

THE OREGON BEAR AND COUGAR INITIATIVE: A LOOK AT THE INITIATIVE PROCESS

BY
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My focus is on a recent Oregon initiative campaign, an experience in "direct democracy." The impetus for the campaign was a 1993 reexamination of the state's bear management plan by the Oregon Fish and Wildlife Commission. In the spring of 1993, at a public hearing, citizens asked the Commission to take a look at baiting in hunting bears, as well as using hounds in hunting bears and cougars. However, the Commissioners had no interest in hearing what the people had to say, taking the attitude that their job was not to make moral judgments about whether or not it was appropriate to bait bears or to hound bears or cougars. Instead, they thought their role was simply to regulate the practice and to set times and places for it. That response prompted a number of us to think seriously about the possibility of starting an initiative campaign in Oregon. That is how the Oregon Bear and Cougar Ballot Initiative¹ was born.

The practice of baiting is a type of hunting where a person will put in the woods rotting food, often jellied donuts, rock candy, anything that is highly attractive to bears, including rotting carcasses. Often, the hunter will buy pieces of cows from the slaughterhouse and leave them in a big rotting pile. Some hunters will use live bait; they will actually go to an auction and buy an old cow, or an old donkey, or an old horse and walk that animal into the woods to the site, shoot it, and let it rot there, because then they do not have to physically carry the bait. At some point, this stuff starts to really smell, attracting the bears, especially when they are eating a great deal before they hibernate in the fall. This was also done in the spring in Oregon when berries, the bears' food source, are not yet ripe.

A hunter will employ the bait to attract bears so that they develop the habit of eating at the site. Sooner or later, the hunter will be hiding behind a blind or up in a tree when the bears are there, and he will shoot the bear eating at the site. We argued that this practice was cruel and absolutely unsporting. There is certainly no skill in shooting a bear when it is eating a few feet away. We argued that it was about as sporting as shooting a bear in a zoo.

It is also clear that there are safety concerns with baiting because by drawing bears to a site with human food, the bears are going to feel more

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¹ *Petition Seeks Bait, Dog Ban for Big Game*, OREGONIAN, Oct. 28, 1993, at E6.

comfortable around human garbage in the future. If they are anywhere near a campsite, they are going to be far more likely to be drawn to it and to human food, which, of course, creates nuisance animals and potential conflicts between the animal and humans that would otherwise never have occurred.

Another hunting method is the use of hounds on both bears and cougars. A large pack of hounds, usually somewhere between ten and fourteen, will be brought in on a pick-up truck. Usually one lead hound will be chained up on the top of the truck so that if he picks up a scent, he starts baying, and then the hunters pull over and let the hound loose. The dogs are fitted with a radio transmitter collar which allows the dogs to go after the bear or cougar, while the hunters wait in pick-up trucks until there is an end to the chase. At this point, often the bear or cougar will turn and defend itself, and there will be a dog and bear fight or a dog and cougar fight, which is certainly cruel to all the animals involved. Finally, the bear or cougar will take refuge in a tree, and the hunter will use an antenna to find where the dogs are and shoot the animal point blank, from a few feet away. This lacks any sense of sporting ethic, absolutely running against the traditional notions of what hunting is supposed to involve, in terms of skill and fair chase. So there are a whole host of reasons, ranging from purely a concern about cruelty to environmental concerns, that we felt should have led the Commission to reexamine these practices.

After the Commission's rejection, we began our campaign by drafting some language for a bill to outlaw the use of bait and of hounds in hunting bears and cougars. We also did some polling at that point, because it is important to know where the public stands if you are considering a ballot initiative. You cannot count on any public education happening during a process like an initiative because the campaign becomes an advertising battle. There is so much smear campaigning going on that the educational ideas simply do not get through. So, you need to start with an advantage in the polls.

In Oregon, after you have drafted the language on the ballot initiative, you file it with the Secretary of State. Then you begin the petition phase. We had to get over 66,000 valid signatures. I believe we ended up with somewhere around ninety thousand. This is a key part of the campaign, and it requires a concentrated effort to obtain the necessary signatures. You do not necessarily need to generate a lot of media attention at this point because, if you do not get on the ballot, there is no point in having the media with you. So we often had to hold ourselves back, even when opportunities arose to make our points in the media.

After we made the ballot in July 1994, we began planning how to get our message across to the public. This is where the fundraising side of this kind of campaign becomes important. At that point, we held an auction and had a number of people around the state working heavily on fundraising for our later advertising campaign. Sometime late in the game you start your advertising blitz. For us, we didn't have a huge treasure chest to draw from, so we had ads only for the last ten days before the election. Our opponents' ads ran just about twice that amount of time. When it

came down to the last few weeks, there were television and radio talk shows on which a number of people throughout the state made appearances. The media gave quite a bit of exposure to the issue at that time. As you go through that period of the campaign, it is interesting to watch how the message evolves. You start off on firm ground, where your best arguments are. Then the opponents try to confuse the issue or manipulate it and throw you off that ground.

One of the most interesting things that happened to us was that during the campaign there seemed to be cougars everywhere. It was amazing how the cougar population appeared to grow, if you read the paper. During the last few months of the campaign, the state population seemed to grow about five hundred cougars a month, which is completely impossible. Regardless, it was clear that the fear campaign that was being run by the other side was having some effect, so we ended up talking about the biology of cougars and explaining why having a hunting season on cougars using hounds had absolutely no effect on whether cougars might ever come into conflict with human beings in Oregon. There has never been a fatal cougar attack on a person in Oregon. According to scientists from around the country, these conflicts arise from people taking over cougar habitat and have nothing to do with whether or not there is a hunting season. It is important in any campaign like this to remember to go back to what you know are the real issues. When peripheral issues like this arise, try to summarily dismiss them, combatting them with the best science that you have. I think that is what we attempted to do. Nevertheless, in the final week we were quite concerned because the polls were down, and we thought there was a possibility that we might have already lost. However, we ended up winning a fifty-two to forty-eight percent margin—not a huge landslide, but a decisive vote.

Less than ten days before Measure 18 took effect, which was thirty days after the vote, there was already talk in the Oregon House about repealing Measure 18. Thus, the legislature began what was really the next phase of the initiative campaign. We thought the battle was over when we won the election, but we had to campaign one more time in the state legislature, which was eager to overturn the initiative. The only argument that seemed to prevail was that the public had spoken, and the legislature would be denying the people their vote. That argument helped us beat back a dozen bills that were introduced in the legislature that would have effectively repealed the initiative.²

The initiative process seems initially to have the benefit of being very efficient. In just a year's time you can have a law. However, the battle tends to take on a life of its own. For example, opponents of Measure 18 recently filed a new initiative. It would not only repeal Measure 18, but it would also give the Fish and Wildlife Commission exclusive authority over wildlife management issues. This may have severe ramifications by potentially chilling future initiatives involving any wildlife in the state, even po-

² See, e.g., Or. H.B. 2657, 68th Legis. (1995); Or. S.B. 792, 68th Legis. (1995); Or. S.B. 533, 68th Legis. (1995); Or. H.B. 2584, 68th Legis (1995).

tentially blocking future legislation. So the issue is clearly not going away. However, I think this broad, sweeping approach by the opposition could prove politically devastating for them. Oregon is the birthplace of the ballot initiative and is not a place where eliminating the people's right to vote directly on wildlife issues will achieve widespread public support.

That is the story of one state's initiative process and what happened on one issue. There are a number of other states which are working on similar initiatives. It seems to be a good time to be taking the initiative approach. There is considerable support for animals on the grassroots level. Just being involved in this process made it clear to me that you can never underestimate the power of that. In Idaho, a similar initiative on baiting and hounding of bears is currently being circulated. People in Washington are also working on this issue. Ohio is working on an initiative that would stop the hunting of mourning doves. Massachusetts is currently circulating a petition which would ban the use of hounds on bears and bobcats and would also reorganize the state wildlife commission and ban lethal traps, and Michigan is also working on bear hounding. The initiative approach is now beginning to take hold nationwide.