



# Environmental Appeal Board

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## DECISION NO. 2016-WIL-004(a)

In the matter of an appeal under section 101.1 of the *Wildlife Act*, R.S.B.C. 1996, c. 488.

**BETWEEN:** Derek Pitt **APPELLANT**

**AND:** Deputy Director of Fish, Wildlife and Habitat Management **RESPONDENT**

**BEFORE:** A Panel of the Environmental Appeal Board  
David H. Searle, C.M., Q.C., Panel Chair

**DATE:** Conducted by way of written submissions on September 29, 2016. Application for new evidence completed on October 13, 2016.

**APPEARING:** For the Appellant: Derek Pitt  
For the Respondent: Meghan Butler, Counsel

## APPEAL

[1] Derek Pitt appeals the May 10, 2016, decision of Michael J. Chutter, Deputy Director, Fish, Wildlife and Habitat Management (the "Deputy Director"), Ministry of Forest, Lands and Natural Resource Operations (the "Ministry"). The Deputy Director, pursuant to section 24 of the *Wildlife Act* (the "Act"), and after considering the Appellant's submissions, decided to:

- suspend the Appellant's hunting licence privileges for the two-year period from June 1, 2016, until May 31, 2018; and
- cancel every hunting licence held by the Appellant as of June 1, 2016.

[2] The Deputy Director advised the Appellant that, as of June 1, 2016 and until, but not including, May 31, 2018, he was:

- ineligible to obtain or renew a hunting licence;
- ineligible to apply for a Limited Entry Hunting ("LEH") authorization; and
- prohibited from hunting.

[3] In addition, the Deputy Director advised the Appellant that his hunting licence privileges were suspended until he successfully completes the full Conservation and Outdoor Recreation Education ("CORE") program, and provides proof to the Ministry of having done so.

[4] The Environmental Appeal Board has the authority to hear this appeal under section 93 of the *Environmental Management Act* and section 101.1 of the *Act*. Section 101.1(5) of the *Act* provides as follows:

On an appeal, the appeal board may:

- a) send the matter back to the regional manager or director, with directions,
- b) confirm, reverse or vary the decision being appealed, or
- c) make any decision that the person whose decision is appealed could have made, and that the board considers appropriate in the circumstances.

[5] While the Appellant originally requested that the two-year suspension be rescinded, in his closing submissions he suggests that a one-year suspension would be appropriate in view of the mitigating circumstances.

[6] This appeal was conducted by way of written submissions.

## BACKGROUND

[7] The Appellant and his family reside in Mackenzie, BC, where he is a Constable in the RCMP, employed in the local detachment.

[8] The Conservation Officer Service ("COS") initiated the current licensing action against the Appellant by making the following recommendation to the Director of Wildlife on or about March 21, 2016:

Due to the severity and frequency of the disregard shown by PITT, the COS is recommending a five (5) year licence suspension and a requirement for PITT to successfully re-take the Conservation Outdoor Recreation Education Course prior to being eligible to hold a valid hunting or fishing licence under the *Wildlife Act* of British Columbia.

[9] The above recommendation by the COS is based upon five (5) incidents covering the period of time from 2008 to 2015, where the Appellant was either warned or fined for violations, which are referred to by the COS in the detailed narrative, as follows:

**201508661** – 2010-10-15 [sic] Mackenzie, B.C. Royal Canadian Mounted Police (RCMP) Sgt. DONALDSON advised CO CHRETIEN that PITT may have unlawfully harvested the strip loins [sic] off a cow elk on January 28<sup>th</sup>, 2015. DONALDSON advised that the information he received was from RCMP Constable Pascal BALDINGER, one of the other Mackenzie RCMP members. Sgt. Donaldson stated that the incident occurred while PITT was out hunting wolves. PITT observed a wolf take down a cow elk. PITT attempted to harvest the wolf but was unsuccessful. PITT then approached the cow elk and allegedly removed the elk's strip loins for his personal consumption. DONALDSON advised that the information was third hand from BALDINGER, but that BALDINGER did witness a photograph of the back straps provided to him by PITT on his cell phone. Later, during an internal investigation process, RCMP Constable BALDINGER stated that he was informed by PITT that he had removed the strip loins from the elk and that PITT produced a cell-phone photograph of the meat.

On February 17<sup>th</sup>, 2016 CO McCulloch arranged to interview PITT in Mackenzie, B.C. PITT declined to comment in regards to the elk meat. PITT was issued a Violation Ticket for unlawful possession of dead wildlife or parts. There has been no outcome in regards to the Violation Ticket disposition issued to PITT to date.

**201502410** – 2015-04-29 The COS received a complaint from member of the public regarding two black bears that were shot within a 400 meter closure along highway 97 south of Mackenzie, British Columbia. Site investigation found one of the bears had its hind and front quarters remaining with only the back-meat removed; the second bear was fully skinned and deboned with skull removed. Three intact quarters (one front and two rear quarters) were collected from one of the bears as evidence. The Complainant identified PITT as one of the hunters who harvested the bears through a Facebook post. PITT was subsequently interviewed by CO McCulloch and one Violation Ticket and two Written Warnings were issued. The disposition of the Violation Ticket was Guilty by Payment 2015-05-30.

**201507709** – 2015-10-08 CO Chretien inspected a Limited Entry Hunt (LEH) moose carcass at a game cooler in Mackenzie, B.C. Two days later, CO Chretien made inquiries with the LEH Authorization holder and learned that an unauthorized hunter, PITT, had also shot the moose during the hunt. During an interview with CO Chretien, PITT stated that he shot the moose as the permitted hunter's firearm had jammed. PITT was issued a Written Warning for hunting without a valid LEH Authorization.

**201600771** – 2008-03-17 CO Parker observed an angler on Klinger Lake using two lines. The angler was later identified as PITT, an RCMP member in Houston, British Columbia. PITT was given a Verbal Warning at the time.

**201600776** – 2014-09-27 CO Parker conducted a wildlife inspection on PITT and Alisha BROWN (Common-law to PITT and same address as PITT). One of PITT's Black Bear Species Licences had no region cancelled at the time of inspection. The date of kill was May 12, 2014. PITT was given a verbal warning at the time.

[10] In a letter dated March 31, 2016, the Deputy Director notified the Appellant of the allegations, enclosed the relevant materials, and offered the Appellant an opportunity to respond to those allegations before the Deputy Director made a decision on whether to suspend or cancel the Appellant's angling, hunting or firearm carrying privileges.

[11] The Appellant responded to the Deputy Director on April 15, 2016. He outlined his personal background as being 29-years of age and employed as an RCMP Constable stationed in Mackenzie, BC, since June, 2011. The Appellant advised that he has hunted and fished since he was 12-years old.

[12] The Appellant also covered, in some detail, those who helped him acquire his hunting skills, as well as those persons he has encouraged and helped to hunt, including his spouse Alisha Brown.

[13] The Appellant also explained each of the incidents relied upon by the COS to justify their recommended suspension of hunting licence privileges, and set out certain mitigating factors that he asked the Deputy Director to consider when making his decision. The Appellant's explanation for each incident, in chronological order, is summarized as follows:

*2008-03-17 – angling incident*

When this incident occurred, the Appellant had recently moved from Ontario where two lines are permitted and he did not notice that the BC regulations only allowed one line while ice fishing. A Conservation Officer ("CO") walked to where he was fishing and advised that only one line was permitted. The Appellant apologized, explained his situation, and was given a verbal warning. This is the only time in 29 years that he has even received a warning for any fishing-related activity. The Appellant notes that the CO created a file for this incident in 2016, which the Appellant suspects may have been to "add ammunition" to his report which is the subject of this licensing action.

*2014-09-27 – black bear tag incident*

The Appellant and his spouse were stopped in their vehicle by a CO while hunting near Hudson's Hope, BC. Upon inspecting the vehicle, the CO noticed that the Appellant had cut the date of the kill on the tag for a black bear that he had harvested that Spring, but not the region. The Appellant apologized as he did not realize that he had not cut the region. The Appellant states that this was simply an oversight and points out that he had nothing to gain by purposefully not cutting this portion: he understands that all regions in BC allow a bag limit of two bears per year. The CO gave him a verbal warning.

Similar to the 2008 incident above, the Appellant notes that the CO created a file for this incident in 2016, which the Appellant suspects was to "add ammunition" to his report.

*2015-04-29 – two black bears near Highway 97 incident*

The Appellant explained that both he and his spouse were hunting for bear with his spouse's then 8-year old daughter along a gas pipeline that parallels Highway 97, near McLeod Lake, BC. His spouse was the only one hunting, as the Appellant was saving his bear tags for a bear hunting trip he had scheduled with his father and brother for the following month. The Appellant states that he was carrying a rifle for protection, not for hunting.

Shortly after leaving the truck on a forest service road off Highway 97, while walking along the pipeline, they spotted a black bear. His spouse shot the bear, which then ran a short distance before dropping to the ground. The bear was still moving and his spouse was scared to approach it. The Appellant approached the bear and shot it a second time to ensure that it was dead and to prevent it from suffering. They cut his spouse's tag, and went to the truck to get some gear for processing the bear. While walking back to the bear, they came upon another, even larger, black bear not far from the location of the first

bear. His spouse had another tag so she shot this bear, but it was a high shoulder shot. The bear dropped instantly, but was still alive. Again, his spouse was afraid to approach the bear and was not comfortable shooting it a second time as she would have been required to stand up to shoot, unsupported over the grass (she had initially used a bipod). To ensure a swift death, the Appellant approached the bear and shot it once more. His spouse then cut her tag for this bear.

They moved the bears together for processing. They started with the larger bear. They had not finished with this bear when it was approaching dusk (approximately 8:30 pm), and expected the second bear to take them well into the dark. However, they did not get that far as a large mother grizzly bear and her cub approached them from the north side of the pipeline, approximately 50-60 yards away. The mother bear was "huffing", ran into the forest on the east side of the pipeline with the cub, and was crashing around. The Appellant's spouse and her daughter "were terrified", especially as it was getting dark. The Appellant tried to cut away some of the meat from the second bear as quickly as he could, but his spouse wanted to leave right away, and her daughter was afraid and crying. They gathered the hide and the meat they had cut so far, and left for the truck while making loud noises. The Appellant regrets not informing the CO that he had to leave meat behind. At the time, he thought the grizzly bears would have consumed the remaining meat and this would have just been raising an unnecessary issue.

The CO told them that the bears were approximately 30 metres within the 400 metre restriction along Highway 97, and issued them a Violation Ticket for discharging a firearm in a no shooting area. The Appellant states that they did not know that they were within the 400 metre no shooting area, but that "apparently we were so we accepted our tickets" and paid their fines. He states that he subsequently purchased a GPS unit to ensure this does not happen again.

The CO also issued the Appellant and his spouse warnings for failing to retrieve wildlife and unlawful possession of wildlife, stating that the grizzly bear encounter was a legitimate reason for leaving the remaining meat, but they should have reported doing so.

#### *2015-09-28 – moose incident*

The Appellant's friend, Mr. Robichaud, had a moose LEH with two tags. The Appellant accompanied him on the hunt in order to help harvest any moose harvested. The Appellant explains that Mr. Robichaud shot a bull moose, but did not kill it immediately. Mr. Robichaud tried to take a second shot but his rifle jammed, and he asked the Appellant to shoot the moose again, yelling that his gun was jammed. The Appellant was concerned that the moose would disappear into the forest if his friend had to come to the Appellant's position to borrow his rifle, so the Appellant shot the moose for a quick and humane death. The Appellant states that, when they inspected the moose, it turned

out that his shot was unnecessary as his friend had shot the animal in the lungs and it would not have been able to go far. Both men were interviewed by CO Chretien. Several months later, the Appellant received a warning letter from the COS. He believes that most hunters would have done what he did on the same unique set of circumstances; it was the ethical thing to do.

*February 2015 – the cow elk incident*

The Appellant was hunting wolves on Williston Lake on a snowmobile. He tried to shoot a wolf but appeared to have missed, and the wolf ran. The Appellant went to determine whether it was a complete miss (to look for blood) and saw a dead cow elk laying in the snow where the wolf had been feeding on it. The wolf had eaten a large portion of the meat from the hind legs and neck. The Appellant states that he did not see the wolf kill the cow elk, and did not harvest or consume any meat from this animal. He did take photos and showed them to Constable Baldinger. He did not eat the meat and says that the elk appeared to have been killed “a while ago”. The Appellant doesn’t know how this incident and his photo were so misconstrued by the Constable. The Appellant was issued a Violation Ticket by the COS, but disputed the ticket as he did not harvest and/or consume meat from this elk.

[14] In his submission to the Deputy Director, the Appellant also wrote that, in his view, the COS’ request for the Appellant’s hunting privileges to be reviewed is retaliatory in nature. The request for a review was filed after the Appellant had filed a report against one of the COs. The Appellant provided details of his complaint.

[15] The Appellant also explained how the COS request for review has already impacted his life. He is facing an RCMP code of conduct investigation, and has paid the fine for the no shooting area Violation Ticket. Living in a small community, this has also become a matter of public discussion, which has caused a great deal of embarrassment. He explained the actions he has taken to prevent further infractions, including signing up for the CORE course. He explained that he never intended to break the law and has made mistakes, but hopes that the lessons of these incidents and further training will prevent problems in the future. The Appellant emphasized the pleasure that he gets from hunting, and concluded with the following:

I love hunting and fishing and hold those privileges very dear to me, and second only to my family in value.

[16] On May 10, 2016, the Deputy Director issued his decision to suspend the Appellant’s hunting licence privileges for two years, and cancel all of his hunting licences. In making the decision, the Deputy Director concluded that there was insufficient evidence to find that the Appellant contravened the legislation in the cow elk incident. However, the Deputy Director found that the Appellant had committed seven violations of the *Act* and one contravention of a BC *Fisheries Act* regulation during the remaining four incidents described in the COS narrative above; specifically:

- Using two set lines contrary to *British Columbia Sport Fishing Regulations*, 1996, SOR/96-137;
- Failing to cancel a species licence in accordance with the instructions on the licence, contrary to section 7(1) of the *Hunting Licensing Regulation*, enacted under the *Act* (region not cancelled on black bear tag);
- Discharging a firearm within a “no shooting area” contrary to section 32 of the *Act* (within 400 metres of Highway 97);
- Unlawfully possessing dead wildlife contrary to section 33(2) of the *Act* (possessing the portions of bear meat taken from a bear illegally killed within the no shooting area);
- Failing to retrieve the edible portions of the two bears, contrary to section 35(2) of the *Act*; and
- Hunting without a valid LEH authorization, contrary to section 11(1)(b) of the *Act* (the moose incident).

[17] The Deputy Director also found that the Appellant contravened additional sections of the legislation during the incident involving the two black bears near Highway 97. The Deputy Director found that, as the Appellant performed the final killing of the bears, he should have cancelled his tags for them. His failure to do so resulted in two violations against section 81(b) of the *Act*.

[18] In arriving at his decision, the Deputy Director reviewed the Appellant’s submissions and the issues that he raised. The Deputy Director concluded that the allegation of retaliation was irrelevant to his decision, as his role was simply to determine whether the Appellant committed the violations on a balance of probabilities, and, if so, what level of penalties to assess for them.

[19] Regarding the Appellant’s suggestion that the COS retrieved his past violations when putting together the 2016 request for a review, the Deputy Director states that “it is normal for enforcement officers to check into an alleged offender’s history of violations when submitting a request for licence action.” He states that a person’s history of violations has a bearing on the type and length of penalty applied.

[20] The Deputy Director then considered a number of factors set out in Ministry policy, prior to reaching his decision. He found that:

- The Appellant is an experienced and involved hunter “who should have known the regulations well and should have abided by them”.
- The Appellant is an RCMP officer. This indicates that he has a social conscience and is well-known and respected in the community. “As such, you have a greater responsibility to know the law and set a better, more ethical example for other hunters and citizens in your community and the province.”
- Other than the cow elk incident for which the Appellant denies any wrongdoing, the Appellant admitted his mistakes, dealt openly with the investigating COs, and paid the fine promptly

for the no shooting area Violation Ticket. All of this shows a willingness to accept responsibility for his actions.

- As there are eight violations from four incidents spread over a seven year period, licence action is warranted – it is not an isolated incident.
- The eight contraventions show a serious disregard and disrespect for wildlife conservation and the law. The Appellant also showed a disregard for public safety by failing to make sure that he was outside the Highway 97 no shooting area before discharging his firearm.
- The Appellant involved, instructed and encouraged others to participate in his contraventions, showing either an ignorance of, or intent to violate, the law, as well as a willingness to cause others to do so as well. Specifically, he allowed his wife to cancel the two black bear tags and his friend to cancel his moose LEH tag after the Appellant fired the final shot that killed the animals.
- The Appellant claimed honest mistakes, extenuating circumstances, and ignorance of the law as reasons for the violations. While some of his explanations provide plausible reasons for the violations (e.g., leaving meat due to aggressive grizzly and cub, gun jamming), he did not provide evidence or testimony to verify these occurrences. “As you yourself stated, ignorance of the law is no excuse, especially for a law enforcement officer.”

[21] The Deputy Director considered previous cases of licence ineligibility for the offences at issue in this case and determined that, based on the evidence, the Appellant’s actions could warrant up to a 10-year hunting prohibition, although he also noted that some of the violations are from the same incident and may be duplicative. The Deputy Director also considered that the legislation allows a suspension of up to 30 years.

[22] The Deputy Director considered the fact that the Appellant cooperated with the COs for the violations, that the COs felt that warnings and tickets were warranted for these offences, that the Appellant admitted and expressed remorse; the fact that the COs recommended a five-year hunting licence cancellation, and the need for an effective deterrent. Given the totality and seriousness of the offences, the Deputy Director found that a hunting suspension of between two and five years was warranted. He then states:

However, taking into account all of the above, that this is the first time you have been recommended to me for licence action, and that legal permits did exist for all the animals I have found you harvested, I have decided to limit your suspension to two years.

[23] In part, the two-year suspension was based upon the Deputy Director’s finding that the Appellant had violated section 81(b) of the *Act* (using another person’s licence or permit). Given that a conviction of this offence carries an automatic one-year hunting prohibition, and that the Deputy Director found that the



Appellant committed this offence for both black bears, he concluded that it was appropriate to use a one-year suspension for these violations as an appropriate penalty in the absence of a conviction. The additional year was for the remaining violations.

### THE GROUNDS FOR APPEAL

[24] The Appellant appeals the Deputy Director's decision on the grounds that it is overly harsh in the circumstances. The Appellant states that he explained his actions in each of the five incidents to the Deputy Director, and asks the Board to review those submissions.

[25] The Appellant submits that the Deputy Director's decision ought to be varied or rescinded for the following reasons:

#### 2008 - ice fishing incident

- This should not be considered as it was a minor violation, unrelated to hunting, occurred many years ago, and is an isolated incident (i.e., there have been no further fishing-related contraventions.)

#### 2014 - black bear licence issue (failure to cut the region from the tag)

- This was a minor incident that should not have any bearing on his hunting privileges. It was "a mistake on my part that occurred in the excitement following a kill": it was not intended to deceive, and was of no benefit to him.

#### 2015 - black bear hunting near Highway 97 and the moose incident (no LEH permit)

- The Appellant submits that these incidents are the only ones that should be considered for suspending his hunting licence. However, they do not warrant a two-year suspension because:
  - both of these incidents took place during the legal hunting season and appropriate licences were possessed for them;
  - both incidents involved him shooting an animal after another fully licensed hunter had fatally shot the animal, and was unable to deliver the follow-up shot that was required to ensure the quickest, most ethical death; and
  - he now realizes the error in this approach, and will not do it again if faced with similar circumstances.
- In addition, the Appellant submits that the moose incident would not have occurred had the COS properly informed him of the law while investigating the two bear incident. Instead, "he was misled to believe that these actions were reasonable."

[26] The Appellant submits that the most important consideration in making a decision on suspension ought to be his intent; specifically, his lack of intent to commit offences, and his intent to ensure the quickest, most humane death for the animals. Unlike other suspension cases, he did not go out and poach an animal out of season, or do something of a similar nature.

[27] The Appellant submits that the Deputy Director improperly compared the Appellant's actions to other cases when he formulated the length of the suspension, he placed too much emphasis on the Appellant's occupation to the Appellant's disadvantage, and held the Appellant to a higher standard than other hunters because of his occupation. For instance, the Deputy Director states that the Appellant "ought to have known better" on multiple occasions. However, the Appellant points out that he has never received training on the *Act*, and does not deal with this legislation as part of his duties. Therefore, he has no greater knowledge of the legislation than any other person, and this should not be a consideration.

[28] Further, the Appellant states that his training in hunting took place when he was in Ontario and quite young (12 years of age). He notes that the hunting rules are different in Ontario, such as "party hunting" is permitted on tags.

[29] The Appellant reiterates that the COS' recommendation for licensing action was retaliatory in nature; a result of certain allegations previously made by the Appellant against a CO.

[30] The Appellant submits that he promptly paid the fine for the no shooting area violation, has learned from his mistakes, and has taken steps to ensure they do not happen again. For instance, he has purchased a GPS to monitor distance from the highway more closely and has begun to take the CORE course.

[31] The Appellant submits that the impact of this licensing action on his life has been a significant deterrent, and a two-year suspension is excessive. In support, the Appellant referred to previous Board decisions which, he argues, involve more serious incidents but the Board confirmed shorter suspensions than the one at issue in this case (e.g., *Woodcock v. Deputy Director, Fish, Wildlife and Habitat Management*, (Decision No. 2014-WIL-023(a), October 8, 2014); and *Horning v. Deputy Director, Fish, Wildlife and Habitat Management*, (Decision No. 2009-WIL-001(a), June 11, 2009).

### **THE RESPONDENT'S POSITION ON THE APPEAL**

[32] The Respondent argues that the Deputy Director reasonably and properly exercised his authority under section 24 of the *Act* to impose licence action against the Appellant in light of the seven contraventions of the *Act*, and one contravention of the BC *Fisheries Act* regulation. The Respondent submits that the two-year suspension was appropriate in the circumstances, if not lenient given the number of offences admittedly committed by the Appellant, and the much greater suspension that he potentially faced. The Respondent refers to a previous Board decision involving eight contraventions and a suspension of three years, as support for its argument that a two-year suspension, at a minimum, is warranted in this case (*Steele v. Deputy Director, Fish, Wildlife, and Habitat Management*, (Decision No. 2011-WIL-011(a), October 26, 2012).

[33] The Respondent further notes that, although the Appellant's hunting licence is affected, his angling privileges are not affected by the Deputy Director's decision: he may continue to engage in that activity notwithstanding the hunting prohibition. Likewise, his ability to possess a firearm is not affected.

[34] In all of the circumstances, the Respondent asks for the appeal to be dismissed.

[35] The Respondent also asks the Board to exercise its discretion to award costs on the grounds that the appeal is frivolous and vexatious in nature, and that the Appellant has made unsubstantiated allegations of malice against the COS.

### **APPLICATION TO ADMIT NEW EVIDENCE**

[36] After the written hearing had closed on September 29, 2016, the Appellant wrote to the Board asking it to consider new evidence. In an email dated October 11, 2016, the Appellant advised that his employer has ordered him to forfeit a number of days of pay for breaching the RCMP code of conduct in relation to the incidents at issue in this appeal. The Appellant submits that this new information is relevant to the issue of appropriate punishment and deterrence for the violations at issue.

[37] The Respondent objected to this information being entered into the hearing. It submits that, assuming the information is true, it is irrelevant. The Respondent submits that this information has no bearing on the Board's consideration of whether the Deputy Director's decision was reasonable in the circumstances. The employer's disciplinary proceedings are not relevant to the hunting suspension at issue in this case.

[38] The Panel has decided to allow the Appellant's application and accept this new evidence under Rule 22. The Panel finds that this information did not exist before the hearing closed, and it is relevant and material to some of the factors outlined in the Ministry's suspension policy (set out below), specifically, to the question of specific deterrence.

### **ISSUES**

[39] What is the appropriate administrative penalty in these circumstances?

[40] Should an order of costs be awarded to the Respondent in this case?

### **RELEVANT LEGISLATION**

[41] The following sections of the *Act* are relevant to this appeal:

#### **Suspension and cancellation of licences**

**24(2)** After providing an opportunity for the person to be heard, the director may, for any cause considered sufficient by the director, do any of the following:

- (a) prohibit, for a period within prescribed limits, the person from hunting, angling or carrying a firearm;
- (b) cancel or suspend, for a period within prescribed limits, any limited entry hunting authorization or licence that is issued to the person under this Act.

...

- (5) If a licence or limited entry hunting authorization is cancelled, the director may order that the person is ineligible to obtain or renew a licence or limited entry hunting authorization for a period, within the prescribed limits, and the director must inform the person of the period of ineligibility.

...

- (12) If a person to whom subsection (2) would otherwise apply does not hold a licence or limited entry hunting authorization or is exempted from holding one, the director may prohibit the person for a period, within any prescribed limits, from doing the thing for which a licence or limited entry hunting authorization would ordinarily be required.

...

- (15) The sanctions provided for in this section apply in addition to any fines, penalties, additional fines, prohibitions, directions or requirements that may be imposed under section 84, 84.1, 84.2 or 84.3 and whether or not they are requested or ordered at the time of sentencing for an offence.

...

[42] The following section of the *Wildlife Act General Regulation* is relevant to this appeal:

**Prescribed limits under section 24(5) and 12 of the Act**

**7.05** The prescribed limit for purposes of section 24(5) [licence cancelled] and (12) of the Act is 30 years.

[43] The Board's ability to order costs is established in section 47(1)(a) of the *Administrative Tribunals Act* which states:

**Power to award costs**

**47(1)** Subject to the regulations, the tribunal may make orders for payment as follows:

- (a) requiring a party to pay all or part of the costs of another party or an intervener in connection with the application;

...

**MINISTRY POLICIES**

[44] In his evidence, the Deputy Director notes that, in the execution of his duties, he was guided by the Ministry's Policy #4-1-02.01, the relevant portions of which are set out below.

***4-1-02.01 Cancellation/Suspension/Prohibition Decisions Respecting Hunting, Angling or Carrying Firearms in British Columbia (Effective April 23, 1998)***

**POLICY STATEMENT**

It is the policy of the Director, Wildlife Branch, that where a decision is made concerning licence action and the privileges normally afforded by a licence as

defined under section 24 of the *Wildlife Act*, the decision will normally be made by the Deputy Director, Wildlife Branch, and the following are some factors that may be considered relevant in making the decision:

- seriousness of violation(s)\*
- impact on the environment/wildlife resource
- deterrence (specific and general)\*
- number of violations
- attitude of the person respecting the violations
- remorse shown by the person
- mitigating action(s) taken by the person
- recommendations of the court
- recommendations of the Conservation Officer
- recommendations of the person/or counsel
- experience level of the person related to hunting, angling, and firearm use
- previous history of violations
- impact on the person of removing licencing privileges
- ethics of the person
- impact of the violations on other persons or private property
- *mens rea* of the person (i.e. intent to violate the law)

\*these factors will carry the most weight

[45] An additional policy document titled "Procedure for Cancellation/Suspension of Licences" (4-1-02.01), effective November 29, 1999, was provided to the Panel. It sets out a standard procedure to be followed by Ministry officials considering licence suspensions and cancellations under sections 24 and 85 of the *Act*. This is a detailed document, and will be referred to if and when needed in the text of this decision.

## THE PARTIES' EVIDENCE AND ARGUMENT

### *The Appellant*

[46] As he did before the Deputy Director, the Appellant provided the Board with a detailed explanation of each incident, a description of his objective or intent during each incident, and explained the mitigating factors that ought to be considered in each case. The Appellant also provided three new pieces of evidence to the Board for consideration in the appeal. The first is attached as Exhibit A to his submissions. It is a photograph of the satellite imagery of the area near Highway 97 where the two bears were shot in 2015. He explains that he placed a "pin" marking the "exact location where the bears were shot." He used his iPhone and Google maps to obtain this image. According to the scale on Google maps, he now

believes that the bears were shot more than 400 metres from the highway and, therefore, did not contravene the “no shooting area” provision of the Act.

[47] The Appellant explains that, originally, he did not dispute the proximity of the kill site to Highway 97. He was simply “taking CO MCCULLOCH’s word for it” that the kill site was approximately 30 metres within the no shooting area. The Appellant felt that this distance was incorrect, but paid the ticket as it was his way of accepting responsibility for the incident generally. He states, “At the time I believed that if the ticket was not for this, it would have been for something else that we had been issued a warning for ...”. He explains that he is arguing the point now because it has been unjustly added to the other things to increase the length of his suspension, and also gives the impression that he committed an unsafe act, or was a danger to the public in some way.

[48] The Appellant further states that neither the COS, nor the Deputy Director, provided any evidence relating to where the bears were shot in relation to the highway. They have simply stated that the incident occurred within the 400 metre area, without GPS coordinates or maps to support this.

[49] The Appellant also provided an undated letter written by his spouse, Ms. Brown. This letter was attached as Exhibit B to the Appellant’s submission. In the letter, Ms. Brown explained what happened in the two black bear incident near Highway 97. Her detailed account of the incident confirms the Appellant’s account, referred to earlier in this decision.

[50] Ms. Brown believes that it was appropriate for the Appellant to take the second shot in both cases to ensure the quickest and most humane death of the animals, consistent with what she learned during the CORE course that she took approximately five years ago. She notes that the CO who investigated the incident did not question the appropriateness of the Appellant’s actions, or suggest that the Appellant ought to have tagged the bears.

[51] Regarding the distance to Highway 97, Ms. Brown states that there was thick, dense forest between the location of the bear kill and Highway 97. She believed they were at least half a kilometre away from the highway and there was no chance of being a danger to the public. The shots were fired slightly away from the highway and there was a hill behind them that would have prevented any risk of a bullet traveling further.

[52] The final piece of new evidence provided to the Board relates to the moose incident (no LEH permit). The Appellant provided a letter dated July 19, 2016 from the other hunter, Mr. Robichaud, attached as Exhibit C to the Appellant’s submissions.

[53] In his letter, Mr. Robichaud confirms the Appellant’s evidence that his rifle jammed and that he told the Appellant to shoot the moose as he did not want the animal to suffer. Mr. Robichaud states that he later determined that his shot would have been fatal, as he had hit the moose’s lungs. He then states:

I did not know that even though I shot the moose, having Mr. Pitt shoot it afterwards to prevent unnecessary suffering was an infraction under the Wildlife Act. I am also aware that ignorance is no excuse. We made a mistake and we cannot change that fact. It is our responsibility to understand the Wildlife Act and we failed in that

regard. I will, however, unequivocally state that our intentions that morning were absolutely pure.

### ***The Respondent***

[54] The Respondent provided a lengthy affidavit sworn by the Deputy Director on August 30, 2016, attaching the documents from his decision-making file as exhibits. The Deputy Director identified the information that he considered when making his decision, and responded to the Appellant's new evidence and argument. Regarding the Appellant's new evidence, the Deputy Director responds as follows:

19. In response to Mr. Pitt's new contention that the two black bears were not shot within the no shooting area, it is not possible for me, now 15 months after the fact, to make a determination on precisely where the two black bears were shot, nor would it have been possible for me to independently verify the location of the kill site upon receipt of the Recommendation [from the COS]. In making the Decision at the time, I relied on the fact that (a) an offence ticket for discharging a firearm in a no shooting area was issued to and paid by Mr. Pitt (which is regarded as an admission of guilt); and (b) in his Response letter, Mr. Pitt did not deny the incident or dispute the location of the kill site.

20. When I look at Exhibit A to Pitt's Submissions – assuming for the sake of argument the pin dropped does represent the precise location of the kill site (which remains unverifiable after the fact) – the scale provided on Exhibit A indicates to me the location is approximately 375m from Highway 97, which is consistent with the charge against Mr. Pitt, for which he admitted guilt by payment of the fine. In any event, even if this incident had taken place outside of the no shooting area, I still would have found Mr. Pitt committed the other offences (as outlined in para. 24(c)(ii)-(v), below), which I consider sufficient to warrant the one-year suspension handed down respecting that particular incident [two bears].

21. Secondly, with respect to the moose incident in the fall of 2015, Mr. Robichaud's written statement provided as Exhibit C to Mr. Pitt's submissions ... corroborates Mr. Pitt's account that, because Mr. Robichaud's rifle jammed after firing the first shot that struck the moose, he directed Mr. Pitt to shoot the moose a second time to ensure its swift death. However, Mr. Robichaud also expressly acknowledges – as Mr. Pitt has too – that he is now aware this was not the proper thing to do in the circumstances.

22. Thirdly, Mr. Pitt appears to argue that, in making the Decision, I inappropriately compared his actions to that of deliberately poaching an animal when, in fact, my written reasons for Decision make no such comparison. On the contrary, I stated more than once that Mr. Pitt provided plausible explanations for each of the offences identified; however, such explanations do not excuse the fact the offences were committed and, given the number of violations conceded by Mr. Pitt, some license action was warranted in my view.

[55] The Deputy Director explains that, based on all of the information before him, he found, on a balance of probabilities that, between 2008 and 2015, the Appellant committed a total of seven offences under the *Act*, and its regulations, and one offence under the *Fisheries Act* regulation.

[56] He then considered past directors' decisions respecting those eight offences to ascertain the range of suspensions imposed, which are summarized as follows:

- a. For failing to properly cancel the black bear licence, the usual suspension is 1-3 years;
- b. For hunting a moose without a LEH authorization, the usual suspension is 1-3 years;
- c. For the five offences under the *Act* committed in relation to the two black bears/hunting within the no shooting area, the usual suspensions are:
  - 1-2 years for discharging a firearm in a no shooting area,
  - 1-3 years for failing to retrieve edible portions,
  - 1-3 years for possession of dead wildlife without authorization,
  - 1-3 years for failing to cancel the appropriate species licence immediately after killing big game, and
  - a 1-year automatic suspension upon conviction under section 81(b) of the *Act* for using another person's licence, permit or LEH authorization.

[57] No records of licence action were found for fishing with two lines.

[58] In light of the usual range of licence action, the Deputy Director states that a two-year suspension, especially for the multiple offences committed respecting the two black bears in the no shooting area and hunting the moose without an LEH authorization, is, in fact, "lenient".

[59] Regarding the Appellant's suspicion that the COS recommendation for licensing action was retaliatory in nature, the Deputy Director states that, even if this was true, it "would not, and did not have any bearing whatsoever on the execution of my duties in making the Decision." He states that, with the exception of the allegation that the Appellant harvested meat from a wolf-killed cow elk in 2015, which he found to be unsubstantiated and did not factor into the suspension imposed, the Appellant expressly acknowledged in his response that he committed six of the seven offences alleged in the COS' recommendation.

[60] The Deputy Director acknowledges that he made note of the Appellant's employment, but states that this "did not have the effect of increasing the suspension I imposed, but I did consider it relevant". The Deputy Director states that, in his view, the fact that the Appellant is a law enforcement officer in addition to a self-described experienced hunter and angler, suggests that the Appellant "ought to have known better."



## DISCUSSION AND ANALYSIS

### 1. What is the appropriate administrative penalty in these circumstances?

#### *The violations at issue*

[61] The Deputy Director found that the Appellant committed eight violations of the Act or regulations, during four incidents. The Panel agrees with the Deputy Director's findings of contravention. The Panel also agrees that these violations warrant licensing action.

[62] The violations, and the weight that the Panel places on them, are set out below.

[63] Since the Appellant's angling privileges were not suspended by the Deputy Director, even though he received a warning for using two lines while ice fishing on Klinger Lake, the only weight this Panel places on this contravention is to demonstrate the Appellant's ignorance of the law, which he admits is no excuse.

[64] Regarding the 2014 incident involving the failure to cancel the region on a black bear tag, the Panel agrees with the Appellant that this is a minor infraction. However, it is another example of the Appellant's lack of attention to, and compliance with, the legal requirements.

[65] As to the two black bears incident near Highway 97, the Panel finds that this incident is the most significant, and resulted in multiple violations.

[66] First, regarding the violation for the "no shooting area", the Appellant submitted Exhibit "A", a photograph of a satellite image of the area where the black bears were shot in April 2015, to show that the bears were shot more than 400 metres from Highway 97. He submits that, in the absence of any contrary evidence from the COS or the Deputy Director, his evidence ought to be accepted. However, the Appellant's calculation of where the shooting occurred is not verified in any way, hence the Panel will give it little weight. Further, as noted by the Deputy Director, the Appellant's payment of the Violation Ticket is, in law, a guilty plea to the violation. In any event, even if the Panel accepted this image as an accurate description of the location of the bear kill, the Panel agrees with the Deputy Director's calculation that the "pin" is located approximately 375 metres from the highway. Accordingly, the Panel is satisfied that the weight of the evidence establishes that the discharge of the Appellant's firearm occurred within the no shooting area.

[67] Regarding the failure to retrieve the bear meat, the Panel agrees with the Appellant that the presence of grizzly bears would justify leaving the site. However, the Appellant should have notified the COS of his actions, something he now acknowledges. His explanation for not doing so is somewhat vague. On the one hand, he seems to suggest that he did not think about it. However, he also states that he thought that the grizzlies would eat the remaining meat and, had he reported the issue to the COS, it would have made unnecessary work for the COS. In his submission to the Deputy Director, the Appellant also suggests that, looking back, he may have been concerned that the CO would have charged them for leaving meat behind, regardless of what happened with the grizzlies.

[68] In the Panel's view, the Appellant's explanations for failing to report the meat left behind are, at best, suggestive of an attempt to avoid the "hassle" of notifying the COS and having to explain the circumstances, and, at worst, an indication of an intent to stay quiet, and avoid being charged.

[69] Regarding the Appellant's decision to kill the two bears after Ms. Brown wounded them without cancelling his tags, the Panel finds his explanation to be self-serving. As noted by the Appellant, an important factor in any infraction is the "*mens rea* of the person (i.e., intent to violate the law)", described in the last factor in the Policy quoted above. In the two black bears incident, the Appellant's reason for not using his black bear tags was that he was saving his tags for a later hunt with his father and brother. This is clearly an attempt to evade the legal requirement that the person who kills game must use his or her tags for that game. The Panel finds that his conduct was intentional and illegal and designed to circumvent the law.

[70] The next incident, commonly referred to as the moose incident, has some similarity to the two bear incident because, again, the Appellant steps forward to deliver the killing shot. In this case, it was because his friend had shot the moose, but it remained standing and the friend's rifle had jammed. Like the two bear incident, the Panel finds this incident to be of a more serious nature. Although the other hunter had legal authority to kill the moose, the Appellant did not. The Appellant states that he went on this hunt solely to help his friend with the harvest as his friend would not be able to do so because of the size of the animal. Unlike the two bear incident, in this hunt, the Appellant did not have a LEH permit for moose, and could not legally shoot a moose.

[71] Although the friend's letter confirms the Appellant's explanation of the rifle jamming, the Appellant's response ought to have been to give his rifle to the friend, not to take the final shot himself.

[72] Finally, there is the cow elk incident. In this incident, the Appellant's Sergeant felt obliged to report the Appellant to the COS because of what he was hearing around the Detachment from other officers of the RCMP. The Appellant advised the Deputy Director that he contested the Violation Ticket for this offence. The Deputy Director considered the evidence before him and found there was insufficient evidence to conclude that the Appellant contravened this section. The Panel agrees, and has not considered this matter as part of its decision.

[73] Although none of the individual incidents led to licensing action, and the CO's involved most often felt a warning was appropriate, when the incidents are considered together, the Panel finds that there is clearly a pattern of behaviour and a problem with the legislation that warrants licensing action. The next question is, what should that action be.

*The applicable factors to consider*

[74] When considering licensing action, the factors referred to in the Ministry's Policy 4-1-02.01 do not bind either the Ministry decision-makers or this Panel: policies are not law. None the less, they do apply common sense to the process and are helpful to the Panel.

[75] The Panel has considered the specific factors as follows:

*seriousness of violations:* The Panel finds that the eight violations vary individually in seriousness. However, the Panel finds – as did the Deputy Director – that these violations related to the two black bear incident near Highway 97 and the moose incident are of a more serious nature. In particular, his failure to cancel his own bear tags rather than his wife's, discharging the firearm in a no shooting area, and shooting the moose without an LEH authorization.

*impact on environment:* The Panel finds that the environmental impact of the Appellant's actions is slight because hunting of each of the species is permitted under BC law, and either the Appellant, or his companion hunters, had the applicable licences or permits for the animals that were ultimately harvested.

*deterrence (specific and general):* The Panel finds that this is one of the most significant factors in all cases, and certainly is in this case. The Appellant's situation will be well-known in this small community of Mackenzie, such that if he is perceived as "having gotten away with it" the administration of justice will be brought into disrepute. General deterrence is, therefore, very important. Further, given that the list of his contraventions have spanned almost eight years and the Appellant has received a number of warnings, both verbal and written, specific deterrence is also very important in this case.

*number of violations:* When the Panel adds up the fines and warnings, there are multiple violations over the span of eight years. Most of them – and the most serious of them – occurred in 2015. In particular, five violations flowed out of one hunting trip (i.e., the two black bear incident).

*attitude of person respecting the violations:* The Appellant explains his actions in the most serious of cases (the two black bears and moose incidents) as "putting the animal out of its misery", as well as assisting a friend whose rifle jammed. He does not seem to appreciate the importance of learning the hunting laws of this province and, when he explains the circumstances, the Appellant seems to minimize the importance of certain requirements, and blames this licensing action on retaliation by others rather than accepting that licensing action is the usual, and logical, consequence of his prior actions.

*remorse shown by the person:* The Appellant expresses remorse now that this licensing action has been taken, but does not appear to have been sufficiently remorseful after the individual incidents to have improved his knowledge of the law or improved his judgment (e.g., did not report leaving black bear meat behind).

*mitigation actions:* The Appellant has paid a fine, has purchased a GPS, and has enrolled in the CORE course.

*recommendations of the COS:* The COS recommended a suspension of both of the Appellant's hunting and angling privileges for a period of five years.

*recommendations of the Appellant himself:* The Appellant suggests that a suspension of his hunting privileges for a period of one-year is appropriate in all of the circumstances.

*experience level of hunter:* The Appellant has hunted since he was twelve years old. The Deputy Director found the Appellant to be an experienced hunter, with which this Panel agrees.

*previous history of violations:* Prior to the violations at issue in this appeal, there were none.

*impact on the person of removing license privileges:* The Appellant's major recreational activity, by his own admission, is hunting and angling. His employment does not require a valid hunting licence, so it does not impact his job.

*ethics of the person:* The Panel is not impressed with the Appellant's ethics. The Panel agrees with the Deputy Director's analysis of the Appellant's conduct over the years as exhibiting a disregard for the laws, being a poor example to other more novice hunters, such as his wife and his friend. In addition, the Panel is concerned with his decision to take Ms. Brown's eight-year old daughter on Ms. Brown's first bear hunt.

*impact on private property:* The Panel finds that there is no impact on private property.

*mens rea of the person (i.e., intent to violate the law):* The Panel finds that by knowingly, and intentionally, saving his black bear tags for a later family hunt, instead of attaching them to the two black bears that he killed (which his wife had seriously wounded), the Appellant intentionally violated the requirement that he attach his tags. As ignorance of the law is no defence, this Panel has no difficulty in finding that the Appellant intentionally breached the law in this case. Further, he did not report the failure to retrieve the bear meat to the COS, apparently hoping that the grizzly bear would consume it and thus eliminate any evidence of the violation, and he intentionally shot the moose knowing that he did not hold an LEH authorization.

[76] The Panel notes that this Policy does not specifically consider a hunter's employment, yet the Deputy Director relied upon the Appellant's employment in his "Reasons for Penalty". In the Appellant's appeal to this Board, he argues that his occupation should not be relied upon.

[77] In the Panel's view, the Appellant's employment as a member of the RCMP is relevant to these proceedings. This Panel concurs with the comments of the Deputy Director when he writes:

... as such, you have a greater responsibility to know the law and set a better, more ethical example for other hunters and citizens in your community and the province.

[78] In this regard, the Panel finds that the Appellant totally failed to discharge that greater responsibility.

[79] Although the Appellant may not be familiar with the *Act* as a result of his daily duties, he certainly understands that there are laws that apply to hunting, and how to find them. Further, since 2008, the Appellant has shown that he does not know the laws related to hunting in BC and that he lacks the interest in doing so, even after receiving repeated warnings for different violations, whether serious infractions or not. The Appellant's lack of diligence to determine the hunting laws of BC after he moved to this province is a significant concern to the Panel. Such an excuse would be unacceptable for any hunter, let alone a hunter that enforces laws as a profession.

[80] In his submissions, both to the Deputy Director and this Panel, the Appellant suggests that the COS' recommendation to the Deputy Director was made in retaliation for a complaint that he filed against one of the COs. The Deputy Director states in his decision that this allegation was irrelevant, as his role was simply to determine whether the Appellant committed the violations on a balance of probabilities, and, if so, what level of penalties to assess for them. The Panel is of the same mind.

[81] Even if the recommendation was retaliatory in nature, this does not somehow "erase" the violations from his record. With the exception of the cow elk incident, the Appellant seems to be objecting to the reason for - or motivation behind - his hunting record being put before the Deputy Director, not the validity or accuracy of the record itself. The Panel finds that the violations occurred, and that is all that is important to this Panel.

[82] The Appellant says, on several occasions, that:

I love hunting and fishing, and hold these privileges dear to me, and second only to my family in value.

[83] However, he has not protected these hunting privileges by learning the applicable BC laws and following those laws. He is apologetic and remorseful when caught but, for some reason, he continues to be caught for violations of differing severity. The Panel agrees that none of the individual violations are as serious as poaching, or as some of the violations described in the previous Board cases cited by the parties. However, as found above, the Appellant's case contains some fairly serious violations and issues of poor judgment, and these issues have repeatedly arisen. Just as the Panel would expect more from a CO in terms of diligence and compliance with the law, it expects a higher standard of compliance from an RCMP Constable, despite the lack of specific training on wildlife legislation.

[84] As noted above, the Panel is also concerned that he took an eight-year old on that particular bear hunt.

[85] In an appeal, section 101.1(5)(b) of the *Act* gives the Board the power to "confirm, reverse or vary the decision being appealed". "Vary" includes, in the view of this Panel, the power either to reduce or to increase the penalty imposed, as the Panel sees fit.

[86] Also, given the wording of section 101.1(5)(c) of the *Act*, the Board, as represented by this Panel, may "make any decision that the person whose decision is appealed could have made, and that the board considers appropriate in the circumstances."

[87] Having reviewed all of the evidence and arguments in this case, the factors set out in the Ministry's Policy and, in particular, the seriousness of the violations, the number of violations and the importance of deterrence (both general and specific), the previous Board decisions submitted by the parties, and the range of past director suspensions for each of the eight violations found in this case, it is the view of the Panel that the suspension of the Appellant's hunting privileges for two years is too lenient, and that the COS' initial recommendation of a five-year suspension is more appropriate in the circumstances.

[88] However, the Panel has reconsidered this conclusion in light of the new evidence submitted by the Appellant. The Appellant reports that the RCMP have ordered him to forfeit a number of days' for breach of the code of conduct in connection with these violations of the *Act*. The Panel finds that this new evidence impacts the Panel's decision to increase the suspension to five years. In consideration of the additional punishment by the Appellant's employer, there is a reduced need for specific deterrence. Accordingly, the Panel finds an appropriate penalty to be a four-year suspension of the Appellant's hunting licence. In making this decision, the Panel has also been mindful not to punish the Appellant several times for the same event.

[89] In conclusion, the Panel finds that the appropriate administrative penalty in this case is a suspension of the Appellant's hunting privileges for a four-year period from June 1, 2016, until, but not including May 31, 2020.

[90] Except for the length of the suspension, the Panel agrees with the other decisions of the Deputy Director, including the requirement for the Appellant to successfully complete the CORE program prior to restoration of the Appellant's hunting licence privileges.

## **2. Should an order of costs be awarded to the Respondent in this case?**

[91] The Respondent asks the Board to make an order for costs against the Appellant pursuant to section 93.1 of the *Environmental Management Act*, and section 47(1)(a) of the *Administrative Tribunals Act*. The Respondent asks for costs on the grounds that the appeal was frivolous and vexatious in nature, and that the Appellant made unsubstantiated allegations of malice against the COS.

[92] In response, the Appellant believes that he had sound reasons to appeal the decision. He states that he tried his best to explain why he believes a two-year suspension is overly harsh given his actions, and why his actions warrant a shorter suspension when compared with other suspension cases. He points out that he is not a lawyer, and should not be held to the same standards in terms of presenting a case.

[93] Regarding his claim that his case may be a result of malice by the COS, the Appellant provided documents which, he submits, supports his concern in this case. While the Respondent interprets his submission as malice, the Appellant submits that he cannot help but be suspicious, and had a right to appeal the decision.

[94] The Board's policy on costs is set out in section 13.0 of its 2016 Practice and Procedure Manual. The policy states, in part:

The Board has not adopted a policy that follows the civil court practice of “loser pays the winner’s costs.” The objectives of the Board’s costs policy are to encourage responsible conduct throughout the appeal process and to discourage unreasonable and/or abusive conduct. Thus, the Board’s policy is to award costs in special circumstances. Those circumstances include:

- (a) where, having regard to all of the circumstances, an appeal is brought for improper reasons or is frivolous or vexatious in nature;
- (b) ...

[95] The Panel agrees that, by any objective standard, this appeal is without merit; however, that does not make it frivolous or vexatious.

[96] In lieu of an order for costs, a longer suspension of the Appellant’s hunting privileges should prove salutary, and adequately serve the ends of justice.

[97] The application for costs is denied.

## DECISION

[98] In making this decision, the Panel of the Environmental Appeal Board has carefully considered all relevant documents and evidence before it, whether or not specifically reiterated herein.

[99] Exercising its power to vary a decision on an appeal pursuant to section 101.1(5)(b) of the *Act*, and for the reasons stated above, the Appellant’s hunting licence privileges are suspended for the four-year period from June 1, 2016 until, but not including, May 31, 2020.

[100] Every hunting licence the Appellant holds is cancelled as of June 1, 2016.

[101] As of June 1, 2016 and until, but not including, May 31, 2020 the Appellant is:

- ineligible to obtain or renew a hunting licence;
- ineligible to apply for a LEH authorization; and
- prohibited from hunting.

[102] In addition, the Panel confirms that the Appellant’s hunting licence privileges are suspended until he has successfully completed the full CORE program, and has provided proof to the Ministry of having done so.

[103] The Respondent’s request for costs is denied.

[104] The appeal is dismissed.

“David Searle”

David H. Searle, C.M., Q.C., Panel Chair  
Environmental Appeal Board

October 28, 2016