MUCKLESHOOT WILDLIFE PROGRAM

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RE: 15047 – Wildlife Interaction Rules

by email only

The Muckleshoot Indian Tribe Wildlife Program is commenting on the proposed Wildlife Interaction Rules, SEPA 15047. The Muckleshoot Indian Tribe has treaty-reserved hunting rights under the Treaties of Point Elliott and Medicine and actively exercises its right to hunt on open and unclaimed lands. We are significant and active co-managers conducting many studies to collect data that improves management of game animals for sustainable hunting and other uses. We fully understand issues associated with human-wildlife interactions, however, we have a few concerns with the rules as proposed. We also need to comment on issues related to SEPA.

We do not feel that the WDFW's response to SEPA checklist item "5.d Proposed measures to preserve or enhance wildlife, if any:" reflects the full scope of how the proposed rules may affect game animals. The WDFW response was:
"The purpose of several rules is to encourage proactive, non-lethal measures to promote coexistence with wildlife and allow for conservation of species while minimizing wildlife conflict damage."

A component of the proposed rules includes killing wildlife causing damage. The proposed rules, specifically, **WAC 232-36-051,** do not appear to limit the number of animals killed which could have a significant impact on local herd stability. See our comments below specific to **WAC 232-36-051.** The WDFW needs to discuss how wildlife populations affected by a potential unlimited number of animals killed will affect that species.

Furthermore, we do not feel that there is an acceptable answer to checklist item "12.c Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any".
The WDFW answered "*Not applicable*" yet there appears to be unrestricted killing of game animals allowed under **WAC 232-36-051**. That WAC does not specify a maximum number of animals, or time frame, and does not analyze the impacts of the killing on existing herd status. If hunter opportunity is reduced by landowners killing game animals with or without a permit, then that most certainly will negatively impact recreational opportunity.

The WDFW answers to SEPA checklist item 13 did not include an assessment of how killing game animals will affect tribal cultural and historical use of game animals for subsistence and

The Muckleshoot Tribe is a federally recognized Indian Tribe with reserved rights under the Treaty of Point Elliott and the Treaty of Medicine Creek to (among other rights) hunt and gather on all open and unclaimed lands.

ceremonial purposes. The answers are too generalized. WDFW does not mention the potential of harvesting an unlimited number of animals on tribal cultural wildlife resources.

As for the rules, most importantly,

WAC 232-36-051 Killing wildlife causing private property damage.

(2) Killing wildlife causing damage to a commercial crop or to livestock.

(b) An owner may kill an individual (one) deer, elk, bear, or cougar during the physical act of damaging **commercial** crops, attacking livestock or domestic animals with or without an agreement or permit.

Insert the word "commercial" where noted in red.

We understand the need to protect animals from an attack by a predator and that a permit for bear or cougar may not be required in a life or death situation. We do not agree, however, that a deer or elk should be killed without a permit simply because that animal is taking advantage of food resources within where it lives. It appears that the Department is losing management control and caving in to commercial growers. Allowing an animal to be killed without a permit is basically poaching. The Muckleshoot Tribal hunters have tags and regulations that specify bag limit, time of day and year, and areas that can be hunted. A Muckleshoot hunter without a tag, where required, or hunting outside the regulations is in violation of Muckleshoot law and will be cited. With the proposed rule, the Department appears to be sanctioning illegal behavior from landowners. We argue that a permit must always be required to kill a deer and/or elk.

The proposed rule allows a landowner to kill one animal, but it does not specify over what time frame. Within a day, week, month, year, lifetime? How many times can "(one)" animal be killed? The proposed WAC might even imply killing only one animal from a group of animals doing "damage" each and every time that group enters the landowner's property. There must be specific language here that clarifies exactly how many over what time frame, although we still argue that a permit is needed for deer and elk.

This rule is also vague on time of year when a landowner can actively kill without a permit. There have been many negative comments in the past about tribal season dates, yet it now appears that the Department is sanctioning killing game animals at any time of year. There needs to be specific language on when killing without a permit can occur, although we still argue that a permit is needed for deer and elk.

What sex-age classes can a landowner kill without a permit? Killing females may help slow growth in an area, but some landowners may want only a trophy bull elk. The animal killed should be of the same sex-age class as the ones doing most damage, and the sex-age class to help meet herd objectives. A permit that specifies sex-age class would be the most responsible way for the Department to manage herd objectives.

There needs to be well-defined areas where this can occur, such as where herds are above objective, or where game animals have expanded into areas beyond accepted herd areas. We certainly do not want to see landowners killing elk and deer in areas where animals are migratory

and the herd is below objective in the area where animals migrate to. There needs to be specific areas defined, such as GMU's, elk areas, cities, counties, or area defined by roads or other features.

If landowners can kill at will, and kill multiple animals over a year but only one at a time without a permit (as implied by the proposed language), what impact will that have on herds and opportunity for general hunts? Can one landowner wipe out an entire herd? Is the Department losing control of the resource? This is one reason why we argue that a permit must be required to kill elk or deer.

Also unclear is how you define "damage" and "during the physical act of damaging". Simply nipping a few plants might be considered damage by some intolerant people. If an animal is simply walking through a field, some intolerant people might consider that trampling damage and kill the animal for that. There are way too many gray areas in the proposed vague language and therefore we strongly recommend that a permit is required to kill any elk or deer.

As for **WAC 232-36-055**

(2) Except as otherwise provided, all parts of wildlife killed in protection of private property without a permit authorized by the department may not be retained and must be lawfully disposed of as specified by the department or as otherwise provided in statute, rule, or local ordinance.
(3) Except as otherwise provided, big game animals or parts of big game animals killed in protection of private property without a permit must be reported to the department within twenty-four hours.

So what happens after the killing is reported? Does the Department authorize retention or take the animal? Does it recommend disposal procedures? Is there an investigation to validate that the killing was justified? You might want to move paragraph 3 into WAC 232-36-051 and amend it to 2.b., if you retain it, so that there is no misunderstanding.

We suspect that some landowners may not report their kill so that they can kill more and retain the animal for personal use. We suggest that a permit for at least deer and elk would minimize excessive kill and reporting failures.

The language here is vague and needs to be clarified. It appears that big game cannot be retained and must be disposed of. Not allowing the landowner to retain the animal wastes good meat, but may prevent abuse. The Muckleshoot Tribe has strict regulations about wastage of game meat, yet the proposed rule language, vague as it is, appears to sanction wasting game. If the Department issued a permit, then that could result in the landowner using the animal, or giving the animal away rather than disposing of it.

The proposed rule allowing a landowner to kill without a permit seems vague and may open the door for abuse and misinterpretation. The Muckleshoot Wildlife Program strongly recommends that the language be modified requiring a permit to kill any deer and/or elk in all cases of damage

to commercial crops. We are also opposed to killing deer and elk for any damage to non-commercial crops, such as homeowner landscaping. Fortunately that seems to still be outlawed.

Finally, we feel that tribes have not been included in reviewing the proposed rules early enough. As far as I know we never received a notice from WDFW that they were revising these rules. We were never given a chance to discuss any of our concerns on a government to government level. The proposed rules have the potential to impact tribal member use of cultural wildlife resources, and non-tribal recreational opportunity. We suggest that you extend the comment period and make an effort to discuss the rules with tribes before finalizing them.

Thank you for allowing us to review the proposal and for carefully considering our comments.

Sincerely,

Melissa Calvert

Melissa Calvert
Director, Muckleshoot Wildlife Program

Cc: WDFW Commission, Nate Pamplin, Mick Cope, Stephanie Simek