



*Submitted electronically via wildthing@dfw.wa.gov*

Washington Department of Fish and Wildlife  
Wildlife Program  
PO Box 43200  
Olympia, WA 98504

October 29, 2020

RE: Center for Biological Diversity Comments on Proposed Changes to Spring Bear Hunting Rules

To Whom it May Concern:

These comments are submitted on behalf of the Center for Biological Diversity (“Center”) related to the Washington Department of Fish and Wildlife’s (“Department”) proposed changes to the spring bear hunting rules (CR-102 filed as WSR 20-20-098, October 5, 2020). The Center is a non-profit membership organization with 1.7 million members, supporters and online activists, over 40,000 of whom live in Washington state. The Center has been deeply involved in protecting and preserving the black bear population across the United States for many years and our staff, members and supporters care deeply about black bears in Washington and are very concerned with their safety and preservation.

Although the Department’s proposed changes to the spring bear season may appear to be somewhat insignificant - aligning season dates, removing certain lands from allowable hunting areas and adjusting the number of permits - it is still vital to consider the use of best available science in making wildlife management decisions. These rule changes provide the Department the opportunity to more fully consider the management considerations and science behind the spring bear hunt generally and how that might align with the Department’s mandate to preserve, protect and perpetuate the fish and wildlife of the state. We ask that the Department fully consider these issues in determining whether the spring black bear hunt should continue going forward.

### **I. The Management Rationale Behind the Spring Bear Hunt is Flawed**

A 2015 PowerPoint presentation prepared by the Department<sup>1</sup> proposes that the main rationale behind allowing spring bear hunting is to reduce bear damage to trees. However, in the very same presentation the Department admits that it is “[u]nknown if harvest during spring bear seasons reduces tree damage.”<sup>2</sup> In fact, in litigation brought on this same subject by the Center, the Department’s own chief bear scientist, Richard Beausoleil, is on the record calling in to question the efficacy of killing bears on timberlands, the effects killing bears on timberlands was having on the bear population and that the bear killing program on timberlands may actually be increasing the problem.<sup>3</sup>

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<sup>1</sup> Washington Department of Fish and Wildlife, Spring Bear Damage Hunts (2015).

<sup>2</sup> Id. at PSE000526.

<sup>3</sup> Petitioner’s Opening Brief at 17, Ctr. for Biological Diversity v. Wash. Dep’t of Fish and Wildlife, No. 18-2-02766-35 (June 25, 2019).

These considerations bring into question what the real management purpose of the spring bear hunt is and what science the Department uses to support the need for such an opportunity. Not only does the spring bear hunt likely fail at the management principle of reducing timber damage, but it brings up other serious issues that the Department and Fish and Wildlife Commission must consider in making decisions on the spring bear hunt.

## **II. Information Related to Black Bear Hunting is Fraught with Uncertainty**

Not only are there issues related to the stated purpose of the spring bear hunt, but there are information gaps regarding the black bear population and other management choices that should be considered in making decisions on the spring bear hunt. Similar to other carnivores in the state, the Department estimates the population of black bear, but there is no exact count and specific information on the population size is largely unknown. This gap in information should be taken into account when considering whether to provide more opportunity to hunt black bears. Further, the Department should expend more resources to get accurate population counts of the wildlife designated as “game animals” pursuant to WAC 232-12-007 before setting harvest numbers. Without concrete knowledge of the population how can the Department know whether there are negative impacts related to killing of black bears and other game animals on their populations?

Another subject where the Department lacks significant information that should affect decisions on spring bear hunting is supplemental feeding. Although it is legal to use supplemental feeding stations on timber lands as a diversionary method to prevent timber damage by some persons, the Department admits that the location of these hundreds of feeding stations is largely unknown.<sup>4</sup> The Department allows spring bear hunting on many of the same lands where these supplemental feeding stations are set up to prevent timber damage. Thus, the Department is essentially allowing spring bear hunting in areas where bears have been drawn in by supplemental feeding stations. This results in illegal baiting in contravention of state law as passed by voter initiative I-655 in 1996.<sup>5</sup> The Department must consider this in setting rules for spring bear hunting and is required by law to prevent the illegal baiting of bears.<sup>6</sup>

## **III. Spring Bear Hunting Orphans Vulnerable Cubs**

Springtime, when these hunting rules are applicable, is when female black bears are nursing their cubs. When hunting is allowed female black bear are subsequently killed which leaves their cubs orphaned and eventually leads to the cubs dying without the food and nurturing they require. Biologists are in general agreement that it is incredibly difficult to determine whether a bear is currently nursing.<sup>7</sup> This in turn leads to nursing female bears being killed during spring hunting seasons regardless of hunter education or the timing of the season.<sup>8</sup> Allowing a spring bear hunt that will knowingly orphan bear cubs completely ignores any concern for individual animal welfare and allows for the suffering of orphaned bear cubs. A spring season is completely unjustified considering there are other opportunities to partake in black bear hunting when cubs will not be cruelly abandoned and left to die.

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<sup>4</sup> See *e.g.* Appellant’s Opening Brief, *Ctr. for Biological Diversity v. Wash. Dep’t of Fish and Wildlife*, No. 53863-6-II (Dec., 23, 2019).

<sup>5</sup> See RCW 77.15.245 (codification of I-655, with amendments).

<sup>6</sup> For the most updated information on who considered an “agent of the state” related to use of bait under the bear timber permit program see *Ctr. for Biological Diversity v. Wash. Dep’t of Fish and Wildlife*, Wash App. No. 53863-6-II (October 27, 2020).

<sup>7</sup> Beck, Thomas DI et al. *Sociological and Ethical Considerations of Black Bear Hunting* at 123. Proceedings of the Fifth Western Black Bear Workshop.

<sup>8</sup> *Id.*

#### **IV. Public Opinion and the Public Trust Doctrine Fail to Support a Spring Bear Hunt**

A large majority of the people who live in Washington partake in no hunting at all. However, a majority of public opinion surveys show that much of the non-hunting public is tolerant of some sort of regulated hunting, except for when they find behaviors inappropriate.<sup>9</sup> Orphaning bear cubs and allowing them to slowly starve and die is most certainly an area that the average non-hunter would find abhorrent. Thus, allowing spring hunting is not only unsupported by science or management principles, but also likely to be reviled by the average person in the state.

Lastly, there is a Public Trust Doctrine issue with allowing a spring bear hunt. The Public Trust Doctrine holds black bears in trust by the state for the benefit of the public. All members of the public have an equal interest in the health and welfare of their wildlife held in public trust. Allowing a spring bear hunt without proper knowledge of the bear population or consideration of death by other causes allocates a wildly disproportionate share of the public's wildlife trust to a very small special interest group that perceives bear hunting as a recreational opportunity.

Although change is hard, the Department is at a vital impasse where it has become necessary to start considering the interests of constituents who have generally been left out of the decision making process because their recreational interests and money were not driving or funding the Department. Wildlife and ecosystems in Washington should be managed based on best available science and not solely for the recreational opportunities of a miniscule number of the state's residents. The spring bear hunt is not supported by management decisions and puts unnecessary stress on bears who are waking up from a long winter and need sustenance to survive and keep their families alive. Allowing them to be gunned down by hunters without the science or management needs to back up this practice is antiquated, unnecessary and cruel. The Center asks the Department and the Commission to seriously consider why spring bear hunting is still allowed and clearly outline management objectives and apply best available science to come to a decision to cease this spring hunt and properly protect the state's black bears for all of the people in Washington state and not just a minute few.

Sincerely,



Sophia Ressler  
Washington Wildlife Advocate/Staff Attorney  
The Center for Biological Diversity

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<sup>9</sup> Id.