Part 3 of the pheasant series) and discussions of wildlife management tools that work and those that don't.

Articles addressing anadromous fish restoration and several other guest opinion articles are planned for future issues. We encourage your participation if you feel you have something to contribute.

I urge those of you who have not renewed your donation for another 12 months to take a few minutes and enclose a donation, in any amount, to support the cost of printing and mailing. When a surplus exists, we use it to increase distribution in every region. When a shortage exists, I dig deeper in my pocket to make it up.

To those who have donated and those who jot a few words of encouragement to keep me going, please accept my sincere thanks.- George Dovel

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Outdoorsman articles reveal little known facts about a variety of fish and game management issues that affect every Idahoan, especially those who cherish Idaho's hunting, fishing and trapping heritage. Please help distribute these facts to help stop the destruction of our billion-dollar wildlife resource and restore sound wildlife management for future generations. A donation in any amount will help defray the cost of printing and mailing these informative bulletins to elected officials. A donation of \$20 or more will pay the cost of printing and mailing all bulletins to you for the next 12 months, and will guarantee they will also be sent to the Senator and Representatives in your District.

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