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ROLL NUMBER

DESCRIPTION

2254

2007 SENATE NATURAL RESOURCES

SB 2254

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2254

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: # 2566, 2567

Committee Clerk Signature

Janet James

Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee brought the committee to order.

Attendance was taken indicating all members of the committee were present.

Senator Lyson opened the hearing on SB 2254 relating to hunting on nontraditional livestock and farmed elk facilities and to the escape and identification of farmed elk.

Senator Lyson explained to those attending the process of the hearing.

Senator Tim Mathern from District 11 sponsor of SB 2254 introduced the bill on the behalf of hunters and other outdoor enthusiasts (See attachment #1). He also submitted amendments (See with Attachment #1).

Senator Layton Freborg asked if there was any record of deceased farmed or otherwise elk in North Dakota.

Senator Mathern answered that disease has been kept out of the state and specifically CWD (chronic waste disease) has not yet shown up in the state, although he left that to the experts to answer the question.

Senator Constance Triplett commented the senators have received a lot of communication from constituents regarding SB 2254 and those opposed the bill say it would impose on their

rights as property owners. She asked if he could identify why the state should have this interest in regulating the industry to this extent as he is proposing.

Senator Mathern answered that one of the state's interests is reflected in the number of people attending the hearing. With differing points of view, there needs to be a process for addressing those points of view. He further stated the second is the economic issue that has different points of view whether it is the farmer with the elk or the industry of hunting and its related industries. The economic consequences are broad. The third issue is how we deal with animals in the state and that there are many laws that regulate these animals enforced by the North Dakota Game and Fish Department. These three indicators are important and should be addressed by the legislature.

Shawn McKenna, Executive Director of the North Dakota Wildlife Federation testified in support of SB 2254 (See attachment #2). He also presented a survey conducted by the federation regarding fenced hunting (See with attachment #1).

Senator Herbert Urlacher asked if the survey indicated the elk were raised in a cage.

Shawn McKenna responded that was not the case.

Senator Joel Heitkamp stated he did not disagree with the nature of the hunt in a cage but would not a better word be harvest. Instead of hunt. He asked what the difference is if the goal is for the meat.

Shawn McKenna commented that a cow is never mounted on the wall as a trophy.

Senator Heitkamp stated he has seen a lot of long horn cows on the wall. He further made his point asking if the objection is the bragging of the hunt or is it the ethics of shooting something in a pen.

Shawn McKenna answered the objection to SB 2254 was all of the above.

Senator Triplett asked if this is any different shooting a deer that has been eating in the vegetable garden all year long.

Shawn McKenna answered that is not a hunt but is shooting deer that has been eating your vegetables and he would not do that.

Senator Triplett asked if he thought the state should have an interest in making a law that a person could not shoot a deer in a garden.

Shawn McKenna answered it was not for him to decide as he does not make the laws.

Senator Triplett stated the committee is trying to understand why the state should have interest in regulating private property. We can all agree these are not wild animals that are being discussed, but animals that are owned privately and held in a fence and what is being talked about is depriving people of their private property rights. She further stated those in support of SB 2254 have an obligation to tell the committee in clear terms what is the state's interest is in depriving people of their property rights simply because those opposed do not agree with what the property owners are doing.

Shawn McKenna answered that society makes laws all the time that restrict people's ability to use their private property.

Senator Triplett agreed that the state does have the right to make those restrictions but only when there is a compelling interest and further asked Shawn to give the committee the compelling state's interest that would make them deprive the property owner's their property rights.

Shawn McKenna responded that North Dakota has become a destination for hunter across the county for water fowl hunting, etc. and we want them to come but not to hunt animals inside fenced enclosures. That is not the reputation North Dakota wants.

Senator Freborg stated he would not shoot an elk in an enclosure but these animals will be shoot some day either by the owner or someone who is willing to pay to do it and does not see the difference as the animal will eventually be killed.

Senator Freborg commented he has always eaten everything he has hunted and has never hung anything on the wall.

Gary Masching testified in support of SB 2254 (See attachment # 3).

Senator Lyson stated the disease issue is bothersome as the elk farmers he knows are more concerned with the wild elk bringing the disease into the farmed herd and asked why there is a concern of the domestic animals spreading the disease.

Gary Masching answered it was due to the leaky fence and where they have escaped in the wild.

Senator Lyson asked how many wild animals are tested for the disease when the farmers are testing their domestic herds on a regular basis. Are the North Dakota Game and Fish Department testing the wild elk?

Gary Masching answered there are domestic elk in the wild that are unaccounted for, although it is not known if they are diseased or not.

Senator Urlacher stated the domestic elk are disease controlled and the wild are not, he is concerned with the chance of spreading disease from the outside verses the spreading of disease from the disease tested and controlled inside.

Gary Masching commented he is not as much concerned with the disease issue as the ethical issue of shooting in a pen and should take a lesson from Theodore Roosevelt as referred to in his written testimony.

Mike McEnroe representing the North Dakota Chapter of the Wildlife Society testified in support of SB 2254 (See attachment #4). He further stated the bill is not about nonresident

hunting issues, does not address wildlife disease issues, does not change the existing disease monitoring program of North Dakota Game and Fish Department, it does not change the North Dakota Animal Health disease testing programs, it does not take away land owner right, it does not prohibit fee hunting for wild animals on private land, it does not restrict the guiding and outfitting industry, it does not prohibit the nontraditional livestock industry from raising or selling animals for hide, horn, meat, as breeding stock, as pets or genetic material, it does however stop the pain for shooting such animals, Without sportsmanship and Theodore Roosevelt's definition of arduous pursuit for hunting it just becomes killing animals. This is not the legacy we want to leave our children. He continued by responding to Senator Triplett question of the state's right to deprive land owner's rights stating if the shooting preserves become the way of hunting we will not need the North Dakota Game and Fish Department, no need for habitat, conservation of the nature resources.

Senator Lyson asked if he would have objections of having a moratorium for no hunts on ranches.

Mike McEnroe responded that would be a step in the right direction but he would have some objections.

Senator Triplett stated that although she appreciated his attempt to answer her question, she is still struggling and if he objects to the ranchers owning elk and has them penned

Mike McEnroe responded he has no problem with the ownership of nontraditional livestock and does not object to the industry nor the use of the animals for meat as he understands the animal will be killed some day, but the concern is with someone paying to shoot the elk and then is portrayed as hunting or sportsmanship.

Senator Triplett asked if it is the money changing hands that bothers him.

Mike McEnroe stated it is the charging to kill the elk, it is not the killing but the charging for the privilege to pull the trigger that is their concern.

Senator Triplett commented she interrupts Theodore Roosevelt's writing differently than portrayed in the hearing. She does not see his words convincing her to support SB 2254.

Mike McEnroe he disagreed and feels the former president would object to shooting an animal in a pen and then referred to the story of not shooting the bear cub.

Senator Triplett affirmed it was a personal choice of Theodore Roosevelt not to shoot the bear and we need to distinguish between people making personal moral choices for themselves verses the state telling them what their choices should be. Passage of this bill will tell people what they can and cannot do and that is different than choosing your own moral path.

Mike McEnroe stated that the government does this all the time when they tell how much we can drink, how fast we can drive and how much tax we pay by putting sideboards or curves on our behavior. This is a sideboard on natural resource recreation that should be in place.

Roger Kaseman testified in support of SB 2254 stating he did some research on Dr. Valerius Geist of Alberta, Canada. (See attachment #5). He further commented on shooting a deer in a garden as the deer can run away but a penned animal cannot and there is a yardage limitation regarding shooting of game near a residency.

Dave Brandt testified in support of SB 2254 presenting the results of two audits of deer and elk game farms in other states. (See attachment # 6).

Senator Lyson asked what has the audit report have to do with SB 2254.

Dave Brandt responded the compliance of the elk ranch industry will ultimately will cause problems as it already is because it costs the hunter, North Dakota Game and Fish Department lots of money.

Senator Lyson asked if the passage of the bill will help things, should there be stronger laws or what exactly will help the problem.

Dave Brandt answered that noncompliance with laws will not solve the problem, but keeping the industry from expanding would help the problem because it will control the potential risk of spreading disease.

Senator Urlacher commented that there is free flowing travel of game which causes the transfer of diseases.

Dave Brandt agreed but there is an added risk due to the game farm industry in other states and if the expansion is curbed it will help with the problem.

Dick Monson, a farmer and hunter from Barnes County testified in support of SB 2254 (See attachment # 7). He referred to pages 24-27 of his handout and asked the committee to please read them.

Senator Lyson asked for testimony in opposition to SB 2254.

Representative Glen Froseth of District 6 testified in opposition of SB 2254 stating in has several reputable legal elk farmers in his area. There are crafted laws that govern these elk farmers as well as the rules of the North Dakota Game and Fish Department. This is another way of economic opportunities for these farmers and encourages a Do Not Pass of SB 2254.

Senator David O'Connell of District 6 testified in opposition of SB 2254 stating he hears fears of disease spreading and does not agree.

Bryan Dvirnak, Bismarck testified in opposition to SB 2254 (See attachment # 8).

Tape recorder stops recording at this time and new Job was started.

Shawn Schafer testified in opposition to SB 2254 (See attachment # 9) He further addressed issues raised by other testimony stating there has been an animal with CWD cross state lines, he asked the committee to request all the pages of the survey not just the few chosen to be

presented at the hearing, how can the right of prostitution be compared to the right of a legal industry of elk farming, and the North Dakota Game and Fish Department will not be put out of business. He also highlighted the Canadian specialist of CWD as well as the 20 year old audit of the Game and Fish Department.

Senator Lyson questioned the testing of dead animals by the law.

Shawn Schafer stated that North Dakota has lead the way in testing of these animals and by the direction of the governor for the North Dakota Game and Fish Department and the elk producers.

Tim Dvirnak an elk rancher testified in opposition to SB 2254 (See attachment # 10). Also attached are letters of opposition from **Sally Dvirnak, James B., Craig J. and Brent Shostak,** and **Sam Molwite**.

Lynn Steven representing the North Dakota Elk Growers Association testified in they are in opposition to SB 2254. He presented a brief history of the association.

Laura Griffin testified on SB 2254 by presenting the written testimony in opposition from **Willard and Barb Swanke** (See attachment # 11).

Job # 2567

Representative Rod Froelich of District 31 testified in opposition of SB 2254 stating the bill greatly concerns him as the bill flies in the face of free enterprise and private property rights. He asked if the bison be next.

Representative Dawn Charging of District 4 testified in opposition to SB 2254 stating she has mixed emotions because she is a hunter and has been involved in the economics of North Dakota. Working with the tourism industry they found ways of keeping the population on the land with alternate opportunities such as elk farming. North Dakotans have very strong ethics

and land owner values and it is a dead end if the lawmakers go down that road. She further explained the tribes involvement with elk ranching and the work done with the park system.

Representative Bob Hunsakor of District 6 testified in opposition of SB 2254 stating the elk are born within a fence being raised as a domestic animal for food. The 100 plus elk ranchers should be able allowed to continue their operations and collect fees as an economic source.

Beth Carlson, Deputy State Veterinarian of the State Board of Animal Health from the North Dakota Department of Agriculture testified in opposition to SB 2254 (See attachment # 12) stating her packet contains information on the new administrative rules governing nontraditional livestock, the administrative rules regarding framed elk and also information in a application packet for establishing a deer or elk operation.

Dwight Grosz testified in opposition of SB 2254 (See attachment # 13).

Roger Mishoff, Valley City, North Dakota testified in opposition to SB 2254 stating the bill does bad things to the property rights of land owners.

Oren Krapp, Pingree, North Dakota testified in opposition to SB 2254 (See attachment # 14). He also told of stories of the disabled and terminally ill who have hunted in the enclosed ranch.

Terry O'Clair testified in opposition to SB 2254 (See attachment # 15).

Ernie Mau, President of the North Dakota Elk Growers Association and elk rancher testified in opposition to SB 2254 (See attachment # 16).

Jeff Nelson, Hillsboro, North Dakota testified in opposition of SB 2254 (See attachment # 17). He also presented letters in opposition to SB 2254 from Rick Forgren, Executive Director of the Traill County Economic Development Commission and Jim Muckenhirn a volunteer fireman.

Tom Mau, an elk rancher testified in opposition to SB 2254 (See attachment # 18).

Pete Leiss of the North Dakota Exotic Animal Ranch testified in opposition to SB 2254 stating he has 90% of the fallow deer in the state and has testified previously with his cub bear.

Lance Tomlinson, Max, North Dakota testified in opposition to SB 2254 (See attachment # 19).

Stan Savelkoul, President of the North Dakota Buffalo Association testified in opposition to SB 2254 stating he understands the bill is not directed towards the buffalo rancher but if SB 2254 is passed it could eventually affect the buffalo industry too.

Laurie Linnertz, manager of the South of Border Restaurant testified in opposition to SB 2254 (See attachment # 20).

Kyle Blanchard, President of the North Dakota Professional Guides and Outfitters Association testified in opposition to SB 2254 stating they stand behind the elk industry in opposition to the bill.

Steve Kelly, Attorney for the Three Affiliated Tribes testified in opposition to SB 2254 stating they have raffles and allow hunting on the reservation's ranch with proceeds going to their game and fish program.

Senator Lyson closed the hearing on SB 2254.

Senator Triplett made a motion for a Do Not Pass of SB 2254.

Senator Ben Tollefson second the motion.

Roll vote was taken for a Do Not Pass of SB 2254 indicating 7 yeas, 0 Nays and 0 absent or not voting.

Senator Triplett will carry SB 2254.

Other written testimony in support of SB 2254 was presented to the committee included;

Jim Posewitz (See attachment # 21)

Other written testimony in opposition to SB 2254 was presented to the committee included;

Dennis Berg, (See attachment #21)

Foster Hager, representing the Cass county Wildlife Club, (See attachment #22).

James Weight, Chairman of the United Sportsmen of North Dakota, (See attachment #23).

Kim Wagenman,, (See attachment #24).

William C. Henke, President of the MN Division of Izaak Walton League of America, (See attachment #25).

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2254

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 2, 2007

Recorder Job Number: # 2719

Committee Clerk Signature

Janet James

Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee brought the committee to order to relook at SB 2254.

All committee members were present except **Senator Ben Tollefson** and **Senator Jim**

Pomeroy.

Senator Lyson told the committee they need to look at the amendments as presented by the sponsor of SB 2254 (see attached).

Senator Joel Heitkamp made a motion to reconsider the action taken on SB 2254.

Senator Constance Triplett second the motion.

A voice vote was taken indicating 5 Yeas, 0 Nays and 2 absent.

Senator Heitkamp made a motion to accept amendments 0401.

Senator Triplett second the motion.

Hearing no further discussion voice vote #2 was taken indicating 5 Yeas, 0 Nays and 2 absent.

Senator Heitkamp made a motion for a Do Not Pass as Amended of SB 2254.

Senator Triplett second the motion.

Roll call vote #3 for a Do Not Pass as Amended of SB 2254 was taken indicating 5 Yeas, 0 Nays and 2 absent.

Senator Triplett will carry SB 2254.

Senator Pomeroy returned to the committee and submitted his vote for a final tally of 6 Yeas,
0 Nays and 1 absent.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2254

Page 2, line 1, after "Identification" insert "- Rules"

Page 2, line 2, replace "visible at one hundred yards [91.44]" with "measuring at least one inch by two inches [2.54 centimeters by 5.08 centimeters] in size which is a color that does not blend in with the natural color of the animal. Facilities that have a secondary ninety-six-inch [243.84-centimeter] perimeter fence, in addition to the animals' primary enclosure, are exempt from the tagging requirement but must have the animals properly identified by other means established by the state veterinarian by rule"

Page 2, line 3, remove "meters] in low-light conditions"

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2254

Page 1, line 2, remove "nontraditional livestock and"

Page 1, line 8, replace "Nontraditional livestock and farmed" with "Farmed"

Page 1, line 9, replace "shooting" with "hunting" and remove "nontraditional livestock or"

Page 1, line 10, remove "nontraditional livestock or"

Renumber accordingly

Date: 2-1-07

Roll Call Vote #: 7

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2254

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Triplet Seconded By Tollefson

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman	✓		Sen. Joel Heitkamp	✓	
Sen. Ben Tollefson, ViceChairman	✓		Sen. Jim Pomeroy	✓	
Sen. Layton Freborg	✓		Sen. Constance Triplet	✓	
Sen. Herbert Urlacher	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Triplet

If the vote is on an amendment, briefly indicate intent:

Date: 2-2-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2254

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken reconsider action taken on bill

Motion Made By Heitkamp Seconded By Wigdelt

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman			Sen. Joel Heitkamp		
Sen. Ben Tollefson, ViceChairman			Sen. Jim Pomeroy		
Sen. Layton Freborg			Sen. Constance Triplett		
Sen. Herbert Urlacher					

Total (Yes) 5 No 0

Absent 2

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

70081.0401
Title.

Prepared by the Legislative Council staff for
Senator Mathern
January 17, 2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2254

Page 1, line 2, replace "nontraditional livestock" with "big game"

Page 1, line 8, replace "Nontraditional livestock" with "Big game"

Page 1, line 9, replace "nontraditional livestock" with "big game, as defined in section 20.1-01-02."

Page 1, line 10, replace "nontraditional livestock" with "big game"

Re-number accordingly

Date: 2-2-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2254

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken adopt 401

Motion Made By Heitkamp Seconded By Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman			Sen. Joel Heitkamp		
Sen. Ben Tollefson, ViceChairman			Sen. Jim Pomeroy		
Sen. Layton Freborg			Sen. Constance Triplett		
Sen. Herbert Urlacher					

Total (Yes) 5 No 0

Absent 2

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-2-07

Roll Call Vote #: #3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2254

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass as Amended

Motion Made By Heitkamp Seconded By Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman	✓		Sen. Joel Heitkamp	✓	
Sen. Ben Tollefson, ViceChairman	—		Sen. Jim Pomeroy		
Sen. Layton Freborg	✓		Sen. Constance Triplett	✓	
Sen. Herbert Urlacher	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Triplett

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2254: Natural Resources Committee (Sen. Lyson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2254 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "nontraditional livestock" with "big game"

Page 1, line 8, replace "Nontraditional livestock" with "Big game"

Page 1, line 9, replace "nontraditional livestock" with "big game, as defined in section 20.1-01-02,"

Page 1, line 10, replace "nontraditional livestock" with "big game"

Renumber accordingly

2007 TESTIMONY

SB 2254

February 1, 2007

To: Senate Natural Resource Committee

From: Gary Masching

Senate Bill 2254

I am here today to testify in favor of Senate Bill 2254. This bill would ban the shooting of captive big game, require ear tags for elk, higher fences, and fewer days for escaped elk to be recaptured.

This subject is very near and dear to my heart, as it is to many folks. That's why we are here-because it matters. When we do this, talk about hunting, we are talking about who we are and what sort of a society we wish to live in. It has been said, "the games we play reflect the sort of people we are."

In my opinion no one should run a business in which people pay to kill penned big game animals and call it hunting. That type of thing is not congruent with anything taught in Hunter Education. It contributes to the demise of fair chase hunting and it is disrespect for the animal. Additionally, it gives a very poor image to fair chase hunting when the shooting of deer, elk, and other big game animals occurs behind high fences where fair chase is totally disregarded.

Another concern I have about elk-deer-and other non-traditional livestock being kept behind fences is the disease issue. While ND does not have any documented cases of CWD yet, do we want to wait for the incident to happen in our wild herds first and react to it, or do something proactive and pass Senate Bill 2254? Leaky fences, places where wild and penned animals cross back and forth. Cases are documented. The ND G&F Dept. and Wildlife Services have spent well into the 5 figures of sportmens dollars to kill wild deer and elk that have crossed into penned game farms. On the other hand, penned deer and elk have escaped into the wild and are unaccounted for.

From information I have, escapes are pretty common. This info comes from ND G&F and the State Board of Animal Health. One example is a landowner in the Walthalla area who attempted to hide elk that died in his farming operation by burning them in a pit. It should not take a biologist to know that before elk and deer were allowed to be moved all around the country like Sams Club merchandise, we did not have some of these disease concerns.

Finally I would like to say that this state uses Theodore Roosevelt as man and symbol of greatness. Legendary RoughRider Country. TR was a great hunter/conservationist who would turn over in his grave if he knew what was going on with the game farms. And I will leave you with a quote of his and one other great individual.

TR: The professional market hunter who kills game for the hide or for the feathers or for the meat or to sell antlers and other trophies; and the rich people who are content to buy what they have not the skill to get by their own exertions-these are the men who are the real enemies of game."

Jim Posewitz: Retired Montana Wildlife Biologist, and the founder of Orion, which is The Hunters Institute. " Game Farming commercializes the last remnants of the great wild commons, it seeks to privatize what is held in public trust by all of us. It domesticates the wildness we sought to preserve, and trivializes what is exceptional...The things we value die inside the woven wire of game farms...

Sincerely,

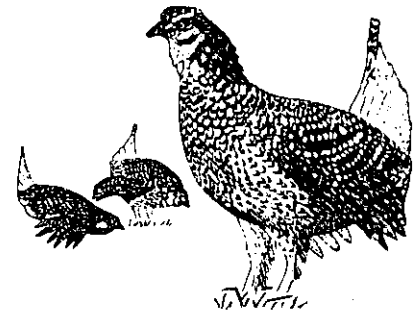
Gary Masching
Gary Masching



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MIKE McENROE
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY
PRESENTED TO THE SENATE NATURAL RESOURCES COMMITTEE
ON SB 2254, FEBRUARY 1, 2007**

CHAIRMAN LYSON AND MEMBERS OF THE SENATE NATURAL RESOURCES COMMITTEE:

I am Mike McEnroe representing the North Dakota Chapter of The Wildlife society. The Chapter is comprised of some 300 wildlife biologists, land managers, agency administrators, and university professors in the wildlife and natural resources profession.

SB 2254 may well be the most important piece of hunting legislation that you consider this session.

The Chapter supports SB 2254, which would prohibit "canned hunts" in which big game animals are hunted, or more appropriately shot, within the confines of a high fenced or generally escape proof enclosure. The bill also would raise fences on big game shooting preserves from 7 to 8 feet high to prevent or reduce wild animals from entering the enclosures, make the rules on reporting and re-capturing escaped farmed elk consistent with other non-traditional livestock rules, and to require visible ear tags on farmed elk, again to be consistent with other non-traditional livestock rules.

You have already heard testimony regarding the public opinion in North Dakota and ethics issues concerning shooting preserves and big game farms. I would like to approach this from another's perspective.

I propose we consider WWTD? What would Theodore do?

Theodore Roosevelt was North Dakota rancher, big game hunter, and 26th President of the United States. If Theodore Roosevelt were here today,

either testifying or sitting as a member of the Senate Natural Resources Committee; what would he do?

Roosevelt wrote about the “doctrine of strenuous life” and that hunting was about the “skill and patience, and the capacity to endure fatigue and exposure” that “must be shown by the successful hunter”.

When hunters seek easier ways, focusing only on results and skipping the process, the “hunting”, or as Roosevelt wrote put is “those who are content to buy what they have not the skill to get by their own exertions”, they fail to gain the intimacy, the knowledge or the appreciation for wildlife, for the land and the habitat, or for a relationship with the landowner; that is gained by “arduous pursuit”. They are not hunting, they are merely shooting semi-domestic animals, with little fear of man, from inside an escape proof fence.

SB 2254 is not about non-resident hunting issues. It does not address wildlife disease issues. It does not change the existing disease monitoring programs of the North Dakota Game and Fish Department on wild game populations. It does not change the existing health monitoring requirements on the farmed elk, non-traditional livestock, or game preserve industry.

This bill does not take away landowner rights, it does not prohibit fee hunting for wild animals on private land, it does not restrict guiding and outfitting, it does not prohibit the non-traditional livestock industry from raising and selling animals for meat, hides, horns, as breeding stock or pets, or for genetic material. It does however, stop the paying for the shooting of such animals.

Without sportsmanship, without TR’s definition of arduous pursuit, hunting becomes just killing animals. Is this the legacy we want to leave our children?

The Chapter asks you to strongly support SB 2254 and give it a “Do Pass” recommendation.

Thank you.

Roger Kaseman
8120 17th Avenue South East
Linton, North Dakota
701-254-4857

In Support of Passage SB 2254

Games farming; shooting animals enclosed in a fence, is an ethical issue. But the issue of game farming goes deeper than a question of ethics.

I can answer the ethical question by simply stating what proponents of game farming do; they put game animals in a fenced enclosure, shoot them, and call it a sport. That isn't sport in the tradition of Theodore Roosevelt or Aldo Leopold, and according to a recent survey by the University of North Dakota, 78% of North Dakotans don't think much of the idea either. (Bismarck Tribune, 1/18/2007)

Ethical questions aren't the only questions. The very heath and existence of our hunting heritage is at stake.

Let's look at a few facts generated by the game farm industry.

Doctor Valerius Geist, Professor Emeritus of Environmental Science at the University of Calgary, Alberta, is one of the world's foremost experts on the subject of deer and elk. Doctor Geist was one of the first scientists to link game farming with Chronic Wasting Disease. Doctor Geist wrote about the probability of game farming leading to diseases like CWD years before Chronic Wasting Disease showed up in any North American deer or elk, wild or fenced. He was not the only scientist to see the potential link between game farming and disease.

Doctor Geist's life long research on deer and elk includes the following:

- Chronic Wasting Disease started in captive herds of deer in the western United States and then spread to wild, free roaming animals.
- There are direct links between game farming and diseases such as CDW.
- The problem is the inability to identify the presence of CWD in carrier animals.
- The primary route for spreading CWD involves shipping animals across state and national borders.
- Game farming and its inherent pattern of transmitting disease threatens wild elk and deer and the future of hunting.
- If we truly want to stop the spread of CWD, we have to ban game farming. In the end, it's going to be either captive deer and elk behind fences, or free-roaming wild herds managed for the public, not just a select few with fat wallets.

- There is no compromise on this issue. Game farming is incompatible with the maintenance of free-roaming wildlife on this continent. If legislative bodies don't take action to stop the threat, nature and disease will arbitrate the issue to the detriment of free roaming wild game and our hunting heritage.

In preparing this testimony, I communicated with Guy Pulvermacher, of Saskatchewan, Canada. Mister Pulvermacher was a member of the Saskatchewan Advisory Council for Animal Health and Humane Care at the start of the Chronic Wasting Disease epidemic in the province. The council, a board of experts, advises the Saskatchewan provincial government on policy. Mister Pulvermacher has a degree in animal science and has been involved in the animal industry all of his professional life.

Mister Pulvermacher makes the following points about game farming in Canada:

- Saskatchewan did not have chronic wasting disease until game farmers introduced it.
- Saskatchewan had it's first case of CWD in a herd of game farm elk imported from an infected U. S. herd. The Canadian importer sold breeding stock to several farms in the province spreading the disease.
- Game farmers illegally shoot wild free roaming bull elk because they attack fences during the rut trying to get at the cow elk inside the fence.
- The Canadian game farm industry started out with velvet antler and meat sales. Men in Asia use ground up velvet antlers as an aphrodisiac.
- There was no shooting allowed on Canadian games farms when they started up.
- The game farm industry failed to developed a market for the meat they produced.
- Viagra cut the value of velvet elk antlers as an aphrodisiac.
- The discovery of CWD killed the Asian market for velvet antlers completely.
- After the outbreak of CWD, the Canadian federal government paid for eradicating infected herds. The Canadian government caved to pressure from the game farmers and agreed to compensate growers millions of tax dollars for the eradicated elk.
- Elk farmers who did not receive compensation from the Canadian government were feeding worthless animals. They needed revenue from their investment. These game farmers lobbied the government for the authority to sell canned hunts behind their high fences.
- Some game farmers not compensated by the government, released their elk into the wild to cut their costs. CWD showed up in native free roaming mule and whitetail deer in areas adjacent to the infected farms that released their elk.

Senate Bill 2254, Natural Resources, February 1, 2007

Chairman Lyson and Members of the Senate Natural Resources Committee,

My name is Tim Mathern, Senator from District 11 in Fargo. I introduced SB 2254 at the request of hunters and other outdoor enthusiasts around the state. The concerns brought to my attention addressed in this bill relate to the sport of hunting and to health and genetic purity of big game animals.

Section 1 makes it unlawful for someone to shoot elk and big game animals for a fee in a licensed fenced facility. The bill does not apply to birds, buffalo or other domestic livestock. I ask you to amend the bill to further clarify this. One suggestion brought to me by Legislative Council is to replace the word non traditional livestock with "big game" as defined in section 20.1-01-02. Another option is to limit the bill to elk. Both options drafted by Legislative Council are here attached. The primary concern here is that shooting a fenced big game mammal for a fee is contrary to a traditional principle of hunting; hunting is a sport which includes a relationship between a hunter and the hunted that leaves an opportunity for the hunted to be free and the hunter the opportunity to succeed or loose the hunt. Some states across the country have prohibited or restricted fence shooting on ethical grounds calling them canned hunts.

Section 2 increases the height requirement of a fence from seven feet to eight feet and requires the owner of farmed elk to recapture or shoot escaped elk within four days of the escape.

Section 3 of the bill makes the presently required farmed elk ear tag more specific. If you wish to clarify the dimensions of the tag further, I have attached an amendment which would also address a visual concern of zoos in the state in that they could dispense with the tag as they meet a double fencing standard. Another option is to take out the section leaving tags to rule making authority.

Sections 2 and 3 of the bill are preventative in nature offering further protections against disease like chronic wasting disease moving between the wild herds and animals in fenced areas. I understand our state offices, hunters, and elk farms and have done a good job in preventing problems so these are added tools for them. There are proven risks of disease and genetic pollution which can be minimized with these additional changes. Genetic pollution is mixing animals that are bred for a certain trait, for example larger horns, with the natural herds. There are documented incidences of domestic escapes and failures to recapture, with unaccounted animals still missing. ND Game and Fish and ND Board of Animal Health work on these issues and might be able to offer additional insights as to proper wording to be workable in our state.

Chairman Lyson and committee members, these are the basics of this bill. I ask you to listen to others who are here with more expertise, experience, and passion in these matters. Thank you for your time and for making room for the many persons who wish to be here and testify. Everyone being able to express a point of view is what a legislative session and democracy is about. I urge a do pass recommendation for SB 2254, it preserves the traditional sport of hunting and supports a healthy resource owned by every citizen, our wildlife. Thank you.

North Dakota Wildlife Federation

Ensuring abundant wildlife, wildlife habitat, and access to wildlife recreational opportunities



**Testimony of Shawn McKenna
Executive Director of the North Dakota Wildlife Federation
On Senate Bill 2254
February 1, 2007**

Mr. Chairman, members of the committee.

My Name is Shawn McKenna and I am the executive director of the North Dakota Wildlife Federation.

At the direction of my board of directors, I came here prepared to support this piece of legislation, explain how a survey we've done shows that North Dakotans find the shooting of penned up elk and deer overwhelmingly reprehensible, and tell you how hunters, for the most part, are offended and disgusted by the notion of some person paying big money (or small money) to kill a penned up, caged elk or deer just because they want a set of big horns on their wall. I came here to try and convince you that blasting a captive cervid inside a cage and calling it hunting is a morally wrong. I am still here to do that.

Let me begin by telling you straight up that we are not a bunch of whacko anti-hunters.

We are not against economic development or the family farm.

The opponents of this legislation will attempt to characterize all who support this ban on pen killing in that manner. They are wrong and purposefully mis-characterizing those that support this ban on canned, high fence, bambi-in-a-barrel, captive what-ever-you want to call it. It is killing in a cage. Period.

We do not believe that wildlife, privately owned or not, should be blasted to death in an enclosure by whoever can lay down the most cash. We believe that is morally and philosophically bankrupt and should not be allowed in the great state of North Dakota.

Now a bunch of North Dakotans think this way too. We thought maybe our love of hunting traditions, fair chase and publicly owned wildlife may have clouded our view.



So the North Dakota Wildlife Federation,
The North Dakota Chapter of the Mule Deer Foundation,
The North Dakota Chapter of the Wildlife Society,
The Kindred Wildlife Club,
The North Dakota Bow Hunter's Association,
The Barnes County Wildlife Federation,
The Lewis & Clark Wildlife Club,
The Lincoln Sportsmen,
The National Wildlife Federation,
The Red River Area Sportsmen's Club,
The Stutsman County Wildlife Club,
The United Sportsmen of North Dakota,
And

the ND Outdoor Heritage Coalition commissioned the Bureau of Governmental Affairs at the University of North Dakota to survey the people of this state and see how they feel about this issue. The Bureau has completed numerous studies for countless state agencies here in North Dakota and its credibility is beyond reproach, whether you like the result of the survey or not.

72% of those surveyed said they would support legislation banning the shooting of captive big game.

You have the executive summary of the survey in the packets I gave you, and we will gladly make all 50 plus pages of the report available to you if you want.

But the point is: most North Dakotans think that shooting captive big game animals is wrong.

Most anyone who has thought about the notion of killing a trophy elk or deer inside a restricted enclosure would also conclude that it is wrong and should not be allowed in a state with the strong ethical hunting traditions North Dakota has. Do we want this state to become a destination for people who want to shoot animals inside high fences?

Just because some one is making a buck off this industry doesn't make it legitimate economic development. And just because someone is using a gun doesn't make it hunting.

It is clear the people of North Dakota do not want elk and deer shot behind high fences in their state.

If that ethical and moral note does not ring a bell with your sensibilities, then there is little more anyone can say that will convince you otherwise.

Summary of North Dakota Attitudes towards High Fence Shooting

This survey was conducted by the University of North Dakota's Bureau of Governmental Affairs at the request of ten independent sportsman's organizations from across North Dakota. It consisted of surveying 600 randomly selected people over the age of 18 via telephone regarding their awareness and views of commercial shooting in high-fence game farms. The sample was equally balanced relative to gender (300 male, 300 female), and well balanced relative to region of the state (southeast=24.8%, Northeast=22.8%, south central=19.3%, southwest=14.2%, northwest=18.8%) and rural versus urban (24.4% living on farms plus another 21.9% living in communities of less than 1000 people). People who currently participate in hunting activities comprised 33.4% of the respondents while 66.6% indicated they do not participate in such activities. This survey has a margin of error of plus or minus 4 percent. In other words, if this survey were repeated 100 times from random samples of 600 respondents each, one would expect results within the margin of error ($\pm 4\%$) of the presented values in 95 of those surveys (95% confidence interval).

Respondents were asked seven to nine topical questions depending on their answers, and were also asked some demographic information afterwards. All percentages reported exclude people who responded "don't know" or refused to answer, so the numbers presented here are based on those with an opinion on the question which they were willing to share. This summary does not include all questions or cross tabulations of responses by demographic, only those felt pertinent.

QUESTIONS (paraphrased, for full question see attached survey form):

1. Aware of privately owned game farms?

	Location			Gender		Recreational Status	
	Overall	Farm	Community	Male	Female	Hunters	Non-Hunters
Yes	64.8%	77.4%	60.8%	79.3%	50.3%	83.5%	55.8%
No	35.2%	22.6%	39.2%	20.7%	49.7%	16.5%	44.2%

2. Aware people are able to buy opportunities to shoot deer and elk in enclosures?

	Location			Gender		Recreational Status	
	Overall	Farm	Community	Male	Female	Hunters	Non-Hunters
Yes	53.1%	67.1%	48.6%	67.7%	38.5%	70.5%	44.6%
No	46.9%	32.9%	51.4%	32.3%	61.5%	29.5%	55.4%

3. Does shooting in enclosures comply with fair chase principals?

	Location			Gender		Recreational Status	
	Overall	Farm	Community	Male	Female	Hunters	Non-Hunters
Yes	21.8%	24.8%	20.6%	29.2%	14.2%	25.0%	20.1%
No	78.2%	75.2%	79.4%	70.8%	85.8%	75.0%	79.9%

4. Do you support or oppose shooting inside high-fence enclosures when success guaranteed?

	Location			Gender		Recreational Status	
	Overall	Farm	Community	Male	Female	Hunters	Non-Hunters
Support	23.4%	36.4%	19.0%	34.1%	12.3%	33.9%	18.0%
Oppose	76.6%	63.6%	81.0%	65.9%	87.7%	66.1%	82.0%

5. Support or oppose a ban on movement of live game farm deer and elk into and out of North Dakota?

	Location			Gender		Recreational Status	
	Overall	Farm	Community	Male	Female	Hunters	Non-Hunters
Support	62.5%	59.7%	63.5%	56.2%	69.2%	60.2%	63.9%
Oppose	37.5%	40.3%	36.5%	43.8%	30.8%	39.8%	36.1%

6. Support or oppose legislation prohibiting shooting big game species in high-fence enclosures?

	Location			Gender		Recreational Status	
	Overall	Farm	Community	Male	Female	Hunters	Non-Hunters
Support	71.6%	70.9%	71.7%	62.8%	80.8%	66.3%	74.3%
Oppose	28.4%	29.1%	28.3%	37.2%	19.2%	33.7%	25.7%

7. If on ballot, would you vote for a measure to ban high-fence shooting in North Dakota?

	Location			Gender		Recreational Status	
	Overall	Farm	Community	Male	Female	Hunters	Non-Hunters
Yes	75.5%	74.3%	75.8%	67.4%	83.9%	71.9%	77.3%
No	24.5%	25.7%	24.2%	32.6%	16.1%	28.1%	22.7%

Based on these results, there is broad agreement across all demographic groups that the shooting of game animals in high-fence enclosures does not comply with fair chase principals. There is also finally strong support across all demographic groups for legislation prohibiting the shooting of big game species in high-fence enclosures and also large majorities indicated they would vote for a ballot measure to this ban high fence shooting.

Mister Pulvermacher states that it is no coincidence that CWD consistently shows up in wild, free roaming animals near infected game farms. Intensive monitoring of free roaming game animals the area of the game farms found no CDW before the introduction of the game farm. CDW typically shows up in wild deer and elk one to two years after Canadian authorities discover CWD on a nearby game farm.

Mister Pulvermacher states that the game farm industry is a pyramid scheme, similar to ostriches; the first in make money, the last in go broke.

The game farm fiasco in Canada proves that Doctor Geist was correct on the spread of disease years before the outbreak of CWD. It can and will happen here.

A true hunt is built around the concept of fair chase. In fenced hunts, there is no chase, fair or otherwise. High fence hunts are a blight on a sport that I love. You might as well shoot the family dog and call it sport.

Nineteen states have banned high fence hunting. Some states have banned game farms. Other states are considering banning game farms. So should we. Consider the Canadian experience and project that experience on our game animals. Each member of this committee must consider the millions of tax dollars this legislative body will eventually have to shell out to clean up the inevitable disease that domesticated elk or deer will introduce into our wild herds. I urge that this bill be passed into law.

Honorable Senators and Mr. Chairman of the Senate Natural Resources Committee:

My name is Dave Brandt from rural Buchanan and I appreciate the opportunity to testify in support of SB 2254. First of all, let me say that while I think this bill has some positive aspects, from my perspective, it does not go far enough. Secondly, let me tell you that my biggest passion in this life is hunting and I see deer and elk game farms as a real threat to that passion and also to the free roaming wildlife in our state that belong to us all.

While the opponents of this bill will tell you how safe and well regulated their activities are, today I would like to provide you with results of two audits of deer and elk game farms in other states where this industry is much larger than ours. Next, I will summarize for you just some of the information that was obtained through a Freedom of Information Act request to the NDGF department involving deer and elk game farms across North Dakota.

MICHIGAN AUDIT:

In June 2004 the Michigan Department of Natural Resources initiated audits of captive deer and elk facilities at a cost of about \$500,000 of their state fish and wildlife funds. These audits were announced via Governor's Executive Order 60 days prior to beginning and were scheduled in advance with owners.

RESULTS:

- ▶ 584 of 740 registered captive deer and elk facilities were audited
- ▶ It found over 1/3 (37%) to be non-compliant with current state regulations
- ▶ It identified 456 previously unreported escapes and intentional releases as was required by law
- ▶ It uncovered the fact that 90% of the reported deaths were not tested for CWD as was required by law
- ▶ It identified that 48% of facilities had inadequate fencing
- ▶ It indicated that 32% of facilities did not have current herd inventories on file

Six days after these audit results were announced, a bill was introduced to transfer all responsibility for game farms from those who conducted the audits to the Michigan Dept. of Agriculture.

WISCONSIN AUDIT:

In September of 2002 the Department of Natural Resources initiated an audit of state's whitetail deer farms in response to 3 white tailed deer testing positive for CWD earlier that year, and the fact that the regulation of captive deer was scheduled to be transferred to the Wisconsin Department of Agriculture.

RESULTS:

- ▶ 550 of 639 registered captive whitetail deer facilities were audited
- ▶ It found 77 facilities to be in violation of fencing laws

- ▶ During the audit, 184 (33%) operators admitted to having deer escape or intentionally releasing them into the wild
- ▶ It found that of at least 680 escaped or released deer, 440 (65%) were never recovered
- ▶ Of 1,222 deer that died at these facilities most were never tested for any diseases
- ▶ It discovered 24 unlicensed deer farms currently in operation
- ▶ This audit resulted in a total of 419 violations being found in the state

I could go on about game farm problems in other states like Indiana, Idaho and Minnesota, but they all point to the same problems.

So surely this would never happen in North Dakota right? Well here is a condensed summary of some of the information obtained by a Freedom of Information Act submitted to ND Game and Fish relative to our captive deer and elk farms.

NORTH DAKOTA:

▶ Prior to 2002, there were seven different instances where elk were imported into our state from known CWD infected herds, five instances coming from the same operator in Minnesota who had lied about the health of his captive herd. On one of these facilities located in the heart of one of our elk hunting units, 12 dead elk (7 ear tagged and 5 not properly marked) were later found abandoned in a pit, and were never tested for CWD because of advanced decomposition. Six months later that herd had still not been inventoried by our state veterinarian.

▶ Since 2002, there have been at least 16 documented cases of elk and deer escapes from game farms in North Dakota (of up to 70 individuals per escape) and several of these escapees have never been accounted for to this day. In that same time frame, there have been at least 6 reported sightings of ear tagged animals which were not claimed by any game farms, and 2 documented instances of registered animals being unaccounted for upon inspection.

This information along with at least one known case where deer were imported into our state without a license, drives home the fact that there does exist the possibility of disease transfer to wild animals belonging to all citizens of our state. This is true even ignoring the possibility of transfer by nose to nose contact at the fences as is documented as happening by the multiple accounts of game farmers contacting the Game and Fish department to haze away or kill wild elk and deer at these facilities' perimeter fences.

▶ Along those lines, there have been at least eight instances where more than 60 wild deer and elk have been killed for either getting into these fenced areas or causing problems at their perimeters.

So given this information, I would really like someone to explain to me why \$209,000 per biennium of sportsman's money is being taken away from the Game and Fish Department? Why are several thousand dollars a year and countless hours of department personnel time being wasted dealing with violations and hazing efforts? Why does the Game and Fish Department have any financial responsibility for something which is

classified as livestock and over which it has little or no regulatory control? I would much rather see my money spent on wildlife management to benefit wildlife that everyone in this state has the opportunity to hunt via fair chase, instead of high fence shooting operations which the overwhelming majority of North Dakotans are against.

So what would I like to see implemented on deer and elk farms to protect North Dakota's wildlife?

1) A moratorium on any new game farms licenses.

This would serve to stop the risks associated with game farms from expanding.

2) Double fencing at all existing game farms required to help prevent interactions between wild and captive animals.

3) Revocation of game farm license for multiple or serious violations.

This simply removes the bad apples from the barrel; we do it for hunters, drivers, bars owners, etc.

4) No sportsman's dollars being spent for an industry that only has negative impacts on our hunting. In other words if they are going to put our wildlife and recreation at risk, then they should have to pay for it.

As written, this bill will remedy poor identification requirements of captive deer and elk and will help to make facilities more difficult for wild animals to get into, but lack of compliance that has been consistently shown by this industry will make strict regulations meaningless. By eliminating buying an animal's life for entertainment or bragging rites, this bill will at least keep North Dakota from becoming a sink for future operations that indulge in this bastardization of real hunting, since each year more and more states are banning this activity.

I have attached a short list of just some of the game farmers who have had escapes and other incidents that were gleaned from Game and Fish and Board of Animal Health memos, and investigative reports obtained through the Freedom of Information request. Please reference this list when the opponents of this bill are testifying as to how safe, well regulated, and compliant their operations are.

I would like to leave you with a notion I recently ran across: "Those who participate in canned hunts kill animals not because they have taken the time to understand the unique intricacies of their nature and pursue them in fair chase, but rather because they have simply purchased their lives." This is not the hunting heritage my Grandfather passed on to me, and I urge you not to let it be part of North Dakota's hunting legacy by giving this legislation a do pass recommendation.

Thank you

Todd Thompson: Cogswell

8/2000--13 deer purchased from WI on his facilities without a license.

Orlan Mertz: Goodrich

5/2003--70 elk escaped, 26 still at large on 6/29/2004.

5/2004--32 wild white tailed deer killed inside of fence due to poor fencing.

2/2006--1 wild white tailed deer in fence killed.

Tim Snyder: Makoti

8/2002--5 white tailed deer escaped ordered destroyed if seen.

12/2002--4 white tailed deer escaped ordered destroyed if seen.

Carlton Heck: Walhalla

Purchased elk from a Minnesota from a herd that later tested positive for CWD.

5/2002—12 dead elk with ear tags found in a pit near his farm, never tested for disease.

10/2002—Elk Herd had still not been inventoried by state veterinarian.

Earnie Mau: Tolley

10/2002—14 wild white tailed deer killed inside his fences.

11/2002—4 wild white tailed deer killed inside his fences.

1/2003—1 wild white tailed deer killed inside his fences.

5/2003—2 wild white tailed deer killed inside his fences.

2003—1 wild elk killed in his fence.

2/2005—1 wild elk killed in hunt pasture.

David Parizek: Minot

4/2006—5 violations, had elk, deer, canada geese, and pheasants on premises without license, one deer and elk not accounted for.

Scott Wittmayer:

11/2005—A hunter shot his tagged deer which was never reported as being escaped.

Chet Reich:

6/05--2 elk escaped, one not recaptured, ordered destroyed if seen.

John Stip: Minot

6/2005—40 elk escaped, one unaccounted for, ordered destroyed if seen.

John Reiss: Killdeer

5/2003—Elk escaped, fence cut.

Mr. and Mrs. (Kathy) Landsberger:

5/2006—11 deer escaped, 7 not immediately recaptured.

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2254

Yr/Mo/Date	Farmed Producer	Location	Cervid Type	#Wild Hazed	#Wild Moved	#Wild Destroyed	#Farmed/Unk	Destroyed	Other Method	GF staff	Other Staff	Hunter	GF Costs	Other Costs	Yr/Mo/Date
Unk	Stevens, Lynn		elk		1									Unk	
1996/00/00	Unk	Wheatland	elk	1											1996/00/00
2001/02/00	Erickson, Orville	Williston	elk			1				Kleyer, Luttschwager, Huber & Shefstad (4 staff)			\$1,444.93		2001/02/00
2002/00/00	Mau, Ernie	Tolley	elk		1					R.Johnson			Unk		2002/00/00
2002/10/21	Mau, Ernie	Tolley	WT deer			10				Burud	Zaun (WS)		\$195.00	Unk	2002/10/21
2002/10/22	Mau, Ernie	Tolley	WT deer			4				Burud	Zaun (WS)		\$275.00	Unk	2002/10/22
2002/10/28	Berenstein, Brad		WT deer			2				Howard, Burud			Unk		2002/10/28
2002/11/26	Mau, Ernie	Tolley	WT deer			4				Burud, Skuza			\$106.00		2002/11/26
2003/01/12	Mau, Ernie	Tolley	WT deer			1				Burud			\$265.00		2003/01/12
2003/01/12	Mau, Ernie	Tolley	elk			1				Burud			\$188.00		2003/01/12
2003/01/28	Erickson, Orville	Williston	elk		1					Keyer, Luttschwager, Bitterman, Roller...(6 staff)			\$1,347.00		2003/01/28
2003/01/29	Bilek, Daryl	Tioga	elk	1					C/S fencing	Kreil, Kleyer, Luttschwager			Unk		2003/01/29
2003/05/15	Mau, Ernie	Tolley	WT deer			2				Burud	Zaun (WS)		\$168.00	Unk	2003/05/15
2003/08/27	Thompson, Todd	Cogswell	WT deer (farmed)					70		Pollert, Phalen, Ermer, Parsons... (10 staff)	4 (WS), 5 (DOA)		\$12,500.00	Unk	2003/08/27
2004/05/24	Mertz, Orlan	Goodrich	WT deer			32				Ermer, Jensen, Parsons, Miller... (10 staff)	2 (WS), 3 (DOA)		\$19,800.00	Unk	2004/05/24
2005/02/13	Mau, Ernie	Tolley	elk			1				Burud			\$145.00		2005/02/13
2005/06/04	Schumacher, Tom	Guelph	WT deer	3						Pollert, Umphrey, Heine... (4 staff)			\$600.00		2005/06/04
2005/10/06	Mau, Ernie	Tolley	elk	3						Link, Kreil (phone)			Negligible		2005/10/06
2005/10/12	Fregien, Lonnie	Jud	elk			2				Pollert, Link	2 (WS)		\$1,352.00	Unk	2005/10/12
2005/12/01	Stevens, Lynn		elk	1						Rostvet, Link (phone)			Negligible		2005/12/01
2005/12/05	Hansen, Jamie		elk	1						Howard, Link (phone)			Negligible		2005/12/05
2006/02/16	Mertz, Orlan/Ted	Goodrich	WT deer			1				Link, Larson, Timian (phone)	3 (WS) plane			Unk	2006/02/16
2006/10/02	Dvornak, Tim/Sally	Killdeer	elk			1				Kreil/Link, Lothspeich, Hoenske, Stillings		Craig, Went Buffalo	\$305		2006/10/02
			Total	10	3	62		70					\$38,690.93		

I am here as a farmer and a hunter to speak in favor of SB-2254. The wildlife of North Dakota is physical public property, just like this room and this Capitol building that surrounds us. The value and integrity of the peoples property must be maintained.

For some of us farmers that is a difficult concept to understand, as we see wildlife from the ground up, as a common fixture of our land. We don't see it from the top down, as valuable public property on our land, that must be protected for the owners.

The canned shooting industry directly threatens both the value and integrity of wildlife, hunting, and farming in the public eye.

The canned shooting industry seeks to hide it's self behind the shield of production agriculture to avoid regulation and oversight by natural resource managers. They claim they are just another aspect of farming.

This is the activity of shooting captive wildlife inside escape proof fences for entertainment and for pre-measured trophies. It is captive wildlife that has been conditioned and socialized to human activity. Canned shooting is no more related to farming, than going out to the barn, and fighting two dogs in a barrel, while charging an audience to watch.

The canned shooting industry severely blemishes the reputation of farmers and every farm organization in the eyes of the public.

True farming is a well regulated business with ethical standards to protect society, under local, state, and Federal law . The captive cervid industry is regulated in name only. There is no real enforcement mechanism with teeth, and no penalty mechanism with actual consequences. The long standing continuous violations of the law in this industry are documented.

No cattle producer would allow the contamination of his herd the way this industry is contaminating and diminishing the public property of wildlife.

Canned shooting defiles our moral convictions and reflects the basest image on our American society, on North Dakota, and North Dakota farmers. I ask the SNRC to ban this form of blood sport entertainment in North Dakota.

#7

SB-2254-CANNED SHOOTING PROHIBITION

SUBMITTED BY DICK MONSON, VALLEY CITY, ND TEL: 845-3938

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Ownership and control of wildlife

<http://www.legis.nd.gov/cencode/T201.html>

20.1-01-03. Ownership and control of wildlife is in the state - Damages - Schedule of monetary values - Civil penalty.

The ownership of and title to all wildlife within this state is in the state for the purpose of regulating the enjoyment, use, possession, disposition, and conservation thereof, and for maintaining action for damages as herein provided. Any person catching, killing, taking, trapping, or possessing any wildlife protected by law at any time or in any manner is deemed to have consented that the title thereto remains in this state for the purpose of regulating the taking, use, possession, and disposition thereof. The state, through the office of attorney general, may institute and maintain any action for damages against any person who unlawfully causes, or has caused within this state, the death, destruction, or injury of wildlife, except as may be authorized by law.

The state has a property interest in all protected wildlife. This interest supports a civil action for damages for the unlawful destruction of wildlife by willful or grossly negligent act or omission. The director shall adopt by rule a schedule of monetary values of various species of wildlife, the values to represent the replacement costs of the wildlife and the value lost to the state due to the destruction or injury of the species, together with other material elements of value.

In any action brought under this section, the schedule constitutes the measure of recovery for the wildlife killed or destroyed. Notwithstanding the director's schedule of monetary values, an individual who unlawfully takes a bighorn sheep, elk, or moose is subject to a civil penalty for the replacement value of the animal of five thousand dollars for a bighorn sheep, three thousand dollars for an elk, and two thousand dollars for a moose. For a male bighorn sheep, elk, or moose over two and one-half years of age, the civil penalty for the replacement value of the animal is an additional fifty percent of the penalty. The funds recovered must be deposited in the general fund, and devoted to the propagation and protection of desirable species of wildlife.

20.1-04-02. Game birds protected. No person may hunt, take, kill, possess, convey, ship, or cause to be shipped, by common or private carrier, sell, or barter any game bird or any part thereof taken in this state, except as provided in this title.

FAIR CHASE ETHICS, Jim Posewitz. 1994. "Beyond Fair Chase

"Fundamental to ethical hunting is the idea of fair chase. This concept addresses the balance between the hunter and the hunted. It is a balance that allows hunters to occasionally succeed while animals generally avoid being taken." [p.57]

"There are some activities that are clearly unfair as well as unethical. At the top of the list is shooting captive or domesticated big game animals in commercial killing areas where a person with a gun is guaranteed an animal to shoot. These shooting grounds are alien to any consideration of ethical hunting. When discussing the ethic of fair chase, it is important to clarify that we are talking about hunting free-ranging wild animals." [p.59]

In Aldo Leopold's 1933 text 'Game Management', he states:

"...the recreational value of game is inverse to the artificiality of its origin...."

This is still a standard that can be used to measure these activities." [p.60]

"The mechanized pursuit of wildlife is high on the list of violating fair-chase principles. We have invented machines to carry ourselves over land, sea, and air. Evolution of the animals we pursue can not keep pace with these inventions. If we are to pursue animals fairly, the ethical choice is clear - we pursue them on foot. The ethical hunter never chases or harasses wildlife with a machine." [p.61]

"The ethical hunter must make many fair-chase choices. In some areas, chasing big game with dogs is an accepted custom. In other places, it is considered an unfair advantage for the hunter. Likewise, luring animals with bait or hunting in certain seasons sometimes is viewed as giving unfair advantage to the hunter. While local custom and practice need to be respected, it is equally important to be honest about the result of these practices. If there is a doubt, advantage must be given to the animal being hunted." [p.61]

"In addition to hunting practices, there is a constant flow of products developed to provide advantages to hunters. Sights, scents, calls, baits, decoys, devices, and techniques of infinite variety fill the marketplace. In each case an individual choice must be made as to what sustains fair chase and what violates that concept." [p.62]

Jim Posewitz. 1994. "Beyond Fair Chase: The Ethic and Tradition of Hunting". Falcon Press. Helena, Montana. ISBN 1-56044-283-2

Montana Governor to Idaho: Ban game farms

By CHRISTOPHER SMITH

Associated Press writer

BOISE, Idaho -- Montana Gov. Brian Schweitzer has joined Wyoming's chief executive in calling on Idaho lawmakers to ban wild game farms and private hunting reserves to protect the health of Yellowstone's wild elk herds.

"In Montana, we said it's a bad idea to pen up a bunch of elk, feed them oats and have fat bankers from New York City shoot them while they've got their heads in a grain bucket," Schweitzer said Wednesday during an interview in the Boise offices of The Associated Press.

In Idaho to campaign for Democrats running for governor and Congress, **Schweitzer said he wholeheartedly agreed with Wyoming Gov. Dave Freudenthal's Oct. 5 letter to Idaho Gov. Jim Risch asking him to urge lawmakers to outlaw domestic elk breeding.**

"You can quote the Montana governor as saying, 'Dang tootin'," Schweitzer said. "For people who don't know, that means the affirmative."

Risch signed an executive order Sept. 7 ordering the "immediate destruction" of an estimated 160 domesticated elk that escaped in August from the Chief Joseph private hunting reserve operated by veterinarian Rex Rammell near Ashton, not far from the Wyoming border and Yellowstone National Park. The park covers portions of Idaho, Montana and Wyoming.

While special hunts by state agents and the public had killed 33 of the escaped elk as of Wednesday, **Idaho Fish and Game biologists believe the domesticated animals already have crossbred with wild herds.**

Elk farming and "shooter bull" hunting operations are banned in Wyoming and Montana. Schweitzer said Idaho should follow suit to protect the three states' shared resource of Yellowstone's wild elk herds.

"You've got a bad actor who's not very good at fixing a fence, your state agencies fined him \$750,000, and the folks supposed to represent the people of Idaho, your Legislature, said 'Oh, let's let him off the hook,'" said Schweitzer, referring to a 2002 vote by Idaho lawmakers to forgive fines against Rammell imposed by the Idaho Department of Agriculture for numerous violations. "Now, you've got a problem, but it's our problem too because the Yellowstone Basin is interconnected."

Leaders of Idaho's elk farming and hunting reserve industry are challenging the claims by Schweitzer and Freudenthal that banning domestic elk pens would protect the health of wild herds.

"It concerns me these governors come out and say this when they have so much disease in their own wild herds," said Kent Bagley, a board member of the Idaho Elk Breeders Association who operates the Teton Mountain Ranch elk farm in Victor, near Yellowstone National Park. "Look how many counties in Wyoming have found chronic wasting disease in their wild elk, and yet they have no game farms. It's flawed logic."

Chronic wasting disease has been detected in elk in southeastern Wyoming, and authorities believe it is spreading in that state's wildlife population. Some herds of wild elk in Montana have tested positive for brucellosis, a disease that can cause elk -- and domestic cows -- to abort.

Brucellosis also has been found in wild elk in eastern Idaho, but there has not been a case of chronic wasting disease among wild deer or elk in Idaho, according to the state Department of Fish and Game.

Bagley said elk breeders plan to lobby Idaho legislators in the 2007 session to reject efforts to outlaw their game farms and private hunting parks. **Governor Risch supports a ban, but his term expires before the Legislature convenes in January. The two major party candidates running for Idaho governor, Republican Rep. C.L. "Butch" Otter and Democrat Jerry Brady, have said they would sign legislation prohibiting the domestic elk businesses in Idaho.**

"It's going to be a constant battle," said Bagley. "We are under pretty strict regulation now and are just trying to maintain our lifestyle."

Governor Freudenthal to Idaho: Ban game farms

By WHITNEY ROYSTER

Star-Tribune environmental reporter

JACKSON -- In the wake of domestic elk escaping from an Idaho game farm, Wyoming Gov. Dave Freudenthal is asking the neighboring state to ban game farms and to help enact a communication system among the two states and Montana.

In a letter dated Thursday, Freudenthal thanked Idaho Gov. Jim Risch for the actions he took calling for a hunt on the escaped elk, and for the state notifying Wyoming.

Freudenthal said Wyoming banned game ranching 30 years ago "because of the obvious risks to wildlife and, further, to avoid situations like the one at Conant Creek from happening."

"We still firmly believe the ramifications of such operations to legitimate hunting recreation, and disease transmission -- including brucellosis -- to wildlife and domestic livestock, is not in the public interest," the Democrat wrote. "I'm hopeful that as a result of this regrettable development, that Idaho will consider implementing similar restrictive measures against game ranching and related high fence shooting operations."

Freudenthal also suggested developing a protocol to notify each state when "actions or events in our respective jurisdictions -- from whatever source -- pose a threat to wildlife or domestic livestock in an adjoining state." The concern about domestic elk is that they could transmit disease to wild elk and harm their genetics.

In a statement released by Risch's office, the Republican governor said he would "take the lead" in developing a notification plan. Risch did not address Freudenthal's request to ban game farms, instead saying only, "Governor Freudenthal has expressed to me his concern about the impact escaped domestic elk could have on wild elk herds. Both Wyoming and Montana have taken action to prevent a similar situation that occurred at this private facility in Idaho by banning canned hunts and in Montana, they strictly regulate the operations of elk farming."

The Idaho governor previously said he favors a ban on shooter bull operations, where game farm operators charge thousands of dollars for individuals to shoot big game animals within fenced enclosures. Risch is also reported to favor licensing game farms and not allowing additional game farm operations in Idaho.

Although Freudenthal began his letter -- and Risch titled his news release -- with a reference to a game farm elk being reportedly killed by a Wyoming hunter, the Wyoming Game and Fish Department Friday said no game farm elk have been killed or seen in Wyoming. A news report last week out of Boise referenced Jim Unsworth, the Idaho Department of Fish and Game's wildlife bureau chief, saying one of the game farm elk was believed killed in Wyoming.

Eric Keszler, spokesman for Wyoming Game and Fish, said the agency had an elk last week with an ear tag, and officials were suspicious the animal could have been from the game farm. Since, it has been confirmed the animal was a wild elk, its ear tag from a feedground. He said no game farm elk have been killed or seen in Wyoming.

Earlier this summer, elk from a game farm escaped on a ranch near Ashton, Idaho, not far from the Wyoming border. In his letter, Freudenthal said the news of the escape "initially sent shivers down the spines of our wildlife managers," and the prognosis now is "anything but bright."

"What's more, our public is not very understanding of how this escape could have gone undetected for so long, and the circumstances that allowed the owner to continue to operate this facility given his history of non-compliance with governing statutes and regulations."

Environmental reporter Whitney Royster can be reached at (307) 734-0260 or at royster@tribcsp.com.

Game Farm/CWD News

In 2002, the passage of the Sportsmen for Game Farm Reform Initiative 143 (I-143), established a new regulation prohibiting the shooting of animals, often referred to as "canned hunting", for any kind of remuneration.

Montana Code Annotated §87-4-414. (2) *The licensee may acquire, breed, grow, keep, pursue, handle, harvest, use, sell, or dispose of the alternative livestock and their progeny in any quantity and at any time of year as long as the licensee complies with the requirements of this part, except that the licensee may not allow the shooting of game animals or alternative livestock, as defined in 87-2-101 or 87-4-406, or of any exotic big game species for a fee or other remuneration on an alternative livestock facility.*

JUDGE TOSSES GAME FARM BAN CHALLENGE

BY BOB ANEZ - ASSOCIATED PRESS WRITER - 05/03/05

HELENA - A voter-passed initiative, I-143, imposing restrictions on game farms in Montana did not result in an illegal taking of property from owners of such farms, a judge concluded Monday. The government does not have to compensate owners because the 2000 law did not actually take away their property and was part of a legitimate state effort to prevent the spread of disease from game farm animals to wildlife, said District Judge Dorothy McCarter of Helena.

She noted that, although game farm owners challenging the law had financial losses after it took effect, they knew their business was a highly controversial and regulated industry and that future restrictions could affect their ability to make money.

Len Wallace, one of the game farm owners involved in the lawsuit against Initiative 143, assailed the judge's ruling by saying, "Montana's judiciary has shown an intellect and responsibility of a drive-by shooter. "Evil at its core is deception," he said. "Montana deceived game farmers into believing they would have a business, and game farmers invested millions of dollars and years of efforts into those businesses. If theft is defined as taking property by deceptive means, that certainly defines I-143." Wallace, who formerly had a game farm in the Bitterroot Valley and now lives in Idaho, said he doubts he will appeal the decision to the Montana Supreme Court because he doesn't believe the result would be different. Bruce Buhmann, a game farm owner from Blaine County who joined in filing the suit, could not be reached for comment Monday night.

Attorney General Mike McGrath applauded the ruling as an appropriate summary of where the courts stand on whether someone's property has been taken without proper compensation, in violation of the constitution. **"Just because there was a potential detriment to the owners' interest, that was not a taking, and they're not entitled to compensation for that,"** he said. **"The opinion fairly reflects the state of existing law not only in Montana but in the United States."**

The suit by Wallace and Buhmann was one of several challenges to I-143, which banned the shooting of captive game-farm animals for a fee, the licensing of new game farms, expansions of existing farms or the transfer of licenses.

Len and Pam Wallace and Bruce and Shirley Buhmann sued the state in June 2002, seeking more than \$22 million in damages for lost profits and investments. **McCarter said the couples knew what they were getting into when they launched their farms and that such businesses "were a matter of legislative grace and that the state could, at any time, impose new limits on their operations."**

The fact that a regulation reduced the value of their property and prevented profitable use of the property does not mean an unconstitutional taking occurred, she said. McCarter added the owners "should have anticipated the possibility that future regulations could impede their anticipated business profits."

I-143 represented a proper use of the state's police power to, in this case, protect the state's hunting heritage and stop the possible spread of a wasting disease, she said. "The intended effect of I-143 was to reduce the number of game farms and captive game animals in Montana, thereby reducing potential contact between captive game animals and wild game," McCarter wrote. "This clearly bears a reasonable relationship to the state's interest in protecting wild game populations from the spread of diseases and from genetic pollution by game farm animals

Game farm ruling favors I-143

By SHERRY DEVLIN of the Missoulian

Initiative 143 did not strip Montana game farmers of their constitutional rights by outlawing the hunting of captive elk, deer and other "alternative livestock," U.S. District Judge Sam Haddon has ruled.

Indeed, game farm owners have no "absolute or unfettered right to operate an alternative livestock ranch as they see fit," Haddon said. I-143 **"advances legitimate non-illusory state interests in protecting Montana wildlife."**

Haddon's nine-page ruling in U.S. District Court in Great Falls is the latest - but most consequential - in a continuing series of legal decisions upholding the ballot initiative passed by Montana voters Nov. 7, 2000.

I-143 stopped the issuance of new game farm licenses, rendered existing licenses nontransferable and made illegal the shooting of game-farm animals for a fee. Game farmers responded with a barrage of legal challenges, saying they had been wrongly stripped of their livelihoods and their constitutional rights.

Not so, said Haddon's ruling, which upheld the initiative and dismissed a lawsuit filed in federal court by game farmers Robert Spoklie and Kim Kafka.

Both men have other, similar lawsuits pending in state courts.

"Game farmers and their lawyers have been bullying us with frivolous lawsuits for the past two years," said David Stalling, one of I-143's staunchest advocates and president of the Montana Wildlife Federation. **"This ruling is a nice vindication for what we've said all along: I-143 is regulatory, not a takings."**

"This ruling was the biggie," he said Tuesday.

Sarah McMillan, an attorney representing the Wildlife Federation - which intervened in the lawsuit on the state's behalf - **said game farmers "simply have no valid claims."**

"The decision is fairly short and sweet," she said. **"There is no fundamental right to run your business as you see fit. A game-farm license is a privilege, not a vested right. It can be taken away or modified."**

The lawsuit contained seven separate claims for relief, six of which attacked I-143 on constitutional grounds (equal protection, commerce clause, due process, fundamental rights, vested rights and taking of property). In addition, it complained that Fish, Wildlife and Parks Director Jeff Hagener's enforcement of I-143 violated limitations on police power.

Haddon ruled in the state's favor on all seven counts.

"Montana has long recognized the capacity of the state in its police power to regulate commercial activities," the judge wrote. **"I-143 is but an example of that recognized power."**

"The record supports a rational basis for passage of I-143 in furtherance of legitimate state interests," he said.

Assistant attorney general Chris Tweeten, who represented the state in the lawsuit, said Haddon is **"the third judge who has ruled on these constitutional claims - and ruled there is no constitutional defect in I-143."**

"Sooner or later, the litigation on that question needs to come to an end," he said. At least three more lawsuits challenging the initiative's constitutionality are pending in state courts.

Tweeten said he will now argue that the constitutional claims have been resolved against Spoklie and Kafka, so they are not allowed to re-litigate them in state court.

The "takings" claim - which insists the state of Montana owes game farmers money for the diminished value of their property - will still be heard on the state level, as Haddon said the federal court cannot really render its decision until a state court has ruled on the claims.

Haddon did, however, point out that "developed law" contends that property owners be compensated only if they are deprived of "all beneficial or productive use options" by the government's actions. In this case, game-farm owners still have hundreds of other possible uses for their property.

They simply cannot bring clients onto the property, charge them a fee and allow them to hunt the captive animals.

While limited on the takings issue, Haddon's decision is significant because the Montana Legislature nearly threw out I-143 during the last session because of the claims, Stalling said. **"Lots of legislators were bullied and scared by lawyers from the game-farm industry. They were told the state would have to pay millions of dollars in takings penalties."**

"This ruling ought to ease legislators' fears," he said. "This is a pretty good sign that game farmers don't have much chance of getting this overturned."

Suzanne Taylor, one of the attorneys representing game-farm owners, said no decision has been reached on whether to appeal Haddon's ruling to the 9th Circuit Court of Appeals. Discussions were just beginning Tuesday afternoon, she said.

Spoklie did not return a telephone message from the Missoulian asking him to comment on the decision.

Reporter Sherry Devlin can be reached at 523-5268 or at sdevlin@missoulian.com

Game Farming - Still Playing With Fire

Editor's Note: This article provides an update of legal challenges to the Montana game farm reform ballot initiative I-143 before the Montana Supreme Court and an in-part consolidation of two articles written by Bill Schneider writing for New West (www.newwest.net) a regional online magazine.

Montana Supreme Court Hears Legal Challenges to Montana's I-143

On November 7, 2000, the voters of Montana approved the Sportsmen's/Citizen Initiative I-143 that put in place new state regulations governing the licensure of game farms and prohibits the shooting of big game animals, held captive within the confines of fenced game farms, for a fee.

Within months of the passage of I-143, game farm operators began challenging the new laws by suing the State of Montana and Fish, Wildlife and Parks; eleven (11) cases to-date. Montana Wildlife Federation has intervened in each of the cases to defend the initiative, the will of the people (voters), and the interests of ethical, conservation minded hunters, wildlife enthusiasts, and in the interest of healthy, wild, free-ranging public wildlife.

The State, FWP and sportsmen have been successful in each and every case that has had a judicial ruling.

Rulings on the lawsuits have upheld the constitutionality of I-143 and the regulations. Some rulings, as an example, have stated that I-143: "...advances legitimate non-illusory state interest in protecting Montana wildlife", "It is rational to claim that fee killing would have negative effects on Montana's fair chase hunting ethic", and "Montana does have a legitimate interest in banning fee killing (canned hunts) of game farm animals..."

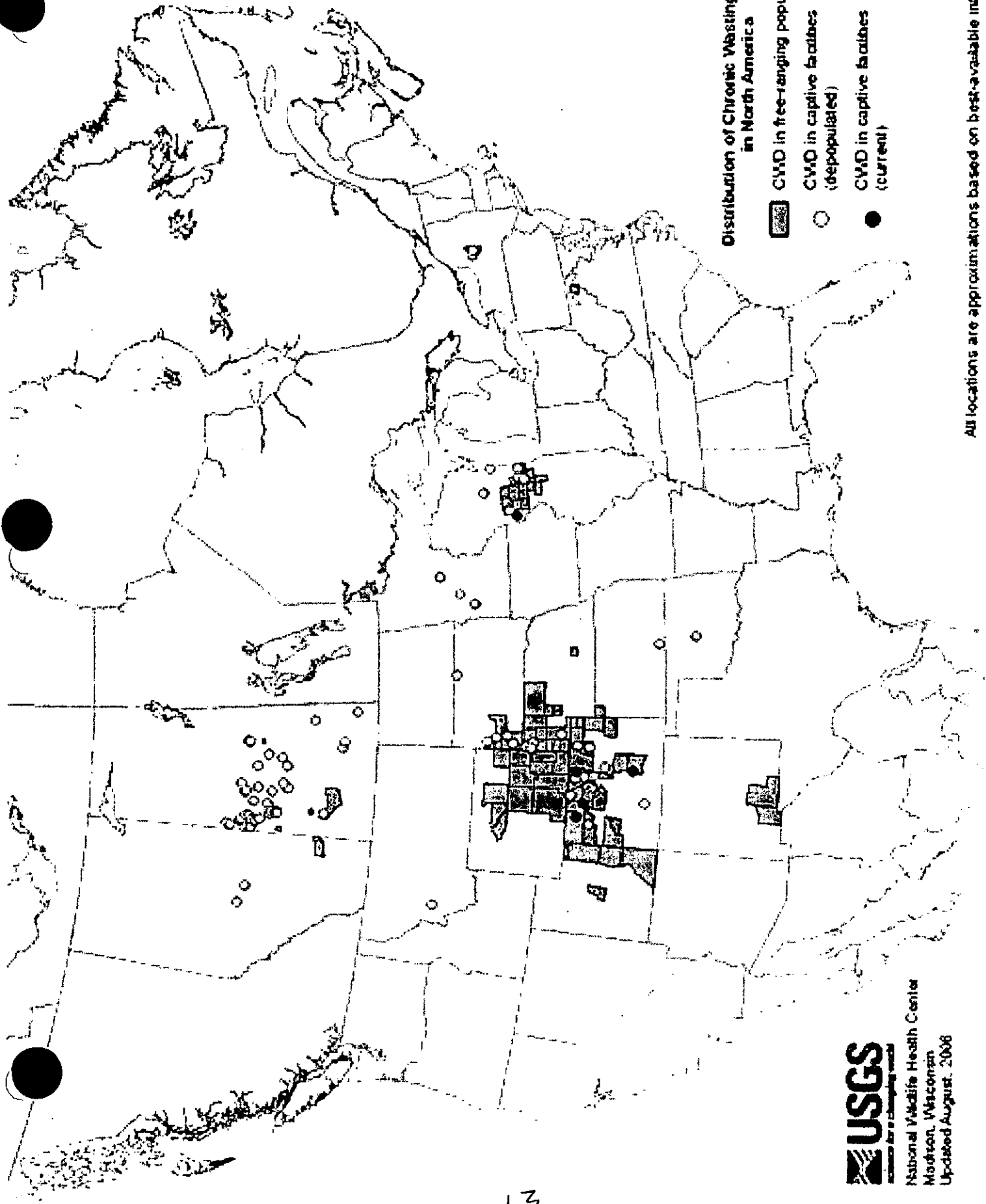
On Sept 13, with MWF members, hunters and anglers and game farm operators in the audience, the Montana Supreme Court heard oral arguments for the last of two separate legal challenges of I-143. The two hearings were conducted because district court rulings for the two cases first heard in 2004, dismissed appellants' claims in their entirety and the game farm operators appealed the ruling to the Montana Supreme Court.

The claim the court is considering in both cases is tied to liability, did I-143 cause an uncompensated regulatory "takings" of Plaintiffs' property which precluded them from realizing a reasonable return on their investment, primarily from the prohibition of shooting animals, so called "canned hunts", for a fee.




Lower courts previously determined that the business of game farming had already been negatively affected by factors other than I-143, the growing concerns about chronic wasting disease and the transmission from game farm animals to wild animals, the failed market for antlers used as an aphrodisiac, and the dwindling market for game farm animal meat were all reducing the profitability of game farming. Further, the courts said that lost profits, absent any physical property restriction or taking - "provides a slender reed upon which to rest a takings claim..."

Regardless of the claims in the oral arguments by attorneys representing the game farmers that after I-143 there is no economic benefit of owning game farm animals and the license to do business has no value, the State and MWF attorneys argued that game farms are free to conduct sales of either products, body parts including meat, antlers, hides etc, or the entire animal for out of state shooting or breeding operations. Several operators have, in fact, sold their elk to out of state operations. And, the properties still have value; one of the game farms has sold a portion of their land for \$4.8 million.

The game farm operators are asking that the public pay them back for their losses due to the prohibition of shooting penned animals for a fee, "costs should be borne by Montanans..." they said. Both of the cases have been taken under advisement by the Supreme Court and it is difficult to determine when they may make a ruling, it could be as early as this winter or as late as next spring.



**Distribution of Chronic Wasting Disease
in North America**

-  CWD in free-ranging populations
-  CWD in captive facilities (depopulated)
-  CWD in captive facilities (current)

All locations are approximations based on best-available information



National Wildlife Health Center
Madison, Wisconsin
Updated August, 2008

Chronic Wasting Disease Timeline - Anatomy of a Killer

Wisconsin Department of Natural Resources Game Farm Audit Results

1967-Deer begin dying from a mystery disease at Foothills Wildlife Research Facility, Fort Collins, Colorado.

1980 the illness is identified as chronic wasting disease. (CWD)

1981-First wild elk with CWD found in Larimar County, Colorado. Disease begins spreading into the northeast corner of the state.

1986-An elk in southeastern Wyoming is the first wild animal to test CWD positive there. By 2001 10% of Wyoming deer have CWD.

1996-Saskatchewan game farm is found to be infected with CWD.

1997-South Dakota game farm tests positive for CWD. Within a year two more farms are infested.

1998-Game farm in Cherry County, Nebraska has CWD. First in the state.

1998-Second Saskatchewan game farm has CWD.

1998-June-A game farm in Oklahoma County, Oklahoma reports outbreak of CWD.

1999-Animals from a game farm near Philipsburg, Montana test CWD positive.

1999-Wisconsin begins testing deer for CWD, fearing game farm have imported CWD exposed elk.

March 2000 to July 2001-CWD concerns cause Saskatchewan game officials to slaughter 4,600 elk at 29 game farms.

Fall 2000-Nebraska's first wild mule deer with CWD is killed by a hunter in Kimball County.

April 2001-Saskatchewan confirms first wild mule deer with CWD near Lloyd Minster. Two more positive tests follow.

September 2001-The U.S. Dept. of Agriculture declares a CWD emergency., begins creating a plan to eradicate it in game farm and in the wild.

October 2001-Eleven Colorado game farms placed under CWD quarantine. 450 elk from these game farms had been shipped to game farms in 15 states.

December 2001-Game farm in Anthony, Kansas reports states first case of CWD from an elk purchased from one of the now quarantined Colorado farms.

December 2001-Game farm in Sioux County, Nebraska is CWD infected. Its whitetails test 43% positive.

February 2002-South Dakota reports first case of CWD in wild deer.

March 2002-Colorado finishes slaughtering 1,600 game farm elk from the 2001 quarantine.

March 2002-Wisconsin reports three deer taken during 2001 season were CWD positive.

April 2002-Wisconsin shoots 506 deer in the infected area and tests them for CWD. 14 are CWD positive.

May 2002-Wisconsin prepares to eradicate 15,000 deer in a 287 square mile area to stop the spread of CWD.

May 2002- Two more cases of chronic wasting disease have been found inside an elk ranch in southwestern Routt County, Colorado

May 23, 2002-Four more deer near Mount Horeb, Wi. tested positive for CWD. One of the deer was killed outside of the eradication zone, so the zone will be expanded by 74 square miles. The tests initially came back negative, but additional tests of the lymph nodes were done, and those tests showed infection. That suggests that the deer were in the earlier stages of infection, than those whose brain stems show infection.

June 17, 2002-A total of 262 deer were killed in the first week in an effort to kill 25,000 deer. There are three more 1 week hunts planned before bow season opens. Landowners shot 170 deer and sharpshooters killed 92.

June 21,2002-A mule deer from white Sands Missile Range, Albuquerque, New Mexico has tested positive for CWD. It is the first case verified in this state. Game officials are banning the importation of deer and elk.

June26, 2002-The Wisconsin State Natural Resources board voted 6-1 in favor of a number of measures they hope will stop the spread of CWD. The most controversial is the banning of feeding and baiting deer until June 2004.

August 3, 2002-6 more cases of CWD have been found in the 261 deer tested from the special hunt June 8 to June 14 in Wisconsin. Two of the deer killed were near the boundary of the current zone so the DNR is going to extend the zone by 13 square miles to 374 square miles. The next special hunt is Aug. 10 to 16.

August 31, 2002-Seven more deer out of 336 that were shot in the special season in July tested positive. Another 15 square miles was added to the eradication zone. Minnesota found its first CWD case in an elk that was part of a farm raised herd in Aitkin County. Minnesota plans to immediately kill and test wild deer in the vicinity of the elk farm.

October 15, 2002-Out of 669 deer tested on Wisconsin game farms only one has tested positive for CWD. A panel of experts at UW Madison has determined that by leaving the disease alone will only fan its distribution. They also say that hunters should not use the test for CWD to judge the safety of the venison. They say the risk for contracting CWD from eating infected venison is very low.

October 18, 2002- 9 more wild deer tested and 1 doe on a second game farm tested positive for CWD. That brings the total to 40 deer that have tested positive in the eradication zone west of Madison. Wardens want to inspect 590 deer farms by the end of the year, by checking fences and in some cases checking the financial records of the sales and purchases of deer.

November 3, 2002- Wildlife officials have confirmed the first known case of CWD in deer in Illinois. A deer was shot Oct. 23 just east of Roscoe near the Wisconsin border.

November 5, 2002- The U.S. Food and Drug Administration will spend about \$500,000 to commission a study whether CWD can jump from deer to other species.

December 4, 2002-CWD has been discovered for the first time in a wild deer outside the eradication zone. A 3 year old buck shot in Grant County during the gun hunt tested positive for the disease. The testing was done by a private diagnostic lab from test kits available through sporting goods stores.

December 7, 2002-Early results have shown that CWD has not spread beyond an area near Mount Horeb. The DNR has tested 662 deer shot in the 10 county zone that surrounds the eradication zone. None has tested positive.

December 13, 2002-All 118 deer on a deer farm in Walworth County were killed by federal sharpshooters. All of the deer will be tested for CWD. A deer tested positive on Sept. 30 for the disease so a decision was made to test the rest of the deer. The oldest deer on the farm were about 15 years old.

December 14, 2002-A deer that escaped from the Walworth County farm and roamed freely for at least six months has tested positive. The deer was shot by sharpshooters on Oct. 22. It is the first escaped deer in Wisconsin to test positive. So far no wild deer have tested positive for the disease outside of the eradication zone.

December 22, 2002-The states latest round of testing revealed no new cases of CWD in the wild. 5,045 deer have been tested from outside the quarantine area and none were infected. The state will be testing a total of 37, 938 deer from this falls hunt. Meanwhile Illinois has reported a total of four positives, all in counties bordering Wisconsin.

December 29,2002-73 more deer were tested and none were positive. The small number of deer tested was due to the holidays.

January 4, 2003-7, 785 deer have been tested so far. 50 have tested positive and they are from Dane and Iowa counties. So far it looks like the disease hasn't spread beyond the eradication zone. A private lab has reported that 3 deer it examined tested positive, however state official's have disputed the accuracy of the lab's tests.

January 8, 2003- State officials decided Tuesday to allow baiting in the hot zone, to extend the season to March 31, and to bring in government sharpshooters. So far only 8,000 of the estimated 30,000 deer in that area have been killed. The 8,000 deer killed is equivalent to a yearly fawn crop in the area. Wildlife biologists say that 10,000 to 12,000 deer must be harvested to get the density down to 20 to 25 deer per square mile. The agency is considering paying a bounty to landowners for every deer killed, but funding and liability issues may scuttle that.

January 9, 2003-Stanley Hall , owner of Buckhorn Flats game farm is going to court to block the state from killing the animals. The first captive animal to test positive came from the game farm. Hall said he retained some of the brain tissue and had it tested at a Wyoming lab, which found no evidence of the disease. Calls to the DNR were not returned yet. State law allows for a second test if the initial test is positive. The DNR killed all 118 deer on the game farm of James Hirschboek after one deer tested positive. The Hirschboek farm came under suspicion after authorities traced his purchase of deer from Hall.

January 11, 2003- Five infected deer were found outside the hot zone, 1 in Richland County and 4 in western Iowa County. The new cases were still inside the management zone, which extends 40 miles beyond the area where the disease was first detected. The deer in Richland County was killed 16 miles from the hot zone boundary and the Iowa County deer were up to 12 miles from the boundary. So far 9,064 deer have been tested.

January 18, 2003- State agencies have spent about \$11.5 million on CWD in Wisconsin. The estimate includes the salaries of wildlife experts who have devoted their time to the problem. That figure means the state has spent the equivalent of \$209,000 for each of the 55 deer that tested positive. \$1.1 million was spent last fall to collect thousand of deer heads from hunters across the state, and about \$1.6 million was spent disposing of the deer. A big bulk of the upfront costs were to get the project started.

February 2, 2003-3 more deer test positive in the hot zone. 1,390 new samples were analyzed last week. So far 13,977 deer have been tested which is 36% of the deer that will be tested. 2.21% of the deer in the hot zone have tested positive. In the broader 10 county management zone 5 deer have tested positive an incidence of 0.9%.

February 8, 2003-With 16, 119 or 41% of the results in the DNR said that no new cases were found in the last week.

February 15, 2003-With 18,838 deer tested there were no new cases of CWD.

March 9, 2003-With 26,232 deer tested 62 have been infected. 33 from Dane County, 27 from Iowa County, 1 from Richland County and 1 from Sauk County. Wisconsin's eradication initiative is the biggest in the country. The testing of almost 40,000 deer is the most comprehensive of any state. the incidence rate in the hot zone is 1.9%.

March 15, 2003-Two new cases of CWD were found out of 2,055 more deer tested. The two deer that tested positive came out of Dane County. A total of 64 deer have tested positive. 28,287 deer have been tested.

March 20, 2003-Wisconsin-436 deer have escaped from farms to wild. State finds violations, lax record keeping at many sites, report says. A state inspection of private deer farms, prompted by the discovery of chronic wasting disease, found that 436 white-tailed deer escaped into the wild, officials said Tuesday.

Chronic Wasting Disease Game Farms Inspected:

A summary of the findings of the Department of Natural Resources' inspection of 550 private white-tailed deer farms in the state: The deer farms contained at least 16,070 deer, but the DNR believes there are more deer in captivity than that because large deer farms are unable to accurately count their deer. 671 deer had escaped from game farms, including 436 that were never found. 24 farmers were unlicensed. One had been operating illegally since 1999 after he was denied a license because his deer fence did not meet minimum specifications. Records maintained by operators ranged from "meticulous documentation to relying on memory." At least 227 farms conducted various portions of their deer farm business with cash.

Over the last three years, 1,222 deer died on farms for various reasons. Disease testing was not performed nor required on the majority of deer.

Farmers reported doing business with people in 22 other states and one Canadian province.

The Department of Natural Resources found that captive deer have escaped from one-third of the state's 550 deer farms over the lifetime of the operations. The agency also uncovered hundreds of violations and has sought a total of 60 citations or charges against deer farm operators. These and other findings come as state officials say they are still no closer to understanding how the fatal deer disease got to Wisconsin.

March 24, 2003-16 new cases were found in the latest round of testing. 2,574 deer were analyzed this week. A total of 80 deer have been found to be infected. All of the infected deer were from the eradication zone.

March 26, 2003-CWD has been found in a farm raised elk in Manitowoc County marking the first time in Wi. that it has been found in an animal other than a deer. The 6 year old female elk, one of 20 imported by a Valders elk farmer from Stearns County, Minn. tested positive after dying in a fight with another elk. One elk died earlier and was not tested. The remaining 18 elk were killed for testing. 6 game farms imported elk from Minn. and all are quarantined since Sept. when the Minn. game farm had an elk that tested positive.

March 30, 2003-14 more deer test positive bringing the total to 94. All were killed within the three county eradication zone. The DNR figures about 2% of the deer in that area are infected. The illness which jeopardizes the state's \$1 billion hunting industry was discovered near Mt. Horeb in February 2002.

April 5, 2003-36 new cases were found in the latest round of testing. 2655 samples were tested this week. That brings the total to 130 infected deer out of 35,196 deer tested. 40,002 deer will be tested for the last season..

April 19, 2003-49 more deer were found with CWD, all within the hot zone. That brings the total number of infected deer to 190 or about 2% of the deer tested in that area. 39,012 of the 40,111 deer have been tested. Of the diseased deer, 99 were in Iowa County, 89 were in Dane County, 1 in each in Richland and Sauk Counties.

May 3, 2003-With all 41, 046 deer tested there have been 207 positive cases, all within the zone. Dane county had 97 cases, Iowa county had 107 cases, 2 cases in Sauk county and 1 case in Richland county.

May 14, 2003-Six wild fawns that were killed last fall have tested positive for CWD, state officials announced last week. The fawns were 5 to 6 months old. Officials had previously believed CWD didn't begin to appear in white-tailed deer until the animal was at least 16 months old.

The six fawns were shot in Wisconsin's 411-square-mile CWD eradication zone, where 4,200 fawns less than a year old were tested for CWD last fall.

For more information, visit www.dnr.state.wi.us/org/caer/ce/news/on/index.htm#art4.

July 2, 2003-To fight the spread of CWD, the DNR wants to create a special zone in and near Beloit, where hunters and sharpshooters will try to wipe out the deer population. Covering 25 square miles, the area lies along the Wisconsin-Illinois border and within 4 1/2 miles of where a deer in northern Illinois tested positive for the disease. None of the 308 deer killed last season in Rock County tested positive.

August 12, 2003-A sickly deer shot in a village park in Fontana on the west end of Lake Geneva has tested positive for CWD the DNR reported Monday.

August 16, 2003-The Dnr will test between 20,00 and 25,00 deer in selected counties this year, compared to 41,000 deer in all 72 counties. They will be using a rapid test so hunters will know in a matter of weeks instead of months to see if the deer they shot tests positive.

December 3, 2003-Every deer in the herd reduction zone and intensive harvest zone is being tested. 11, 500 samples have been collected and 2,100 have been tested since the archery season began in Sept. Of those 18 tested positive bringing the total of infected deer to 226.

December 5, 2003-A 4th deer from a Portage county hunting preserve has tested positive for CWD. A 5 1/2 year old deer shot at Buckhorn Flats game farm in Almond tested positive.

The farms owner told the agency that the deer was born on the farm. Sixteen herds in Wisconsin are quarantined over the disease. Six other herds are linked to this case. Two received animals from a positive herd in Minnesota and seven other are in the state's eradication zone.

January 12, 2004-CWD has spread into Kenosha County for the first time after a yearling buck tested positive after it was shot last fall. So far they have tested 85% of the 14,290 deer that were sampled from the 2003 season. Of that, 57 tested positive.

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Fargo Forum, Sunday, November 5th, 2006

KEYING IN ON A CULPRIT

Study: Saliva May Spread Chronic Wasting Disease

By LAURAN NEERGAARD
AP MEDICAL WRITER

WASHINGTON -- **Deer probably spread a brain-destroying illness called chronic wasting disease through their saliva**, concludes a study that finally pins down a long-suspected culprit.

The key was that Colorado researchers tested some special deer.

Chronic wasting disease is in the same family of fatal brain illnesses as mad cow disease and its human equivalent. There is no evidence that people have ever caught chronic wasting disease from infected deer or elk.

But CWD is unusual because, unlike its very hard-to-spread relatives, it seems to spread fairly easily from animal to animal.

Scientists were not sure how, primarily because studying large wild animals is a logistical nightmare. The sheer stress of researchers handling a deer caught in the wild could kill it.

Likewise, animals deliberately exposed to infections must be kept indoors so as not to spread disease, another stress for deer used to roaming.

So Colorado State University researcher Edward Hoover turned to fawns hand-raised indoors in Georgia, which has not experienced chronic wasting disease.

"This allows you to do this safely so the deer aren't freaking out," explained Hoover, who reported the first evidence of saliva's long-suspected role in Friday's edition of the journal Science. "These deer are calm and approachable."

Hoover took saliva from wild Colorado deer found dying of CWD, and squirted it into the mouths of three of the healthy tame deer - about 3 tablespoons worth.

Additional tame deer were exposed to blood, urine and feces from CWD-infected deer.

He housed the newly exposed deer in a specialized lab for up to 18 months, periodically checking tonsil tissue for signs of infection and eventually autopsying their brains.

All of the saliva-exposed deer got sick.

So did deer given a single transfusion of blood from a CWD-infected deer - not a

surprise, as blood is known to transmit this disease's cousins. But it does reinforce existing warnings to hunters in states where CWD has been found to take precautions in handling their kills.

The three deer exposed to urine and feces didn't get sick. That doesn't rule out those substances, Hoover cautioned; he simply may not have tested enough animals.

Proving that saliva is able to spread CWD is important, so that scientists next can determine exactly how that happens in the wild, said Richard T. Johnson, a Johns Hopkins University neurology professor who headed a major report on prion science.

"You can move deer out of a pasture, put other deer into the pasture, and they'll come down with the disease. It's not even casual contact, it's contact with the pasture," Johnson said. "It must be something in their secretions."

Is it spread through shared salt licks? Or by drooling onto grass or into streams? Studying environmental contamination by infectious proteins, called prions, that cause CWD is among Hoover's next steps.

"It's very likely they could be shedding a lot of saliva" shortly before death, noted Richard Race, a veterinarian who studies CWD at the National Institutes of Health's Rocky Mountain Laboratories. "Saliva's a good bet."

Game Farm Dilemma Deepens—Huge Illegal Trade Revealed

By Shirley Bray

Poaching of wild deer by game farmers is a serious problem. At a recent meeting of the Midwest Deer/Turkey Group Meeting, Conception, MO August 19-20, 2002, the extent of the illegal laundering of wild deer into the captive cervid trade industry was discussed. Terry Dougherty, a warden with Missouri DOC, offered some insights. Much was based on the testimony of a former deer hauler who has turned states evidence. He had hauled numerous loads of illegal deer and elk that were shipped to many states by Michigan brokers. Untested deer bring premium prices on shooting preserves because they can be laundered for entry into Boone and Crockett Hunting Preserves, a full service, 2000-acre wildlife habitat for the managed field hunting of upland game birds and trophy whitetail in the Midwest. TB-tested deer with ear-tags and shaved necks show evidence of being from game farms and cannot be entered in Boone and Crockett. Gate hunts are going for \$40-50,000 and no record of these hunts appears on the books.

Most of the deer that the deer hauler moved were wild caught deer from Ontario. Ontario deer farmers baited wild deer into pens, and veterinarians supplied false health certificates for wild deer. Twenty-nine were shipped into Wisconsin without testing. Major destination states were Texas, Pennsylvania, Missouri and Mississippi. Deer were brought into the U.S. at a friendly border crossing in Montana. **The driver carried two sets of papers, one for the authorities and one for the ranch owner.** Untested loads were hauled at night to minimize stress on the animal and to minimize the number of inspections at the border. In Texas, wardens can stop cattle haulers on the interstate for inspection. Five thousand prosecutable violations have been documented, many from discrepancies between the age of deer and the age on tags. The illegal market is dependent on veterinarians supplying false papers for a cut of the profit. Illegal shipments will continue until there is no market for trophy deer on shooting preserves. Brokers prefer deer from Canada because of the good exchange rate and lax border enforcement. It is estimated that 25,000 deer per month are being moved throughout the U.S.

One of the largest poaching cases in Canada involved Saskatchewan veterinarian and game farmer John Phillip Murray, who faced charges of fraud this summer for allegedly trapping and selling as many as 1000 white-tailed deer over three years. IFAW has requested that the RCMP expand its investigation into the alleged poaching of wildlife by game farmers. The Canadian Cervid Council has stated that game farming is not a valid wildlife issue. The poaching of public wildlife, in addition to the problems of disease, habitat loss and genetic pollution, clearly refutes this notion.

In the summer a significant number of game farmers approached well-known game farming opponent, Darrel Rowledge, a director of the Alliance for Public Wildlife, and asked for help in getting out of the industry. Conservation groups agreed that game farmers should be compensated provided the industry was shut down. Now these game farmers are considering a class action lawsuit against the federal government and have consulted with one of Canada's leading class-action lawyers. While Alberta Agriculture encouraged the growth of the industry without a proper analysis, they have attempted to limit their liability by putting a weasel clause into the Livestock Industry Diversification Act, the legislation that legalized game farming.

Section 25 reads: "No right of compensation exists against the Crown, the Minister, the Director or any inspector for any act done, or any failure to act, pursuant to this Act."

One of the accomplishments that the Alberta Elk Association listed on their website under "liaison between Government and farmers" is that they "halted [an] environmental review." When game farmers were challenged on this point in one of their web forums, this item was quickly removed. "Why would the industry association boast of NOT protecting the best interests of the Canadian people?" demanded the whistle-blowing participant.

Goetz, Ray

From: Paul L. Freeman [pfreeman@state.nd.us]
Sent: Friday, May 17, 2002 9:16 AM
To: 'Bruce E. Burkett'
Cc: Ray Goetz (Goetz, Ray); Roger W Rostvet (Rostvet, Roger W.)
Subject: Elk producer violations

Bruce,

I have an elk producer 5 miles south of Walhalla by the name of Carlton Heck. There appears to be some violations associated with his NTL elk herd.

About 3-4 weeks ago, I was contacted by the Pembina County Sheriff's Department about a couple of dead elk 0.5 miles west of Heck's farm. I located the site and found at least 12 dead elk in a pit. They were all in varying stages of decay. There were only 4-5 that were clearly YOY calves. The rest appeared to be adult elk or at least 12 months old. Ear tags were plainly visible in two elk. None of the elk had their heads removed which would be necessary for disease testing.

I contacted the Board of Animal Health a few weeks ago and sent Dr. Schuler a bunch of Polaroid photos of the scene. He informed me that Dr. Keller was off for two weeks and that this matter is her responsibility. I waited the two weeks and contacted Dr. Keller and filled her in on the situation. She told me that she was going to contact Carlton Heck to get his inventory completed so she could run the numbers to see how he accounted for the missing (dead) elk.

I gave Dr. Keller two days to contact Heck. I tried to get a hold of her this morning as she requested so I could find what Heck had to say on the matter but found out that she took the day off.

I'll try to keep you posted.

Paul L. Freeman

5/17/2002

Date: 10 June 2002

To: Randy Kreil, Greg Link, and Mike Johnson.

From: Roger Johnson, Bill Jensen, and Bruce Stillings of the Big Game Staff.

RE: Monitoring of Dead Captive Deer and Elk.

On June 4th, we became aware of an instance involving dead captive animals found in a pit. This case involved about 12 dead elk on the Carlton Heck farm near Walhalla in mid April. At least eight of the 12 were adults with visible ear-tags. None of the heads had been removed for CWD testing as required by the North Dakota Board of Animal Health (NDBOAH) (See Attachment). This instance is disturbingly similar to a newspaper story from Colorado where a rancher reported loosing elk to lightning strikes. Later elk from this herd tested positive for CWD. A Colorado official stated ... "I wish we would have paid more attention to those reports at the time".

This instance raises a series of questions:

1. Since these animals are so valuable, why would a producer just kill them and push the carcasses into a pit? Is he attempting to cover something up?
2. Is the state of North Dakota aggressively investigating this case?
3. Have there been other instances of noncompliance with NDBOAH CWD testing? If so where?
4. Is the State of North Dakota considering testing this herd for CWD?
5. Is the State of North Dakota considering quarantining this herd or other herds?
6. Is the State of North Dakota considering the requirement of double fencing this herd for the protection of surrounding free ranging animals?

Noncompliance with these regulations brings into serious question the current CWD surveillance practices of captive nontraditional livestock. If a producer can unilaterally eliminate animals from the testing process the system is irreparably flawed. This issue goes the heart of whether the state can protect our free ranging deer and elk herds from CWD, and maintain the trust of our hunters and general public.

Cc: Jacquie Gerads
Paul Freeman

CWD_010.MEM

Date: 3 October 2002

To: Randy Kreil, Greg Link, and Mike Johnson.

Cc: Roger Johnson, Bruce Stillings, and Jacquie Gerads.

From: Bill Jensen

RE: Recent Events and the Threat of CWD in North Dakota.

A series of recent events have compelled me to write another memo regarding how CWD related issues are being handled in North Dakota. To summarize the basis for my concern I will restate the following facts:

1. Several years ago there were two cases of CWD exposed elk being brought into the state. The error in the North Dakota surveillance process was only detected when we were informed by agencies from other states.
2. Last April at least 12 elk were found dead in a pit on the Carlton Heck farm near Walhalla. None of the animals had their heads removed for CWD testing, and five adults were not properly tagged, as required by state Non Traditional Livestock regulations (See attached memos dated: May 17th and June 10th 2002). I was astonished to learn Tuesday, October 1st, that after nearly six months the State Veterinarian's Office had not yet inventoried the elk on the Heck farm. If the state veterinarian and his deputy are too busy, this work needs to be contracted out and completed.
3. Modeling has predicted that mule deer and white-tailed deer populations infected with CWD may undergo localized extinctions within 20 to 50 years (e.g., Gross and Miller 2001, JWM 65:205-215).
4. In a September 13th, 2002 CWD update, authored by Bruce Morrison of Nebraska, it was reported that a group of elk brokers operating nationally were illegally shipping up to 25,000 deer and elk per month around the United States. Additionally, veterinarians were paid to falsify papers to get the shipments through borders. Falsifying documents and illegally shipping upwards of 300,000 deer and elk per year around the country is not an insignificant issue. It should be remembered that this is just one localized investigation of one group of brokers operating out of Michigan. I double-checked these facts with Bruce Morrison on the phone.
5. The International Association of Fish and Wildlife Agencies (IAFWA) passed a resolution on September 21st, 2002 that asks for a prohibition of live captive cervids from ~~states~~ ^{herds} with less than five years of monitoring as being free of CWD. This would in effect shutdown all interstate transport of captive cervids. The North Dakota Game and Fish Department is a member of this organization.
6. Currently 18 states and provinces prohibit the importation of live captive cervids. The market for captive deer and elk has dropped dramatically during the last year. It is my opinion North Dakota will become the sink for animals from unscrupulous dealers.
7. During the September 18th meeting, based upon reports from individuals at the meeting, the North Dakota Board of Animal Health (NDBOAH) officials were reluctant to deal with CWD issues and concerns raised by our department.
8. On September 30th we learned that five elk ranches in North Dakota had imported elk from a dealer in Minnesota that had lied about the health of his herd, and that the CWD positive elk recovered in Aitkin County, Minnesota had come from this

same herd. Additionally, one of the five North Dakota elk herds that imported potentially CWD exposed elk from Minnesota was none other than the Carlton Heck farm near Walhalla. The Carlton Heck farm is located within the core area of our E1 elk range, and less than 10 miles from the Canadian border.

These events raise the following questions:

1. In order for any CWD surveillance system to work, it must have 100 percent compliance with regulations, not only within North Dakota but also throughout the United States and Canada. Based upon the observations noted above this clearly has not been the case. Is it not time for we, as an agency, to admit that our states CWD surveillance system, despite the best efforts of the State Veterinarians Office, does not work and will never work in keeping captive CWD exposed elk out of the state? The system has now failed seven times. The jury is still out on the five of these cases. The continual importation of captive deer and elk only puts our states public big game resources at risk and may cost the state millions of dollars to mitigate.
2. Many in the public view CWD as a serious potential health hazard. We heard of the potential exposure of captive elk to CWD in our E1 elk range on September 30th, prior to the opening of the 2002 elk season (October 4th). What are we going to tell the public when the captive elk on the Heck farm are put down for CWD testing? This question becomes even more problematic if one of the Heck elk tests positive.
3. Are we now going to request double fencing around the Heck herd, and the other exposed captive elk, as suggested in June (See attached memo)? On September 30th, Dr. Susan Keller stated that Mr. Heck said "... a number of deer and elk have been coming up to the elk fenced on my property. If something ends up being sick there is no way of knowing if my elk did not get it from the wild animals." This is precisely the same situation that South Dakota found themselves in with the CWD infected elk in the Black Hills. How are we going to respond? Additionally, the Heck pasture is located in a drainage that feeds into Weiler Dam. Are we going to set up screen fencing or hay bails to prevent further run-off into that water system?
4. The free ranging elk surrounding the Heck farm probably spend some of their time in Canada. I do not see anything in the CWD Contingency Plan about coordination with Manitoba and the Canadian government. Is the Governor's Office aware that this issue could raise very serious concerns by the Province of Manitoba, and that it could bleed into other shared issues?
5. The IAFWA resolution ^{asks} asks for a prohibition on importation of captive cervids. Since the NDBOAH is apparently reluctant to deal with the issue of banning the importation of captive deer and elk, will we now ask for an Executive Order from the Governor?
6. Is the department prepared to deal with surveillance around up to five CWD infected captive herds at the same time?

These comments and questions are not intended to point fingers, cast blame, or inflame the issue. It is my belief, however, that these issues must require prompt and decisive action.

CWD_017.MEM

The Northeast Association of Fish and Wildlife Resource Agencies

**Resolution of the Northeast Association of Fish and Wildlife Agency Directors
relative to the threat of Chronic Wasting Disease to native free ranging cervids,**

WHEREAS:

Chronic Wasting Disease (CWD) is known to occur in at least 13 states and two Canadian provinces, including a recently documented case in the Northeast region,

Free-ranging cervids, particularly the white-tailed deer, are an important and valuable wildlife resource held in public trust by various state governments,

CWD is a fatal transmissible spongiform encephalopathy (disease of the central nervous system) affecting the family Cervidae, for which there is no known cure,

CWD can only be tested by examining the brain or lymph node tissue of a dead animal,

CWD has a poorly understood transmission and incubation period,

CWD can be passed between captive and wild free-ranging cervids,

The possession and movement of captive cervids constitutes the most serious known threat for CWD transmission to the regions free-ranging deer resource.

THEREFORE, BE IT RESOLVED THAT the Directors of the Northeast Association of Fish and Wildlife Agencies endorse:

1. Based on our current level of knowledge and understanding of CWD, the elimination of captive cervid populations in the Northeast.

2. Until that goal is achieved; and notwithstanding regulated research facilities:

A prohibition on the creation of new facilities allowed to possess captive cervids,

A prohibition on the importation and intra-state movement of captive cervids;

Implementation of mandatory state-sanctioned CWD certification of existing captive cervid populations, and,

The requirements of fencing that prevents contact between captive and free-ranging cervids.

SB2254
(Opposed)

Chairman Lyson, and members of the Senate Natural Resources Committee, my name is Bryan Dvirnak. I am a resident of Bismarck, a life long resident of North Dakota; I grew up on a ranch in western North Dakota, and am an avid hunter. I am adamantly OPPOSED to SB2254.

I do not represent any organization, group or individual. I am speaking on my own behalf.

My first reactions to SB2254 was appalling, then disbelief, then anger, and then I asked myself, "Why are we even debating the issue? Doesn't the legislature have more important things to do?"

I am opposed to SB2254 for a number of reasons including:

- (1) The bill *infringes on private property rights.*
- (2) The bill is *anti-economic development.*
- (3) The bill is *anti-capitalism and promotes socialism.*
- (4) This bill is *short sighted, ill conceived, lacks merit and is irresponsible legislation.*

Having stated my position, let me defend my comments.

I spent ten years working for the State of North Dakota in the economic development arena, including five years, from 1986-1991, as Vice-President of Commercial Lending for the Bank of North Dakota under the Sinner Administration; and five years, from 1994-1998, as CEO of the North Dakota Development Fund, a Division of the North Dakota Department of Economic Development, now the Department of Commerce, under the Schafer Administration. My positions, with both the BND and NDDF, were directly involved in promoting the State's economic development efforts, as a result of Growing North Dakota legislation conceived in the late 1980's and early 1990's. I worked with small and large businesses; start up and expanding businesses; in rural communities and the larger cities.

The State of North Dakota, under both Republican and Democratic administrations, and the legislature for the last twenty years, placed a heavy emphasis on promoting, encouraging and fostering the Growing North Dakota legislation, including Primary Sector Businesses. Growing North Dakota legislation defines Primary Sector Business to include Tourism. Elk ranching is Tourism.

Starting a new business or fostering an existing business is difficult to begin with, let alone having to "*fight capital hill!*"

I would remind this committee and the legislature, to reflect back on the last twenty years and the emphasis, effort and financial resources the State and your local communities expended to promote Primary Sector Businesses. Senator Mathern, has been in the Senate since 1986. Senator Mathern knows, he was here when Growing North Dakota Legislation got its start in the late 1980's and early 1990's. I am in disbelief that we are here today debating this bill.

If the wild game operations were a public health issue or a social issue, an argument could be made, **BUT THIS IS NOT THE CASE!** The elk ranchers are required to "jump through" more hoops than beef ranchers when it comes to public health issues. The elk ranchers are not infringing on anyone; they are not a social issue. **If anything, the elk ranchers are an economic development winner for rural North Dakota!**

Finally, what gives the government the right to infringe on private property rights? We live in a capitalistic, not a socialistic society!

So why are we debating the bill? Why was this bill even before the legislature? *I believe there is a responsibility to bring bills before the legislature that are worthy of debate. This bill is short sighted, ill conceived, lacks merit and is irresponsible legislation.*

If this bill were to become law, one need to look at its far reaching impact, including the financial liability the State would incur. It does not begin and end with elk ranching. You need to include the buffalo ranches; the North American Bison Coop at New Rockford; and the pheasant farms, including those in the Red River Valley, where the city folks can go out and have rooster pheasants released out of pens so they can be shot. Is shooting caged rooster pheasants fair chase?

If this bill were to become law, is the State of North Dakota prepared to buy out the elk ranchers heavy investment in 8' high woven wire fences and their elk? Is the State prepared to buy out all the buffalo ranchers? How about Ted Turner and the North American Bison Coop at New Rockford? Is the State of North Dakota prepared to go to the Three Affiliated Tribes and their Figure 4 Ranch or the Standing Rock Sioux Tribe and tell them, they can't have elk and buffalo in North Dakota?

Each operator has made a heavy financial investment in their operations and now a bill is being introduced to the legislature to destroy their business, their way of life, & their livelihood; all because someone does not personally agree with the elk ranchers and what constitutes "fair chase"!

Don't we have more important pressing issues to address in the legislative arena? I would encourage you to look at doing something about the exploding elk population in the Theodore Roosevelt National Park and their spilling out onto neighboring ranchers' property. When an elk is spooked they go thru four and five wire fences, not over them. When elk get into a field of grain or corn, they don't eat around the edge of a field, they go right into the middle and destroy the crop. I know this is a Federal issue, but maybe

the legislature should look at bringing to bear political pressure on the Federal Government instead of debating the likes of SB2254! **Spend more effort in encouraging the entrepreneur than discouraging them.**

This bill is short sighted, ill conceived, and above all lacks merit. I urge you to do the right thing and defeat this bill.

If you have any questions, I would be happy to try and answer them, but I think there are ranchers here today that are in a better position to address your questions.

Senate Bill 2254
Thursday, February 1, 2007
Senate Natural Resource Committee

Chairman Lyson and members of the committee, my name is Shawn Schafer and I am a whitetail deer producer from Turtle Lake and the Nontraditional Livestock Representative on the State Board of Animal Health.

I am here today to testify **against** Senate Bill 2254 and will ask that you send it from the committee with a **Do Not Pass**.

Reasons to defeat SB 2254:

Ethics: Ethics are best defined as what a hunter does while in the field alone. Regulating a person's morals is a tough thing to do. The type of people that we have coming into North Dakota to harvest animals in our game preserves are not the type that are leaving gates open or throwing their trash in the ditches or that leave their gut piles along the road. They are coming here looking for an enjoyable outdoor experience, one that they will want to keep coming back for. Customer satisfaction will regulate the game preserves that do not offer the quality outdoor experience the people are looking for, faster than any law we could put into place.

Disease: The conservation groups would like you to believe that allowing our animals to be behind fence creates diseases. As a member of the State Board of Animal Health, I am proud of the proven animal health track record we have through out all animal industries in North Dakota. Proven animal husbandry practices and science based health regulations are the cornerstone of all livestock industries. It would be hard to have a profitable business trying to market diseased and dying animals. Knowing the herd health history gives us a peace of mind if one of our animals were to escape.

High Fences: Keep in our private property not the State's wildlife, all game farms must pass an inspection by the Game and fish department. There was a survey mailed out to all legislators concerning high fence operations, I would ask that if you use that information in making your decision, that you request another copy which includes the full questions, not the paraphrased edition.

Being an activist does not make one an expert. The Nontraditional livestock Advisory Council is made of representative from the State Board of Animal Health, North Dakota Health Department, North Dakota Veterinary Diagnostic Laboratory, United States Department of Agriculture/Animal Plant Health Inspection Service/Veterinary Services, North Dakota Game and Fish, North Dakota Extension Service, North Dakota Furbearers, North Dakota Zoos, North Dakota Pet Stores, North Dakota Game Bird Producers, Cervid Producers and Dangerous Animal Owners. This council has a lot of experts in a lot of different fields that all offered their expertise in developing the current Nontraditional livestock rules that are based on science, which were approved by the Administrative Rules Committee. Please let us not reinvent the wheel; we already have a rule making process in place to update or improve these rules as needed. Thank you!

SB2254
(Opposed)

Chairman Lyson, and members of the Senate Natural Resources Committee, My name is Tim Dvirnak, I am an Elk Rancher and member of the North Dakota Elk Growers. I am opposed to SB2254

My wife Sally and I along with my parents, live on a small family farm in western ND, near the Killdeer Mountains north of Killdeer. Since my Grandparents settled here in the early 1900's we have run beef cattle and raised small grains.

We were looking for another farm product to raise and add into the mix of our other products to try and stabilize the income swings of beef and grain. We were given a \$5000.00 grant for farm diversification and low interest ag pace loan from the Bank Of North Dakota. These were very helpful in establishing our elk operation. When we applied for these monies we had to come up with business plans and income projections for the next ten years to see if this would be an operation that would provide cash flow and all of the other things that lenders like to see. In these plans and projections we included the plans for a hunting preserve as part of our marketing plan to harvest the mature bulls. This hunting preserve was to be built on land that was too rough for farming and was only used as grazing land. Even used for that it would not support very many cow calf units as it is heavily timbered. The trees are too small for logging but they make excellent cover for elk. No one objected during the planning stages in fact we were encouraged to press on.

Having a hunting preserve has been a great addition to our community and to the Elk Growers in ND. It has brought many tourism dollars to the state. It has also allowed four elk ranchers, from different parts of the state that shared in the building costs to have a place to market their mature bulls that would bring about \$500.00 at meat price, for about \$3000.00. We have even purchased mature bulls from other growers in the state to help with our supply so this preserve has benefited many. If we could only do this with our wheat and our cattle, our state agriculture economy would be the strongest in the nation and farm subsidies would no longer be needed.

Our hunting preserve has done nothing to harm the environment, has used land with little value and has netted over \$100.00 per acre for the years in operation. So far we have done nothing illegal or immoral.

All farmers and ranchers need a way to add value to our products and our hunting preserve, Killdeer Mountain Outfitters has been a great way to accomplish this. There is a senate bill in front of you right now that will make our operation illegal. I am asking you to kill this bill now and put protections in place for agriculture that would protect us from groups that want to change agriculture into a moral issue.

Morals have nothing to do with raising animals and harvesting them. Placing animals in a preserve where they are given about 20 acres each, fed the best alfalfa during the winter, grazed on belly deep grass in the summer and then harvested for a trophy is very humane treatment.

If a certain group can try to legislate us out of business just because they think we are treating these animals inhumanely what will they do with cattle feedlots, dairy farms, buffalo, pheasants, etc. Pretty soon you wont even be able to butcher a beef on the farm, because you shot it in a pen. Please let common sense rule and kill this bill.

Good Morning,

Chairman Lyson and members of the Senate Natural Resources Committee, thank you for your time. My name is Sally Dvirnak; along with my husband Tim we own and operate an elk ranch and hunting facility in western North Dakota. I am here today to ask you to stop the injustice that is trying to be run through the legislature in SB 2254.

As has been stated here today. This is not an issue of hunting, but one of property rights and freedom. Tim & I started ranching elk as a way to stay on the "family farm". We are proud to be a rural family and landowners in ND. We work very hard to make the best use of the land that we have and to manage it in such a way that provides the income to support our family. SB 2254 will take away that income from us and many others in ND.

This wonderful state that we live in is part of a country that says we are the "Home of the FREE, Land of the BRAVE", and that we have the right to "Pursue Happiness". The FREEDOM to raise elk, and to harvest them in a humane way is part of being in a democratic society. CHOICE. This is our choice and it must be protected. Those who want to take that freedom away need to understand that many men and women have served their country to protect our basic freedoms, and many have died defending the freedom's that we hold so dear.

I am very proud to say that I am a PARENT of a soldier. Our son, SPC. Joshua Dvirnak joined the ND National Guard, on Nov. 30, 2001: after our country was brutally attacked. He was 17 when he joined. He knew full well that he might be sent to war, but he CHOSE to serve his state and country. Josh is a member of the 141st EGCB. He serves with the Valley City unit, and when called to serve, went willingly to Iraq and faithfully served his unit. He is proud to be the son of an elk rancher. He fought to defend the freedom that we have to raise elk.

I respectfully ask you to kill this bill and send a message to our BRAVE MEN & WOMEN in the armed forces that we respect and appreciate their sacrifices and time they have given, and those who have given their lives to protect the freedoms in this country, and state!

Sally Dvirnak
10831 3rd St NW
Killdeer, ND 58640
701-764-5419

January 28, 2007

To Whom It May Concern:

I was DEEPLY disturbed when I heard from Tim and Sally Dvirnak, (who own Killdeer Mountain Outfitters) about a legislation bill that would eliminate ranch hunting in North Dakota.

How undemocratic is that? Do I not have a choice on whether or not I can hunt elk privately, publicly, or on a ranch?

I have a son in the Marine Corps who is looking so forward to a hunt in North Dakota when he comes home in October. For the last 4 years he has been fighting for our freedom and he wouldn't have done it if he hadn't believed in it. How sad would it be if he didn't have the CHOICE to experience a ranch hunt?

I value hunting with my family - a humbling, ethical experience. There are unethical slobs in any sport. I have witnessed it while elk hunting on a wilderness hunt in Idaho, on privately owned land in N.W. Colorado, and a public hunt in S.W. Colorado

In September, 2006, my youngest son and I booked a ranch hunt with the Dvirnak's and were treated like FAMILY. I was even introduced to Tim's mother and father. The hunt was FANTASTIC!! Everything was professionally done and we both harvested a trophy CWD free animal!

Elk ranching is compared to livestock farming in the U.S., which has been done for the past 10,000 years. I hope and pray ranching continues for many, many generations.

By proposing legislation to eliminate ranches would affect not only jobs, but also the economy generated by sportsmen hunting in N. Dakota.

The future of ranch hunting depends on the actions of hunters and non-hunters. What I love about hunting is the beauty of the land, and being in a world in which an animal's knowledge is greater than mine sure will be.

THIS FEELING MAKES ME FEEL ALIVE!

Give me the choice to hunt ranches!! Give me my right as an
AMERICAN to CHOOSE!!

Sincerely,

James B. Shostak, Amherst, Wi.

Craig J. Shostak, USMC, Parris Island, S. Carolina

Brent S. Shostak, Oshkosh, Wi.

Jan 24, 2007

To whom it may concern:

My name is Sam Malicote, I live at 6249 State Road, Somerville, Ohio. I just retired from thirty eight years as an elementary school teacher in Hamilton, Ohio.

I am also an avid hunter, with extensive hunting experience all over the world. I have taken more than two dozen species on two different African safaris to Zimbabwe and South Africa. I have taken mountain lion in Idaho, caribou at the Arctic Circle, a dozen bear with bow & arrow in two different Canadian Provinces and deer in many states.

With all of this hunting, the favorite hunting trip of my life is by far my hunting trip to Killdeer, North Dakota, to hunt elk with Tim and Sally Quirk at Killdeer Mountain Outfitters.

My first hunt with Killdeer Mountain Outfitters was in Sept of 2006. We hunted hard for three days, walking many miles each day. We gave it our best effort but we were still unsuccessful.

I was determined to get an elk, so I came back six weeks later, in November, to hunt for a week. This time the hunt was successful.

Tim and I crawled on our stomachs for fifty yards in the snow in 10° temperatures. We made a great stalk and I harvested a beautiful trophy elk.

The conception that the public may have of elk on an elk ranch with the hunter walking up and shooting a penned up animal is a total misconception. The elk have hundreds of acres of very rugged terrain with very thick and grown up canyons and brushy draws. The elk are very nervous and skittish and they know where and how to hide. It was very difficult to get an elk.

My vacation with Fiddlees Mountain Outfitters was not just a hunting trip, but a complete vacation experience. Tim Swinank took me to visit the Ft. Mandan Historic Site and the Lewis and Clark Interpretive Center. We went rock climbing at the new Community Recreation Center in Dickinson. The Swinanks have just within the past year built a beautiful hunting lodge with a beautiful view for their guests.

Tim and Sally gave one hundred percent effort to insure that I had the hunt and vacation of a lifetime.

I would like to mention the economic benefit to the Killdeer area of just one hunter to an elk ranch like Killdeer Mountain.

The cost of my elk hunt was approximately \$7,000. The taxidermy cost was \$1,000.

Meat processing in Dickinson N. Dakota \$200.00 shipping of meat \$300.00, and several hundred dollars for meals at restaurants, groceries for camp and several tanks of gasoline.

Ohio is known for its whitetail deer hunting. It is one of the top three states for trophy whitetail bucks, yet Ohio still has deer ranches. Ohio is trying desperately to get business, tourism and dollars into our state, not kick them out, as seems to be the case in N. Dakota.

Elk ranches are no different than cattle ranches. Elk ranching is no different than the state fish hatcheries that are operated by the N. Dakota Fish and Wildlife Dept with the express purpose of raising fish to be stocked in lakes to be caught by anglers. Elk ranches are the use of ones land in an honest way to make a living, and it is not the place of state government to make laws regulating the use of ones land.

If for some reason, for the rest of my life, I could only hunt one animal, and I could only hunt it in one place, I would without hesitation choose to hunt only elk and I would hunt them at

the Hilldeer Mountain Ranch of Tim and Sally Svirnak.

Sincerely,
Sam Mulick

Just Some Thoughts

Our legislature is considering many bills in the 2007 session, two of them have caught my eye. One is to make legal, cohabitation, and the other one is to make hunting preserves illegal.

Hey people, is there something wrong when you are trying to pass legislation that makes something legal, that the Bible warns is not a good thing for us to do, while at the same time, the Bible tells us to go out and have dominion over the beasts of the field?

There was a time when hunters argued that hunting with a compound bow was "cheating". Hunters argue about the right or wrong of high power rifles compared to the old black powder rifles, telescopic sights verses the old iron sights. If you want to argue about different hunting equipment go ahead. It makes for good discussion.

You can argue about hunters that hike for 20 miles in one day, or the guy who might hike a half mile and then go back to the pickup and have coffee and take a nap. Is one a hunter and the other is not?

You can pass legislation to make everyone, leave their vehicles at home and hike to the animals, because that is how they did it 250 years ago. You can pass legislation that would make everyone hunt or kill their quarry in the same way.

If someone wants to hunt in a preserve, let them, not everyone wants or can hunt in the same "approved" way as the next guy. Let this be America and let people hunt the way they want. If we stop and think about it, we have a lot of equipment that has taken the "fair chase" out of hunting and maybe that is okay, maybe it isn't. Let me decide, don't do it with the legislature. We have enough laws that really don't make any difference anyway. It is illegal to cross the border from Mexico without proper paper work and it is done everyday by the thousands. All of the laws we can pass will never change it.

The only thing that should shut down a hunting preserve is lack of business. Let the market decide if they should be there or not.

CEDAR RIDGE ELK RANCH

Willard and Barb Swanke

16505 81st SW

Marmarth, ND 58643

701-279-6934

Attachment #11

February 1, 2007

Senator Stanley Lyson and Committee Members;

We strongly oppose Senate Bill 2254 and urge a no- pass vote. The following is a brief overview of our business

We have been in the Elk Farming business for 12 years and hope to continue our business in the future. We have divided our ranch between our 3 children and their families and retained approximately 2000 acres for our selves. This was the only way that we could keep our children in the ranching business and in the State of ND.

We fenced our 2000 acres and obtained a small business loan from the Bank of North Dakota to start our hunting operation. After several years of hard work and slim pickings, our operation has become a success. We have approximately 45 to 50 elk hunts per year.

We do not have any health problems in our elk herd. We buy all of our mature elk from North Dakota elk producers; keeping the income in the State of ND. Most of our hunters are men and women who could not handle a hunt in the mountains for physical reasons. This last year alone we had one hunter in his 90s, one hunter in his 80s and 4 hunters in their 70s plus one hunter who was legally blind and could not see to shake your hand. His father looked over his shoulder through a red dot scope and told him where to aim.

We donated a \$6500 hunt to "Hunt Of A Life Time". An 11-year-old boy with leukemia, from Michigan, came and did the hunt with his grandfather; his father had left the family when the boy became ill. It was, without a doubt one of the greatest feelings that we have ever experienced.

We bring out of state money into our area for local businesses; the butcher shop, restaurants, bars, grocery stores, gas stations, clothing stores and pheasant licenses from Game & Fish, just to name a few.

Help us to retain our freedom to live our lives in ND and to retain our private property rights by voting a no- pass on SB 2254. Thank You.

Respectfully,

Willard and Barb Swanke

Roger Johnson
AGRICULTURE COMMISSIONER

Dr. Susan Keller
STATE VETERINARIAN

Dr. Beth Carlson
DEPUTY STATE VETERINARIAN

Nathan Boehm, Mandan
PRESIDENT
DAIRY CATTLE

Paula Swenson, Walcott
SECRETARY
SHEEP

Dr. Charlie Stoltenow, Fargo
CONSULTING VETERINARIAN



**STATE BOARD OF
ANIMAL HEALTH**
ND Department of Agriculture
600 E. Boulevard Ave. Dept. 602
Bismarck, ND 58505-0020
(701) 328-2655
1-800-242-7535
FAX (701) 328-4567

Dr. Dick Roth, Fargo
VETERINARIAN

Jeff Dahl, Gackle
REGISTERED PUREBRED CATTLE

Francis Maher, Menoken
COMMERCIAL BEEF CATTLE

Ron Fraase, Buffalo
SWINE

Dr. W.P. Tidball, Beach
VETERINARIAN

Dr. Kenneth Throlson, New Rockford
BISON

Shawn Schafer, Turtle Lake
NONTRADITIONAL LIVESTOCK

**Testimony of Beth W. Carlson, DVM
Deputy State Veterinarian
Senate Bill 2254
Senate Natural Resources Committee
Fort Lincoln Room
February 1, 2007**

Chairman Lyson and members of the Natural Resources Committee, I am Deputy State Veterinarian Beth Carlson. I am here today on behalf of the North Dakota Department of Agriculture and the State Board of Animal Health in regard to SB 2254 which will prohibit fee shooting on non-traditional livestock (NTL) and farmed elk facilities. This bill will also change some of the regulations regarding escapes, identification, and fencing. The Board will not take a position on section one, the fee shooting portion of the bill, as that is not a health issue. However, we do have concerns about sections 2 and 3.

The State Board of Animal Health is charged with protecting the health of the domestic animals and non-traditional livestock of the state. One of the major responsibilities of the Board has been to establish and enforce rules regulating the ownership and management of non-traditional livestock and farmed elk. Along with my testimony, I have provided you with copies of the administrative rules which have been adopted to regulate these species. These rules were

developed working with the NTL Advisory Group. A list of the members of this group and the organizations they represent is also included. As you can see, these rules are extensive, and were established with input from multiple sources, including the ND Game and Fish Department, cervid producers, and zoo experts. Because of the way these rules were established, there has been widespread support from those in the industry, and therefore, excellent compliance. The Board is not necessarily opposed to the suggested changes in sections 2 and 3, but rather we are opposed to instituting these changes in statute instead of through rule.

Chairman Lyson and committee members, the State Board of Animal Health and the Department of Agriculture are opposed to sections 2 and 3 of SB 2254. I would be happy to answer any questions you may have.

Roger Johnson
AGRICULTURE COMMISSIONER

Dr. Susan Keller
STATE VETERINARIAN

Dr. Beth Carlson
DEPUTY STATE VETERINARIAN

Nathan Boehm, Mandan
PRESIDENT
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SWINE

Dr. W.P. Tidball, Beach
VETERINARIAN

Dr. Kenneth Throlson, New Rockford
BISON

Shawn Schafer, Turtle Lake
NONTRADITIONAL LIVESTOCK

Dear Producer:

Enclosed are the necessary forms for obtaining a Nontraditional Livestock License (NTL).

Included is an application form, an inventory report from and a copy of the nontraditional livestock rules. The application form is to be filled out completely and submitted with the appropriate fee to the North Dakota State Board of Animal Health. The original inspection is to be done by a local Game & Fish warden or your Veterinarian. New fencing additions to approved premises need to be inspected and approved prior to stocking the new addition with animals.

A manifest/bill of sale is used for the sale and the instate movements of animals. The form number in the upper right corner of the manifest is recorded on the inventory report form and a copy is sent to the Board of Animal Health. If you are planning on selling animals and need forms, contact our office and we send them to you.

If you are applying for a bird license, you will also find enclosed a disposal permit form for birds. The form is used only for bird producers when they sell birds.

We have also included a single copy of the inventory report from. After you NTL License has been approved, this form needs to be submitted by December 31st and filled out appropriately. We suggest you retain a copy of the inventory report for your records. Most of the forms are self explanatory, but please call 328-2654 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth W. Carlson".

Beth W. Carlson, DVM
Deputy State Veterinarian

BWC:tlr

enclosure



NTL REMITTANCE FORM
 NORTH DAKOTA DEPARTMENT OF AGRICULTURE
 NORTH DAKOTA BOARD OF ANIMAL HEALTH
 SFN 53902 (11-03)

License Number

Producer Name	City	State	Zip Code
Mailing Address			

FEES	TOTAL	
	Number of Species X	\$ Amount
\$ 7.00 for each bird species.		\$
\$40.00 maximum fee for bird species.		\$
\$15.00 for other species.		\$
\$100.00 maximum fee for other species.		
\$ 5.00 propagation permit fee for one or more species of birds.		
\$ 5.00 propagation permit fee for one or more species of animals.		
	TOTAL SUBMITTED	\$

List species requesting license for:

Mail this copy, along with payment to:
 Board of Animal Health
 North Dakota Department of Agriculture
 600 E Boulevard Ave, Dept 602
 Bismarck ND 58505-0020

NON-TRADITIONAL LIVESTOCK ANNUAL INVENTORY REPORT
 BOARD OF ANIMAL HEALTH
 SFN 19689 (1-97)

Board of Animal Health
 ND Department of Agriculture
 600 E Boulevard Ave Dept 602
 Bismarck ND 58505-0020

SAMPLE

Please print. This form is to be filled out and mailed in by January 1 of each calendar year.

I certify that the following is a true and correct statement.

Date
 Dec. 18, 2006

Owner/Authorized Agent DOE, JOHN				Non-traditional livestock license # 7777		TB No.	
Address 600 E Boulevard Ave		City Bismarck		State ND	Zip Code 58505-	Phone (701)328-2655	FAX
Owner/Authorized Agent's Signature <i>[Signature]</i>			Number Decreased From Prior Report 4		Number Increased From Prior Report 5		Current Total on Dec. 31 15

Species	Sex	Official ID	Second/Visual ID	Other ID	CWD	Age Year/Born	Animal Source	Code Status	Change Of Owner/Address
ELKNS	F	45APC4125	GREEN 30		2/5/1998	6/7/1993	Natural addition	NAD	CWD - Done 12-1-05
ELKNS	F	45APC4126	GREEN 45		2/5/1998	6/7/1993	Natural addition	NAD	
ELKNS	M F	45APC6600	K88		2/5/1998	8/4/1997	Natural addition	NAD	
ELKNS	M	45APH8791	7 YELLOW		6/5/1999	6/5/1999	Frank, Thomas	KNO	Manifest 3678
ELKNS	M	45APH8792	9 YELLOW	NAEBA Alflex tag 009NDJDR	6/16/1999	6/16/1999	Frank, Thomas	KNO	Manifest 3678
ELKNS	F	45APR3214	PINK 77	Registration Tattoo 77	7/2/2000	7/2/2000	Frank, Thomas	KNO	Manifest 3678
ELKNS	M	45APR3315	9B BLUE 9B BLUE	Tattoo 9B	6/24/2000	6/24/2000	Natural addition	NAD	John Smith P.O. Box 123 Norwich, ND Manifest #6234
ELKNS	F	45AVS1845	ORANGE 2401	Microchip 1789203	6/28/2001	6/28/2001	Natural addition	NAD	
ELKNS	M	45AVS1933	RED 4-11		6/28/2001	6/28/2001	Natural addition	NAD	
ELKNS	M	45AVS1976	ORANGE 1976	Tattoo O1976	4/1/2001	4/1/2001	Natural addition	NAD	
ELKNS	M	45AXW5620	YELLOW 4		2/5/1998	5/10/1994 5-10-1996	Natural addition	NAD	
ELKNS	F	45AZK1299 45AZK1297	YELLOW 22	Microchip 0578346	2/5/1998	6/30/1994	Natural addition	NAD	
ELKNS	M	78FBD9696	RED 4B	Microchip 00639471	7/21/1998	7/21/1998	Out of State-Cervidae	KNO	PersonID 479
ELKNS	F	99TKL0001	24C		7/9/1999	7/9/1999	Out of State-Cervidae	KNO SOL/SLA	BILL GATES P.O. BOX 117 - CWD 8/18/05 Davenport, IA Accession # 19276

*CODE STATUS
 CAP - Captured From Wild
 DIE - Died/Slaughtered

INI - Initial Inventory
 KNO - Acquired Known Source
 NAD - Natural Addition

REL - Released/Escaped
 UNK - Acquired Unknown Source
 SOL - Sold
 SOL/SLA - Sold/Slaughtered Out of State

License will not be renewed until a completed annual inventory report is filed

NON-TRADITIONAL LIVESTOCK ANNUAL INVENTORY REPORT
BOARD OF ANIMAL HEALTH
SFN 19689 (1-97)

Board of Animal Health
 Department of Agriculture
 600 E. Boulevard Ave. Dept. 602
 Bismarck, ND 58505-0020

Sample

Please print. This form is to be filled out and mailed in by January 1 of each calendar year.

I certify that the following is a true and correct statement

Owner/Authorized Agent: DOE, JOHN					Date:	
Address 600 E Boulevard Ave					City Bismarck	State ND
Zip Code 58505-			Phone: (701)328-2655		Non-Traditional Livestock License # 7777	
Owner's/Authorized Agent's Signature:				Total on Last Inventory Report: 0		Current Inventory Total 2-turkey & 8 GEESSE

Species	Date	Animals	Sex	BD/In	Action	Disposition
WILD TURKEY	JAN '06	3	M	2005	PUR	MANIFEST #1234 - MIKE SMITH
WILD TURKEY	NOV '06	1	M	2005	DIE	DIE - BUTCHERED
CANADIAN GEESSE	JAN '06	5	MIX	MIX	PUR	MANIFEST - #9116 - LAUREN SCHULTZ
CANADIAN GEESSE	SEPT '06	3	MIX	MIX	REL	SEC. TOWNSHIP, RANGE, COUNTY
CANADIAN GEESSE	MAY '06	6	MIX	2006	NAD	

Action Codes **** Dispositions - List deaths, locations of releases, complete name addresses of buyers/sellers.**

DIE - Animals Died INI - Initial Inventory NAD - Natural Addition PUR - Purchased REL - Released SOL - Sold

CHAPTER 48-12-01.1
NONTRADITIONAL LIVESTOCK

*See
Administration Code*

Section	
48-12-01.1-01	Definitions
48-12-01.1-02	Categories of Nontraditional Livestock
48-12-01.1-03	Penalties
48-12-01.1-04	Importation Requirements for Category 2 and Category 3 Species
48-12-01.1-05	Importation Permits Required - Denial - Exemption
48-12-01.1-06	Intrastate Movement Requirements
48-12-01.1-07	License Requirements for Category 2 and Category 3 Species
48-12-01.1-08	Chronic Wasting Disease
48-12-01.1-09	Fencing Requirements
48-12-01.1-10	Housing and Handling Facility Requirements
48-12-01.1-11	Escaped Nontraditional Livestock
48-12-01.1-12	Identification Requirements
48-12-01.1-13	Waivers and Exemptions
48-12-01.1-14	Zoos
48-12-01.1-15	Auction Sales

48-12-01.1-01. Definitions. For purposes of this article:

1. "Board" means the state board of animal health.
2. "Confinement" means any structure or other means intended to keep an animal within bounds or restrict its movement.
3. "Domestic animal" means dog, cat, horse, bovine animal, sheep, goat, bison, farmed elk, llama, alpaca, or swine.
4. "Environmentally dangerous animal" means animals that are known to cause exceptionally serious depredation to the environment.
5. "Herd" means any group of livestock maintained on common ground, or two or more groups of livestock under common ownership or supervision that are geographically separated from other herds but can have an interchange or movement without regard to health status, as determined by the state veterinarian.
6. "Hybrid" means an animal produced by interbreeding different species or subspecies.
7. "Importation permit" means authorization obtained from the board for the importation of animals into North Dakota.
8. "Inherently dangerous animal" means any animal that is intrinsically dangerous by nature and poses life-threatening risks.

ARTICLE 48-14

FARMED ELK

*See
Administrative
Code*

Chapter	
48-14-01	Definitions - General Requirements
48-14-02	Importation Requirements
48-14-03	Chronic Wasting Disease

CHAPTER 48-14-01
DEFINITIONS - GENERAL REQUIREMENTS

Section	
48-14-01-01	Definitions
48-14-01-02	Release or Abandonment
48-14-01-03	Escaped Farmed Elk
48-14-01-04	Identification
48-14-01-05	Fencing Requirements
48-14-01-06	Farmed Elk Reporting
48-14-01-07	Farmed Elk Premises Description
48-14-01-08	Holding and Handling Facilities
48-14-01-09	Quarantine Area
48-14-01-10	Welfare of Animals
48-14-01-11	Auction Sales
48-14-01-12	Bill of Sale and Transportation
48-14-01-13	Inspection by Board Personnel
48-14-01-14	Intrastate Movement Restrictions to Protect Genetic Purity

48-14-01-01. Definitions. Unless otherwise defined, or made inappropriate by context, all words used in this article have the meanings given to them under North Dakota Century Code chapter 36-25. For purposes of this article:

1. "Herd" means two or more elk, or a herd of elk commingled with other hoof stock maintained on common ground, or two or more herds of elk and other hoof stock under common ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.
2. "Hybrid" means an animal produced by interbreeding species or subspecies.
3. "Importation permit" means authorization obtained from the board for the movement of animals into the state and within the state if needed.
4. "Person" means any individual, partnership, limited partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

**CHAPTER 48-14-02
IMPORTATION REQUIREMENTS**

Section	
48-14-02-01	Importation Requirements
48-14-02-02	Genetic Purity Requirements for Imported Farmed Elk
48-14-02-03	Farmed Elk From Quarantined Area Prohibited
48-14-02-04	Tuberculosis
48-14-02-05	Brucellosis
48-14-02-06	Paratuberculosis (Johne's Disease)
48-14-02-07	Chronic Wasting Disease

*See
Administration
Code*

48-14-02-01. Importation requirements. Farmed elk may be imported into North Dakota only after the owner of the farmed elk:

1. Obtains an importation permit from the state veterinarian's office;
2. Submits to the state veterinarian's office proof of a physical examination by an accredited veterinarian accompanied by an approved certificate of veterinary inspection. The certificate of veterinary inspection must include the minimum, specific disease test results, vaccinations, and health statements required by this chapter;
3. Submits to the state veterinarian's office the genetic purity test results in compliance with section 48-14-02-02. The genetic purity test results must be included with the certificate of veterinary inspection;
4. Submits to the state veterinarian's office a chronic wasting disease risk assessment form in compliance with section 48-14-02-07, unless the state veterinarian waives such requirement under subsection 2 of section 48-14-02-07; and
5. Completes and submits satisfactory proof of additional disease testing or vaccinations as may be required from the state veterinarian's office if the state veterinarian has reason to believe other diseases, parasites, or other health risks are present.

History: Effective April 1, 2001; amended effective May 1, 2003.

General Authority: NDCC 36-25-02

Law Implemented: NDCC 36-14-04.1, 36-25-02

48-14-02-02. Genetic purity requirements for imported farmed elk. A person may not import farmed elk into zone 1 or zone 2 from points outside North Dakota until such person obtains an importation permit from the state veterinarian's office. Genetic testing for purity is required for all farmed elk before such animals may enter zone 1 or zone 2. A person may not transport, attempt to transport, accept, or receive farmed elk into zone 1 or zone 2 until the

**CHAPTER 48-14-03
CHRONIC WASTING DISEASE**

Section	
48-14-03-01	Mandatory Submission of Brain Tissue
48-14-03-02	Herd Disposition Upon Diagnosis With Chronic Wasting Disease

See Administrative Code

48-14-03-01. Mandatory submission of brain tissue. The owner of any dead farmed elk, including those farmed elk that have died due to accident, natural causes, disease, slaughter, or euthanasia, shall cause the appropriate brain tissue to be submitted to an approved laboratory for chronic wasting disease surveillance as soon as practicable. This requirement applies only to those farmed elk that are twelve months of age or older at the time of death. The animal's owner shall cause the official identification to accompany the sample to the laboratory. The state veterinarian may grant exemptions to this surveillance. A chronic wasting disease diagnosis will be based on postmortem brain testing confirmed by the national veterinary services laboratory.

History: Effective April 1, 2001.
General Authority: NDCC 36-25-02
Law Implemented: NDCC 36-25-02

48-14-03-02. Herd disposition upon diagnosis with chronic wasting disease.

1. A herd containing farmed elk diagnosed with chronic wasting disease, or that has had chronic wasting disease traced back to the herd, shall be quarantined until the herd is depopulated or until a herd plan is established. The preferred method of eradicating chronic wasting disease is depopulation of the affected herd.
2. If depopulation is not practicable, the owner and the state veterinarian shall develop a herd plan according to the following:
 - a. If the herd displays no evidence of disease transmission within the herd as determined by an epidemiological investigation by the state veterinarian or a validated test, the herd plan shall include provisions for:
 - (1) Herd inspection by board agents;
 - (2) Herd inventory with annual verification;
 - (3) Herd surveillance (mandatory death reporting and chronic wasting disease testing for five years from the last case);
 - (4) Separation of high-risk animals (high-risk animals are penmates of an affected animal for one year prior to the



APPLICATION FOR NON-TRADITIONAL LIVESTOCK LICENSE
 NORTH DAKOTA DEPARTMENT OF AGRICULTURE
 BOARD OF ANIMAL HEALTH
 SFN 19686 (09-02)

Name		Telephone Number	
All Owners			
Address (Street or Box Number)		City	State Zip Code
County (Legal description of the property where the birds and/or animals will be kept)		Township	Range Section
Directions from nearest town:			

List the species of non-traditional livestock that you wish to maintain.

LICENSE FEE:

- \$ 7.00 for each bird species
- \$ 40.00 maximum fee for bird species
- \$ 15.00 for each other species
- \$100.00 maximum fee for other species

I have received and read the North Dakota Board of Animal Health Rules Article 48 - Non-Traditional Livestock. Construction of facilities was complete prior to the inspection.

Signature of Applicant
Date of Application

Describe the facilities used for confining the animals and describe the facilities used for testing, quarantining and identifying the animals. Describe and illustrate by drawing (photograph may be attached). Estimate dimensions of holding corrals, working alleys, chutes, pastures, cages or facilities pertaining to this operation. (Please attach drawings.)

All free ranging protected wildlife that would be confined by the facility have been removed.

Owners Signature	Date
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FACILITIES NEED TO BE COMPLETED AND INSPECTED PRIOR TO APPROVAL OF YOUR LICENSE. PLEASE CONTACT THE BOARD OF ANIMAL HEALTH AT 328-2654, HAVE SOMEONE DESIGNATED TO DO THE INSPECTION.

Inspection Completed By (Local Veterinarian, Game Warden or Board of Animal Health Representative)	Date
Recommendations	

APPROVAL FOR NTL PREMISES LICENSE

Director or Authorized Agent	Category	Species	Date
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PERMIT TO PROPAGATE, DOMESTICATE, OR POSSESS PROTECTED BIRDS AND/OR ANIMALS

Director or Authorized Agent	Date
------------------------------	------

Board of Animal Health
 Department of Agriculture
 600 E. Boulevard Ave., 6th Floor
 Bismarck, ND 58505-0020
 (701) 328-2654
 FAX (701) 328-4567

**NONTRADITIONAL LIVESTOCK
ADVISORY COUNCIL**

TO THE BOARD OF ANIMAL HEALTH

Mike Liane (Ext. Service)
5400 74TH Avenue NE
Devils Lake, ND 58301
701-662-1364 office

Loren Kittelson (birds)
8777 39th Street SE
Jamestown, ND 58401-9117
701-252-5306

Terry Lincoln (zoos)
Dakota Zoo
PO Box 711
Bismarck, ND 58502-0711
701-223-7543 office

Julie Goplin (Health Dept)
Health Department
600 E Boulevard Avenue
Bismarck, ND 58505-0200
701-328-4549

Greg Link (Game & Fish)
Game and Fish Department
406 Dakota Avenue
Riverdale, ND 58565
701-328-6331

Gary Geske (dangerous animals)
14271 54th Street SE
Enderlin, ND 58027-9232
701-437-2741

Dr. Beth Carlson (Animal Health)
Deputy State Veterinarian
State Board of Animal Health
ND Department of Agriculture
600 E Boulevard Ave. Dept 602
Bismarck ND 58505-0020
701-328-2653

Dr. Jon VanBerkom (USDA APHIS)
USDA APHIS VS
3509 Miriam Ave Ste. B
Bismarck ND 58501-9935
701-250-4210

Dr. Neil Dyer (Diagnostic Lab)
Veterinary Science Department
NDSU Van Es Hall
PO Box 5406
Fargo ND 58105-5406
701-231-7527

James McAllister (furbearers)
ND Live Stock Producers
2525 126th Avenue SE
Oriska, ND 58063
701-845-3630

VACANT (pet stores)

Shawn Schafer (cervids)
1223 18th Avenue NW
Turtle Lake, ND 58575-9699
701-448-9189

Roger Johnson
AGRICULTURE COMMISSIONER

Dr. Susan Keller
STATE VETERINARIAN

Dr. Beth Carlson
DEPUTY STATE VETERINARIAN

Nathan Boehm, Mandan
PRESIDENT
DAIRY CATTLE

Paula Swenson, Walcott
SECRETARY
SHEEP

Dr. Charlie Stoltenow, Fargo
CONSULTING VETERINARIAN



**STATE BOARD OF
ANIMAL HEALTH**
ND Department of Agriculture
600 E. Boulevard Ave. Dept. 602
Bismarck, ND 58505-0020
(701) 328-2655
1-800-242-7535
FAX (701) 328-4567

Dr. Dick Roth, Fargo
VETERINARIAN

Jeff Dahl, Gackle
REGISTERED PUREBRED CATTLE

Francis Maher, Menoken
COMMERCIAL BEEF CATTLE

Ron Fraase, Buffalo
SWINE

Dr. W.P. Tidball, Beach
VETERINARIAN

Dr. Kenneth Throlson, New Rockford
BISON

Shawn Schafer, Turtle Lake
NONTRADITIONAL LIVESTOCK

State Board of Animal Health Members (NDCC 36-01-01)

Nathan Boehm - Mandan
Dairy Cattle Industry

Paula Swenson - Walcott
Sheep Industry

Dr. Dick Roth - Fargo
Licensed Veterinarian

Dr. W. P. Tidball - Beach
Licensed Veterinarian

Jeff Dahl - Gackle
Registered Purebred Beef Cattle Industry

Francis Maher - Menoken
Commercial Beef Cattle Industry

Ron Fraase - Buffalo
Swine Industry

Dr. Kenneth Throlson - New Rockford
Bison Industry

Shawn Schafer - Turtle Lake
Nontraditional Livestock Industry

The first time I heard of elk ranching was at marketplace, hosted by Kent Conrad. This state and many others were promoting fish farming, raising buffalo, elk, deer, pheasants, and other pursuits. Economic development and diversified ag. I bought my first elk in 1997. The animals have been great; low maintenance and they were built for this climate.

In agriculture at the end of the year there must be a harvest. When buffalo, fish, or whatever obtain a targeted weight, they go to slaughter. This meat market does not yet exist for elk or deer. They cannot go to the nearest livestock ring because they are not permitted to accept them. They cannot be placed live in a stock trailer and hauled by someone who has no permit. They cannot be taken live to the local butcher shop as they are not permitted to accept them. A live elk can only be transferred from one permitted facility to another permitted facility. That is the number one reason elk and deer are harvested on the farm. Someone once asked me, "Can't you build a building like the meat packers, run the elk or deer inside and slaughter them where no one can see?"

A meat market does exist on the east and west coasts. That is why Ted Turner built his restaurants there and not in the Midwest. We live in the middle of beef, pork, and poultry country. These products are plentiful, cheap, and they taste good. Is elk meat better than or as good as beef. NO.

Last summer the North Dakota Chapter of Wildlife Federation called a meeting to be held at a neutral location in Bismarck. We were going to be in Bismarck anyway, so the night before I called Mike Donahue, a former president, and asked if this was a public meeting and could I attend. He said yes. This promised to be a big event. The article in my local paper said representatives from ND Wildlife Federation, Rocky Mountain Elk Foundation, Mule Deer Foundation, National Turkey Federation, United Sportsman of ND, The ND Wildlife Society, clubs from Barnes and Cass counties, and ND Bowhunters Association were going to be there. Director Shawn McKenna said other individuals, clubs, and organizations were also invited to attend. The topics: High fence hunting, the ever increasing elk population in the Roosevelt Park, the federal farm bill, and CRP. McKenna

says we are just trying to get together to work towards a common goal. The effort is gaining interest.

When a friend, my daughter, and I arrived at the meeting, there were only twelve men, JUST TWELVE. When the meeting started they were talking about planting stories in the media; anything with a negative connotation against game farms. Keep this issue in front of the people. They went on and on about the best methods to torpedo the elk, deer, and pheasant industries.

Then a Bismarck man who said he represented the Rocky Mountain Elk Foundation, whom I do not believe had the authority to speak in their behalf, stood up and said, "STOP THE MEETING. We are saying way too much in front of these people. How do we know they are not reporters and are going to go back and report everything they have heard here? They could be from the Guides and Outfitters Association and are going to report back to them everything they have seen? He said, "I think we need to throw them out!" I said, "How can you throw us out of a public meeting?" He became excited, yelling, "These people represent someone, they are from the enemy camp." He was marching back and forth waving his arms over his head, yelling, "I want a vote and I vote we throw these people out." The director said, "No one comes to these things, what are you doing here?" We then left.

They were acting paranoid like they were doing something they ought not be doing. I have many friends who belong to some of these conservation groups. They have told these guys repeatedly that they do not support this and it will only serve to drive a further wedge between the landowners and sportsman. These TWELVE men are a very organized group. They pretend they are speaking for a large majority.

Under this bill a landowner would not have to forfeit to the government any land, fence, handling facility, live elk, deer, or his permit to own them. But if elk and deer growers will not willingly give up their right to dispose of them as they see fit, then this bill would take away the option of harvesting an elk or deer inside a fenced enclosure for a fee and make it a misdemeanor for any producer caught selling, in this fashion, their own real property. Essentially,

taking away their ability to market their product.

If you truly own your property, you have the right to dispose of it any way you wish. You can sell it, give it away, or direct who will receive it when you die. This control is the essence of property rights. If you cannot control what happens to your property then you really do not own it. If you cannot buy, sell, trade, occupy, graze or mine your land then what economic value would it have? None. It is the options that have economic value. Therefore it is the options, not physical things, which are the property. What this bill would mean to the elk and deer producers is ECONOMIC EUTHENASIA.

CHAIRMAN LYSON, MEMBERS OF THE NATURAL RESOURCE COMMITTEE:

My name is Oren Krapp of Pingree, ND. I operate a bison hunting operation near Pingree. I am asking you to recommend a DO NOT PASS on Senate Bill 2254.

On the surface it may seem to seek only to bar "high fence" hunting by putting elk and deer ranches out of business, but the gist of Senate Bill 2254 is still another attempt at keeping nonresident hunters out of North Dakota.

As written now, the bill prohibits owners of nontraditional livestock operations from allowing fee shooting. Proponents say the reason they are out to ban preserve hunting is threefold: disease, genetics and ethics. However, the first two of these arguments are easily debated by a few facts: 1) The domestic herds of elk and deer in North Dakota are free of the main disease in question--chronic wasting disease (CWD)—and have been for years. The present system of regulation by the North Dakota Game and Fish is working very proficiently. The North Dakota State Veterinarian agrees with this. The threat of CWD is not irrelevant, however, CWD is more likely to be brought into the state through the wild herds because farm-raised animals are tested regularly for CWD. Wild animals are not. Tight regulation and monitoring—not banning an entire segment of industry—is the answer.

2) Genetics inside the fences of game preserves are the same, if not better, than outside the fence. Farm-raised animals are tested for genetic purity, only a small percentage of wild animals are. States may regulate and monitor the genetic purity of any non-traditional livestock brought into the state for the purpose of non-traditional farming and preserve hunting. Again, tight regulation and monitoring—not banning of an entire segment of industry—is the answer.

As for the third reason that proponents want hunting preserves banned--ethics: this one is based on emotion. And proponents of this bill are no stranger to pushing their legislative agendas purely on emotion! But here, they have taken a new road, making a pact with a curious partner: animal rights activists.

It is almost hard to tell the proponents of this bill from members of PETA. They talk about "Bambi in a barrel," bringing up issues of animal cruelty. The pot calling the kettle black? What about all the animals that are wounded by hunters in the wild---as the result of "fair chase"-- that never see a clean and humane death? Have you ever encountered a wounded and limping Bambi in the wild? If you live in North Dakota, you most likely have, and chances are she is the victim of a hunter's errant shot. So, should we just ban hunting in North Dakota, period? After all, what is ethical? Isn't a harvested animal, whether on a preserve or in the wild, just as dead? What about all the man-made gadgets that give hunters a "one-up" on animals? Does an animal in the wild—when you think of North Dakota's

flat, treeless plains where you can see for miles—even stand a chance against some of the over equipped hunters that Cabela's turns out these days? Isn't all hunting mindless cruelty to animals? Whose ethics should we choose, yours or mine?

The ethics debate can be an endless one. A main theme proponents advance is that clients of hunting preserves are not "real hunters" and thus are giving the public a negative perception of hunting. But we all know the public gleans its perception of hunting far more readily from how hunters conduct themselves in public settings than they do about what happens on private hunting preserves. The public's negative perception of hunting is much more likely to come from hunters who trespass, drink alcohol while hunting, poach, bait or display other bad behaviors. If a hunter—whether he is a client of a hunting preserve or hunting in the wild—breaks the law, he needs to be reined in. Again, regulation and monitoring is the answer, and our North Dakota Game and Fish is doing a very proficient job of this.

As an owner of a bison hunting operation, I have guided dozens and dozens of clients over the past years that have come and hunted the bison that I have produced on my ranch. The people I have met are some of the best I have met anywhere and they certainly don't fit the profile cast on them by some proponents of this bill. They are honest, decent hard-working, law-abiding people here mainly to bond with their fellow hunters, and I think that's what most people in this debate forget. Going on a hunting trip is mostly about getting away, about bonding with your buddies, about experiencing another part of the country. Much of the time, the game they hunt becomes almost secondary to the experiences and memories they are creating and the acquaintances they are making on their trips. The hunters that have visited my ranch typically have never visited North Dakota before they came for their bison hunt and they go away with a piece of its history, culture and flavor when they leave. And they have a great bundle of meat with them, to boot!

They come with bows and arrows, with muzzle loaders, with black powder, with guns, even with long bow. Try telling one of my hunters, after he has stalked a bison with a long bow in -60 degree wind chill all day in my 1200-acre pasture, if he feels like an unscrupulous murderer! If my guests want to come and experience something besides asphalt and concrete and traffic, who should tell me I can't allow them to harvest the animals I have raised myself this way?

Regarding the humane issue, I cannot even fathom a more decent way to harvest my bison. Make no mistake, they are produced for their meat, just like the thousands of cattle in this state. But their harvest is performed in their natural setting, and we've never wounded an animal and then left him to go off and die an agonizing death. We don't have to rile them up to get them into a chute and we don't have to prolong their agony by hauling them in a trailer. They are treated just as humanely as I can treat them as a producer or I wouldn't be in this business.

One hundred percent of my guests are non-resident hunters. I think that is what the "beef" is about in this debate. This legislation is just another way to keep nonresidents from coming to North Dakota. Let's be direct—some people are worried that while they are here, these hunters may shoot a duck or two. And thus, this legislation.

For years, the state of North Dakota encouraged the development of hunting lodges and bed and breakfasts as "value-added" economic development in the state. The NDSU Extension Service and MarketPlace held seminars on how to open businesses such as hunting lodges, and MarketPlace even held a seminar "Market Buffalo Hunts on E-Bay." AgPace provided funding for some of these operations in the form of grants and loans. They did all of this—and much more—with state funds. And now, the state is asked to actually sponsor the destruction of businesses it advocated?

Right now, of course, bison hunting would not be banned in this particular legislation, because bison are classified as a domestic animal. But we've been through a lot of legislative issues in this state and I have a hard time believing that the proponents of SB 2254 will not find a way to maneuver it so that any type of high fence hunting is banned. There is talk that pheasants are included in this bill, and I wouldn't be surprised, by the time it's over, that bison will be on the list as well.

Please recommend a **DO NOT PASS ON THIS PIECE OF LEGISLATION.**

February 1, 2007

Testimony in opposition to Senate Bill 2254

Good Morning. My name is Terry O'Clair. My wife and I own a small farm in Renville County. The farm was homesteaded by my Grandfather in 1902 and my parents purchased it from him during the Great Depression. My wife and I purchased the farm from my mother in 1990.

Although I do not live on the farm, I recognize how difficult it is to make a living by farming in Western North Dakota. The prices for farm commodities are down and recent droughts have had a negative impact on crop yields. Many farm operations have found it necessary to consider alternative operations to generate cash flow. I am one of them.

In 1997 we renovated the old farm house and converted it to a Bed and Breakfast. Although this does not generate a lot of income, it certainly helps to keep the house functional, the taxes paid and helps make the loan payments. Although most of the clients at our Bed and Breakfast are waterfowl hunters, we have also hosted a number of clients that have come to the area to harvest elk at a nearby elk farm.

Although the sports ethics issue has been inserted into this controversy, the real issue is that this bill dictates how a private landowner must use his land. The bill threatens the livelihood of producers that have made substantial investments. The bill also has detrimental impacts on operations such as my own.

I would ask members of this committee to vote against this bill. Thank you for your consideration. I would be happy to respond to any questions.

Chairman Senator Lyson, Vice Chairman Senator Tollefson, and *Emil Mauer*
Members of the Senate Natural Resources Committee: *Pres of ND Elk Ranch*

I would like you to vote **NO** on Senate Bill 2254 for several reasons. First, I will give you some history on our elk ranch.

My wife, Shari and I, together with our 2 sons and 1 daughter, own and operate a farm and ranch in NW North Dakota. We raise mostly certified seed, and run between 500 /600 head of elk, also whitetail, fallow, mule deer & buffalo. All of our elk are family-owned, (like- yours, mine, & ours!). My wife keeps the books, along with keeping the elk and deer inventories and CWD forms, along with many other things.

Our oldest son, Tim, took over my interest in an aerial crop spraying business, which a partner and I started when I was 20 years old, and I aerial sprayed for 32 years. Tim also farms, and is active in elk and deer ranching, and helps operate SWR Biggame Hunts, which hunt elk, buffalo, whitetail deer, fallow deer, and mule deer when available. Along with our high fence hunting, we have fair chase non-guided white-tail bow hunts on our ranch.

Our second son, Tom, is part owner of MW Industries, which builds oil field equipment, even drilling and work over rigs, along with Eagle Operating. He also helps at the elk ranch, when he can, & helps with SWR Biggame Hunts.

Our daughter, Tonya, is a Lab Tech, at the Kenmare Community Hospital, and is a part-time secretary for MW Industries. She also helps with the elk on the ranch.

Our ranch got their first elk in 1988. The reason - the crop was short & we couldn't afford to go hunting in Montana for elk. We liked the meat, and I heard that Roy Stevens from Glenburn had elk, so I visited with him about this. He sold me 2 old cows & 2 bull calves, which we thought we could raise for our own elk meat. Later, I bought 2 old cows from the Theodore Roosevelt Foundation at Medora. In having these animals around, we found out how hardy, healthy & efficient elk are. You can feed about 3 to 4 elk cows on what 1 beef cow eats.

Around 1991, the Legislature of ND added elk to the Ag Pace program for non-traditional livestock. We took advantage of this program & purchased 10 bred elk cows for \$60,000.00. These cows were old, but had great genetics for size & antler growth. Later, my sons & I formed Monarch Hills LLP, and took a loan through PCA and the Bank of ND through the Ag Pace program

and bought more elk.

First, we put the perimeter fence up on our 1200 acres. Then, through the USDA Soil Conservation Service - we got financial cost-share help putting in cross-fence, water lines, & grass-seeding of our agriculture land. After the handling facilities and fencing was done, we had in excess of \$300,000.00 of our own money invested.

Later, we asked the legislation in HB1337, to take elk from non-traditional livestock and put them in domestic livestock. It passed the House and Senate with no problems. The reason for this was, to be like other livestock and be eligible for some ag programs.

The issue of high fence hunts:

High fence hunting is one of our main marketing tools & by banning it would be financially devastating to our farm & ranch. This also puts in excess of \$100,000.00 a year of out of state money in ND - our local economy!

The people that come to SWR Biggame Hunts are some of the best people we have met anywhere. They are treated with the utmost respect from our sons & also the people who do the processing of "our" animals that have been harvested. Our success as a hunting outfit is 100% proof of our satisfied customers. This is also a land right issue - If you don't like high fence hunting, you don't have to come or even drive by our ranch. This is our property and we pay tax on it, and take care of it, so I don't think we need someone who's a stone-throw from animal rights activists, and obviously doesn't understand ownership rights, to dictate what we can or cannot do with our own animals on our own land.

The issue of 7' to 8':

8' is the regulation for deer fence, and 7' for elk.

In the past 18 years, we found 7' fence for elk plenty adequate. I don't think they can jump any higher than they could 18 years ago. I also, don't think there was a survey on that.

The issue of recapture & eartags:

The Board of Animal Health, (according to my knowledge) is satisfied with the present regulations, and if there needs to be any changes made, we can work with the BOAH on these issues. It does not have to go through legislation.

I feel that with all the help the state of ND & Legislature has given to the family farms and ranches, to promote alternative agriculture, and to keep our children in ND, and close to the farm, if not on them, it would be a slap in the face to vote for Senate Bill 2254. Thank you! Ernie Mau

Testimony against SB 2254

Mr. Chairman and members of the Senate Natural Resources committee my name is Jeff Nelson and I am from Hillsboro. I oppose this proposed legislation and I would like to explain why.

I would like to point out that this business brings in a tremendous amount of revenue to ranch owners and state of ND businesses. This is to include wages paid to owners, employees and other related businesses, locker plants, taxidermists, restaurants, gas stations, and motels to mention some. As has been the goal of the State of ND, Economic Development groups, and many cities to entice workers, and Businesses to locate and or relocate in ND, What kind of message would the State of ND send to people considering coming here to work or thinking about starting or relocating a business to ND, if legislation is passed to regulate out a very profitable business on some peoples claim of unethical. If I was looking to relocate a business to ND under those circumstances I would first have to ask myself, how long until the State of ND would regulate me out of a job or regulate out my business.

The next issue I would like to state is the Sate of North Dakota has provided low interest monies for some of these Elk Ranches to start up. This should be considered to show that this has been considered a viable business in the State. To stop this now would be bad a very bad business decision for the tax payers of North Dakota who get tax monies spent by the owners, employees, and hunting participants at these ranches.

I am a 3 time repeat customer on an Elk Ranch in ND. Hunting on an Elk Ranch is voluntary and I have no problem with the Fees or hunt I received any of the 3 times I have been to them. My only statement to ethics is if I am OK with writing a check and paying for the hunt the ethics issue should be my choice not someone else's.

Next I would like to inform you that our local Volunteer Fire and Rescue dept was given a cow elk hunt from a ND Elk Ranch as a donation to sell and raise money for our dept. We made over \$1500.00 on this hunt sale. Our department is very happy and voted to sell tickets for a bull elk hunt this year and project making about \$1700.00 from this. This bill would stop a very good fund raising event for us.

The last issue on diseases, our State Veterinarian Office has said they have no positive tests of CWD. With this office over seeing this business and stating they have very tough controls, isn't this an indication the State of North Dakota is proactive to Elk in the State. I would also point out that by stopping this bill you are reaffirming the good job our State Veterinarian Office is doing to protect our State and wildlife.



**Trail County Economic Development Commission
330 3rd St NE # 1856, Mayville, ND 58257**

North Dakota Legislators
Bismarck, ND
Jan 26, 2007

Legislators,

This letter is to address SB 2254. The Trail County Economic Development Commission (TCEDC) is writing to you in opposition to this bill.

The raising and hunting of Elk in North Dakota is a well established and profitable business for our state bringing in many outside dollars. Whether the meat is just slandered and packaged or it is harvested on a game farm, the results are the same. There are many people that hunt this game on a game farm that would be unable to hunt it any other way for health and disability reasons.

Trail County is home to an Elk farm. Some of their animals are used for hunting on game farms and many are just used for meat. Hunting of some of the more desirable animals is just another way to improve the grower's profits, like selling better quality beef, poultry or grain at a higher price.

The TCEDC has in the past has been a sponsor on an APUC grant to help develop a hunting lodge in the Pembina Hills, which is used to hunt Elk and other animals on its grounds. The APUC grant was successful and the ranch was built. It just seems to go against everything the ranchers and guides have been working for to outlaw their business now.

I understand that there is a concern for the spread of disease by the importation of animals from other areas, but we do the same thing with other cattle and poultry. We feel regulations to guard against the spread of disease is a better way to handle this issue than the outright ban on existing businesses. We should be trying to promote business in North Dakota, not legislate it to death.

Rick Forsgren, Executive Director
Trail County Economic Development Commission
330 3rd St. NE # 1856
Mayville, ND 58257
701-788-4746
tcedc@polarcomm.com

January 29, 2006

Hillsboro Fire Department

First of all I would like to thank you for the volunteer effort you put forth for the community of Hillsboro. I was a fireman in Wilton for 10 years and am quite aware of the time and commitment it takes to be a great fireman.

The day of your raffle drawing was also supposed to be the first day of a five day guided hunt for my dad and me in Montana. I was not able to go because my father lost his life in a car accident in June and the trip would not have been quite as much fun without him. So you can imagine the feelings I had that night when I found out from my long time friend, Mark McLean, that I had won the cow elk hunt with Tim Mau of SilverWing Ranch. Due to my work schedule I was not able to take advantage of the hunt until December 26, 2005. As you can see from the enclosed pictures the day was a warm day, 50 degrees, and a successful day.

I grew up in Larimore and spent many, many hours hunting geese, whitetail deer, mule deer, pheasants, grouse, and partridge in North Dakota. So believe me when I say I didn't think that hunting a high fence elk would be much of a challenge and I was not expecting much more than an easy shoot. I will be the first to admit how wrong I was. The owner, Tim, was a very helpful guide and was willing to help me try and harvest the cow with a bow and arrow. Since it was very late in the season and the trees were bare there would be no way to spot and stalk a cow.

We started hunting at about 9:00 am. The plan for the hunt would be that Tim and my friend Perry, who came up from Bismarck, would try to move around the elk and work them in my direction. I will say that moving elk in a certain direction is more difficult than moving the orneriest beef cow in a pasture. On almost every try, the elk would come by no closer than about 50 yards and they would be on the move. Although, on one occasion I was sitting at the bottom of a coulee expecting the elk to through and of course that did not happen. The elk, six bulls and two cows, decided they liked the top of the coulee better. They stopped within 15 yards of me as I laid flat against the side of the hill, looked in my direction but never really saw me, but never gave me a chance to draw bow for a shot at a cow.

After several drives, lunch, and several more drives with no luck I decided that Tim and Perry had probably had enough and had worn themselves out. So I set down the bow and took out my rifle. On the first drive a cow came by on a dead run and the first chance I had at taking a shot at her, she was about 380 yards away when she topped out and stopped on the flat. At that time Tim, Perry, and I settled on a plan to get closer to the elk and we were able to get within about 200 yards of them and I was then able to harvest my cow.

My host, Tim, was extremely nice and helpful. He worked hard at providing a hunt that was enjoyable and gave the elk the respect it deserves during the hunt and at the time of the harvest. Needless to say, if all high fence hunting is like this, I am now a convert. I would certainly recommend to anyone interested that they should take advantage of the quality operation and animals that SilverWing Ranch provides during their hunts. There is no doubt that I will probably take advantage of Tim's operation in future years, especially in the early season for bow hunting elk. I am also considering a future buffalo hunt with my bow during the winter.

Again thank you for this elk hunt opportunity, it could not have come at a better time.

Sincerely

Jim Muckenhirn
Lake City, Minnesota.

Chairman Senator Lyson, Vice Chairman Senator Tollefson and Members of the Senate Natural Resource Committee:

I would like you to vote NO on Senate Bill 2254 for several reasons.

Hello, my name is Tom Mau. I am a partner of SWR Big Game Hunts and Silverwing Elk Ranch, along with my parents, Ernie and Shari Mau, brother Tim and sister Tonya in Tolley, ND. We have been involved in the elk ranching industry since 1988. The elk and deer ranching and hunting aspects of the business have been very rewarding to our family and to the community.

The interest of elk ranching and hunting was the most important reason for me to stay in North Dakota after high school. The most persuasive reason for this was low interest rates through PACE program, state backing of a new industry and an opportunity to make a decent living in North Dakota where I wanted to live close to the family ranch.

I would like to touch base more on the hunting issues. We hunt elk, buffalo, whitetail, mule deer and fallow deer on our ranch. We have a large, high-fenced acreage that has deep drainages and rich cover for the animals and hunting. The area can be very difficult to hunt when using a spot and stalk type of hunt.

We cater to all types of hunting clients, from persons with disabilities to avid archery hunters. Our hunting clients come from all walks of life and are all very dedicated sportsmen. I have had the opportunity and privilege to meet and guide many high-quality, honest people that would have taken their business to other states had SWR Big Game Hunts not existed – Thus resulting in loss of revenue to the state and surrounding towns of Minot, Kenmare, Tolley, Mohall, etc.

The hunt that SWR Big Game Hunts provides is a very challenging and rewarding experience. Anyone who has never experienced this should have **NO RIGHT** to bash it.

The ethics of High-fence hunting versus fair chase hunts:

First of all, I don't know how someone could say that what we do is unethical. We use the spot and stalk method or hunting blinds to hunt from. As guides - including myself, my brother and a couple of friends - use our morals when guiding clients. We instruct clients and advise against taking running or uncertain shots. This allows for a one shot and kill method 99% of the time with no suffering of the animal. The fact is that I have yet to have a client wound or take a shot at an animal and chase it for days or not be able to find it. That is far more than I can say about some so-called ethical methods I have seen many "fair chase" hunters use.

We do approximately 50 to 60 hunts per year with hunters from all over the US, as well as Africa, Australia, and Norway. As a guide, I have had the opportunity to take youth hunters – young men and women hunting big game for the first time along with many professional hunters seeking a life-long dream. Two of the clients that I have taken include a Quadriplegic, and a Paraplegic. Both hunts were some of the most rewarding experiences that I have been involved with. It took us a great while and a lot of patience, but both clients harvested nice bull elk and you should have seen how happy they were. Without facilities such as ours, you tell me – Could these dreams have ever come true?

No matter what walk of life our clients come from, they have been happy with our hunt ranch and visit to North Dakota. We have also had the opportunity to meet many good people we are now proud to call FRIENDS.

My point is – I don't agree with anyone or any group of people that are right next to animal right's activists, telling our industry, my family and myself that we cannot propagate and hunt animals behind high-fence on our own property that we pay taxes on.

We are bringing in clients that are good people with good hunting ethics to hunt, tour and enjoy the "Spirit of North Dakota". **My final say is, "It is OUR RIGHT to propagate elk, deer and bison and to hunt on our own land". I respectfully disagree with Senator Mathern from Fargo, the sportsmen's groups and sponsors who support SB 2254 to ban hunting and game ranching in this state".**

Vance Tomlinson

Attachment #19

From: "Vance Tomlinson" <vtomlinson@state.nd.us>
To: <jbakke@nd.gov>
Sent: Tuesday, January 30, 2007 1:24 PM
Subject: Fw: sb2254

----- Original Message -----

From: Vance Tomlinson
To: lrobinson@nd.gov
Sent: Tuesday, January 30, 2007 12:00 PM
Subject: sb2254

Sen. Robinson, My name is Vance Tomlinson from Max, ND. I am also a deer rancher. I would appreciate a 'DO NOT PASS VOTE' on SB 2254. If this bill passes it would absolutely devastate me financially. I raise deer because I am very passionate about the species and I am trying to better my families quality of life. My oldest son is trying to save money for college and would like to stay in ND and raise a family, but every time we try to do something, special interest groups are trying to make us out to be criminals. We do surveillance for diseases, keep our gates locked, and NO, we do not tie our deer to a tree or fence post and shoot them. The only place I have seen a deer chased unfairly is during the ND gun season. Twenty hunters surrounding a slough in blaze orange and shooting every living thing that comes out the other end. Or flying down a section line in 4X4 trying to cut off a big buck that is trying to out run you. Maybe we shoot outlaw hunting all together because some people do not play by the rules. I have seen deer after gun season with blown off front and back legs, antlers shot off, gut shot, and you name it. These wounded animals dont have a chance to survive the winter. This would NEVER happen in a high fence situation. All wounded animals are recovered and harvested as soon as possible. Most high fence hunts take place from a ground blind or a tree stand where you know the distance and can take a good shot such as broadside to make a good clean kill, not a running shot, or shoot and pray shot at a deer 1/2 mile away. Deer are not chased unfairly. Many hunting ranches have handicapped accessible blinds and stands for physically and mentally challenged hunters. There are also organizations such as the "Catch-a-Dream Foundation" and "Hunts Of Hopes and Dreams, a non-profit organization founded for sick and disabled children and adults who go thru hunting to preserved to help these people realize their dreams of going on the hunt of lifetime. And unfortunately, this is the last hunt many of these children will ever go on. These organizations were founded in part because the well known " Make-A-Wish Foundation no longer grants hunts because they caved in to pressure from animal rights groups. If we outlaw high fenced hunting, many of these terminally ill and handicapped people will not get a opportunity to hunt, just because a few people in the minority think it is wrong for whatever reason.

The last time I checked, I still live in America, AKA the land of the free. Free to make decisions about what is ethic and what is not without somebody telling me or making me out to be a common criminal such as a drug dealer or a prostitute. In this day and age with the war on terrorism, and the war in Iraq, and everything else going on in this world, you law makers have bigger fish to fry than to make it illegal to hunt in an enclosure.

Thank You,

Sincerely,

Vance Tomlinson

P.S. Please pass this on to any other of your constituents that may want to pass this bill. Please vote NO!

2/1/2007

Chairman Senator Lyson, Vice Chairman Senator Tollefson and Members of the Senate Natural Resource Committee:

I am asking you to vote NO on Senate Bill 2254 for the following reasons:

During the past year I have managed the South of the Border Restaurant & Sports bar and had the opportunity to work with the owners of SWR Big Game Hunts. During the course of the past year we have worked together as a team and helped Kenmare and surrounding communities benefit from the hunt ranch. This prospering business has brought people from all over the United States to enjoy the scenery of this beautiful community. Most clients that had the wonderful experience with the owners of SWR Big Game Hunts this year have already scheduled for next year and through their word of mouth will bring many more client's to this community in turn will help all of Kenmare and the surrounding communities.

My primary concern is if this bill goes through it will stop all those individuals visiting Kenmare and the surrounding areas decreasing the revenue for the smaller communities whom so desperately need it. We are always trying to promote visiting North Dakota, by taking this industry away takes away another reason to visit North Dakota and will send them to other states or countries where this industry is supported.

This industry is supported all over the world and these ranch owners are not forcing hunters to hunt this way it is simply giving them another option of hunting.

Please Vote NO on Senate Bill 2254 and keep people visiting the great state of North Dakota!

Laurie Linnertz - Manager
South of the Border

Attachment #21

January 4, 2007

The Honorable North Dakota State Legislature
Bismarck, North Dakota

Dear Legislator,

My name is Jim Posewitz and following a 32 year career with the Montana Department of Fish, Wildlife and Parks I now serve as executive director of Orion the Hunters' Institute. Founded in 1993, Orion the Hunters' Institute is a hunting advocacy organization focused on hunter ethics and the conservation heritage of hunters. I respectfully offer my opinion to the legislative body representing the state that played such a vital role in the genesis of wildlife conservation in America. Wildlife conservation, and the sporting code at its core, were born in North Dakota and have been honorably sustained in your state since the late 19th Century.

I respectfully ask that you favorably consider and pass legislation seeking modification of the North Dakota Century Code that would prohibit the fee shooting of nontraditional livestock.

Game animals, managed as a public-trust by the State of North Dakota, have considerable social and cultural value. Their value comes from the fact that they are wild animals, rescued from the brink of extinction, and restored to a wonderful abundance as a public resource. Their value is enhanced by the fact that for more than a century the taking of these animals represented gaining honor through effort. These values are both diminished and taken where fee shooting of captive animals is allowed.

Killing wildlife for their commercial value nearly destroyed the abundance of wildlife Lewis and Clark marveled at when they passed through North Dakota two centuries ago. Half way between Lewis and Clark and today President Theodore Roosevelt embedded a conservation ethic in our culture that halted the commercial slaughter and began the restoration. TR's vision was molded by his experiences on the North Dakota landscape. The land spoke to Roosevelt and your state has been successfully preserving his legacy of place and the philosophy born of that place. Keeping the 'wild' in wildlife will be consistent with Theodore Roosevelt's values and North Dakota's dedication to their preservation.

I conclude my petition that the 60th Legislative Assembly of North Dakota ban the shooting of captive nontraditional livestock with TR's message to us that crosses the century that divides us with remarkable clarity.

THEODORE ROOSEVELT'S
PRINCIPLES OF THE HUNT

"...preserve large tracts of wilderness ... and game ... for all lovers of nature, and... for the exercise of the skill of the hunter, whether he is or is not a man of means.

...the conservation of wildlife, and ... all are natural resources, are essentially democratic in spirit, purpose and method.

... the genuine sportsman ... is by all odds the most important factor in keeping ... wild creatures from total extermination.

... the rich ... who are content to buy what they have not the skill to get by their own exertions – these are ...the real enemies of game.

When hunting him (wapiti) ...He must be followed on foot, and the man who follows him must be sound in limb and wind.

...skill and patience, and the capacity to endure fatigue and exposure, must be shown by the successful hunter.

I wish to preach, not the doctrine of ignoble ease, but the doctrine of the strenuous life..."

These principles gave wildlife and hunting the value now being taken, sold, and ultimately diminished in captive shooting pens. I close with one final Roosevelt writing that clearly anticipated this day.

"I should much regret to see grow up in this country a system of large private game preserves kept for the enjoyment of the very rich. One of the chief attractions of the life of the wilderness is its rugged and stalwart democracy. There every man stands for what he actually is and can show himself to be."

Thank you for considering this testimony.

Sincerely,

Jim Posewitz

Senate bill 2254:

My comments to this bill:

I am a loan officer at a bank and did lend funds to an individual to start up an Elk herd. Income to retire this note did come from the selling of horns and the sale of Elk. Plans were in place to also expand this herd. It has gone well for this producer, the herd has expanded and the note has been paid in full.

An unexpected source of income came to him when people requested permission to harvest an animal and use the meat for their consumption. In fact a local group did purchase the right to harvest a cow and did raise monies by a raffle of this permit. The winner did request my help in harvesting this animal and with help afterwards. We went there. The animal was shot at about 50 yards and the balance of work was completed.

Now I understand some people want this to stop and I do not understand why.

These animals are owned by the individual like any other livestock. They are well cared for and I do not see why part of his livelihood will be taken away from him.

When I was young and on the farm we did the same. I would go out to the barn with my father. The animal was shot and brought to the house to be cut, wrap and placed in the freezer. It was a part of life and was how we survived. I held the chickens while my mother chopped their heads off. Did not like doing this but again it was a part of life.

Maybe people consider an Elk different than a cow or pig or whatever. At one time they were all wildlife but now are not. I can understand people today looking at the Elk as a majestic animal which it is. But in some cases it's a domestic animal just like other livestock.

It would make more sense to me to band the ability to own what someone considers wildlife before we restrict the harvest of them. But we have not and it is legal to own and raise Elk. But someone has a personal agenda and is looking to you to further his/her personal agenda. He/she has probably never experience how meat finds its way to the store. I personally would have no interest in harvesting an Elk this way. If its meat I want I would shoot the steer. Horns I will get by going into the wild. But what happens here is no different that what happens to the steer I or you eat. No different than as a young boy when my father told me it was my turn to go to the barn, kill the animal, skin it, gut it and bring it to the house were my mother will butcher it with my help. Dad apparently had other things to do. For the most part those days are long gone. And I can understand someone thinking we should not allow an animal to be put in a pen and shot and for that person to brag about his kill. I do not care for that either. But we are humans who kill and eat meat. It is legal to own an Elk just like a beef cow. It is legal to kill an Elk or beef cow and then eat it. It is legal for me to sell that cow and let someone else kill it and eat it. So be it for other sources of meat. If it's a problem past a law against owning animals.

Or a better thought I had is to restrict those who do not own the animal they are charging a fee to kill. Like charging a person to hunt on ones land to kill say a pheasant or deer that the only part he/she had in it was providing habitat or feed. The Elk is legally owned by the person charging those to kill it. Why is a big game animal different than a pheasant? I do assume you will have a number of private preserves that will be shut down. I can see restricting a fee to kill an animal that is wild and not owned by anyone. The Elk is owned by someone and is not wild anymore. I feel this rule would have a better chance of creating less conflict and is probably more in tune with what some want. But for the most part stay out of private ownership. Thank you for your time.

Dennis Berg
Rd 1A NP

Cass County
WILDLIFE CLUB

Box 336
Casselton, ND 58012

Attachment #22



TESTIMONY OF FOSTER HAGER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE SENATE NATURAL RESOURCES COMMITTEE
ON

SB 2254

February 1, 2007

Mr. Chairman and Members of the Committee:

My name is Foster Hager representing the Cass County Wildlife Club. We oppose Section 1 of this bill because it takes away the right of an individual to carry on his occupation to make a living.

We support Section 2 and Section 3.

Farmed elk must be confined and raising the fence should help solve the problem of elk escaping or keeping wild elk out.

Farmed elk also should be tagged so they are visible to everyone and make it easier to find and return or dispose of the elk.



Attachment #12

United Sportsmen of North Dakota

Post Office Box 272
Bismarck, ND 58502
www.unitedsportsmen-nd.org
E-mail: info@unitedsportsmen-nd.org



To: Senate Natural Resources Committee
Reference: SB 2254 relating to farmed elk
From: United Sportsmen of North Dakota

We support Section 2 and Section 3 of the bill. We **do not** support Section 1. We do not consider shooting elk in an enclosed area to be Fair Chase; but if the owner wants to allow it, that is his decision.

Thank you.

James Weight
James Weight

USND Chairman

Attachment #24

Greeting,

My name is Kim Wagenman, formerly of Cando, ND, now recently from Spearfish, SD. I still have deep roots in ND and am still part owner of a hunting preserve near Killdeer. I am also the past president of the NDEG. I started elk ranching 10 years ago with the help of a PACE loan to buy breeding stock and an AgPUC grant to buy specialized equipment. Several years ago farmed elk were classified as domestic livestock by the ND Legislature. As a producer, I understood these actions and incentives from the state to indicate that it was safe to invest in the elk business here in ND. Today that investment is in jeopardy and so I am here to persuade you to support this new industry.

Make no mistake, the intent of HB 2254 is to shut down the game farm industry in ND. I would encourage you, as a committee, to question the proponents of this bill to that extent. Prohibiting hunting preserves is only their first calculated step in this process and I can show you print media to prove it.

The campaign supporting this legislation has been filled with misinformation, false assumption, and quotes from supposed experts that clearly have a very biased agenda. Today my intent is to give you as much factual information as I can.

They have emphasized three primary areas of concern. Disease, genetic pollution, and hunting ethics. Shutting down hunting preserves will not eliminate the first two, so again I emphasize, what is the true agenda.

Disease will always be of great concern to domestic livestock producers and wildlife managers. Those supporting this bill would like the public to believe that game farms are teaming with disease. The fact is ND has had domestic elk for 40 years and an excellent disease record. The advantage we have with confined animals is that we can monitor, inoculate, and control disease. Most of the elk in ND are in the TB accreditation program. Other diseases of concern are monitored under the watchful eye of the NDBOAH. You can never totally eliminate disease risks with any livestock operation, but farmed elk pose no greater threat than any other. Eight years ago the NDEG in cooperation with NDBOAH established the mandatory CWD testing procedure. After testing literally thousands of heads we have yet to find the first positive case. At the same time we suggested G&F begin testing as well. The response we got was that it was too expensive and they really didn't see the need. We also asked them to consider restrictions on carcass imports, especially from states where the disease had become endemic. They refused. Five years after we began testing the first positive case of CWD was diagnosed in ND. It was a wild elk hunter kill from CO. Import restrictions were soon imposed. Today CWD has been eliminated from the domestic herds, but of course continues to spread unchecked in the wild. If you ask Dr. Keller where the greater disease threat is today she will tell you it is outside the fence, where the status is unknown and changing, not inside. Ironically one of the only solutions to CWD may be genetic resistance, as has been the case with sheep/scrappie and now potentially with cattle/BSE. The farmed elk business could be a great asset in developing such resistance.

Which brings up the genetic pollution debate. It has been suggested that genetic pollution may result from escaped elk. Yet no one can establish that the elk in side the fence are any different, and certainly not inferior, to those in the wild. Some would like us to believe that wild populations are a genetically pure strain that is free of human manipulation. Actually just the opposite is true. The way many wild herds have been managed, allowing the largest trophy bulls to be harvested each year during or before rut, has contributed to an actual breeding down of the genetic base, with smaller, lesser bulls allowed to do most of the breeding. When huge bulls are now produced in the domestic herds, these purists call them freaks. Realty is we have just tapped into the true genetic potential that is being lost by trophy hunting. This has also attributed to the demand for the quality bulls found in hunting preserves. With the demand for elk licenses so high, hunting preserves can take some of the pressure off the wild herds.. Some have expressed a concern over red deer genetics. The fact is ND has had restrictions on red deer for many years. The NAEBA has only allowed for registration of pure elk.

Last and most ridiculous is the ethics debate. The scientific facts certainly defuse the previous arguments. But science cannot prove or disprove ethics. I submit to you that hunting ethics are as varied as the hunters themselves. This debate could involve a discussion on baiting, hunting with dogs, not to mention the many gadgets and electronics available to enhance the hunter's chances of success. Some hunters choose to use primitive methods while others prefer the most modern techniques. Hunting of wildlife is a recreational activity that involves hunters in the managing and harvesting of the public's resource. Basically it is killing these animals for fun, and in some cases for the enjoyment of the meat. The general public tolerates this as a necessary evil, and generally holds the hunters to a standard of ethics in the practice. However this has nothing to do with what happens on a game preserve. These are livestock, not "captive wildlife", they are privately owned property. They have been bred and raised for a specific purpose just like any other livestock. They are harvested in a timely and humane fashion, unlike what often happens in free chase hunting. Of significance is the fact that preserves do not allow wounded animals to be left to suffer indefinitely. These radicals that accuse the hunting preserves of tarnishing their image cannot seem to grasp these facts. They certainly are accountable to the public for how they harvest the public's resource, but our hunts involve privately owned livestock.

I think the most ridiculous statements I have heard call our operations immoral and compare them to prostitution. Now certainly we each have our own standards of morality. I like to think that I adhere to the Biblical standard for morality. But shooting a farm raised elk for a fee, be it in the kill chute, at the butcher, in the pasture, or in a several hundred acre preserve, could not, by any standard, be considered immoral.

So if this type of legislation were allowed to become law, not only will it put some good honest, hard working people out of business, but where will it end? Are we going to outlaw buffalo hunts as well? Wouldn't their pasture shoots be considered immoral? Is it immoral to harvest elk from Sully's Hill game preserve each year? Will we outlaw game bird hunting preserves? How about fish farming? Will these radicals want to

impose restrictions on how beef producers can morally convert their production into income?

Many ND's think that farming deer and elk is a radically new idea. In fact, deer have been domesticated for thousands of years in various parts of the world. Written records describe intensive farming techniques for deer in Mediterranean and Asian countries well before the birth of Christ. In North Am., elk were kept as farmed livestock as early as the late 1800's, and in 1910, USDA Bulletin #36 noted the suitability of elk for farming. As I stated before ND has had domestic elk for at least 40 yrs, and has proven to be a state well suited to their production.

I believe the majority of ND citizens want what is right. They want assurances that the elk industry is safe and well regulated, they want assurances that this industry will not pose real threats to its wildlife, they also want to be secure knowing that their property and individual rights aren't being infringed upon. I hope the legislators of ND will not give in to a small radical element and give away the property rights of these good hard working people.

Respectfully submitted

Kim Wagenman

Attachment #25

January 27, 2007

Senator Stanley W. Lyson
Chairman Senate Natural Resources Committee

Dear Senator Lyson:

It is my understanding that the North Dakota Senate Natural Resources Committee will be taking action on SB-2254, A Bill for and Act to create and enact a new section to chapter 36-01 of the North Dakota Century Code, as it pertains to fee shooting of game preserve elk. As president of the Minnesota Division of the Izaak Walton League, I felt compelled to submit this letter in support of this and any legislation that prohibits the fee structured "shooting" of enclosure restricted animals including elk. I can assure you that the League at the chapter, state and national level, argues strongly against such behavior on the basis of hunter ethics and fair chase.

In its national policy manual, chapter 10, section H, the Izaak Walton League of America urges states to ban big game shooting preserves that do not allow for fair chase hunting. I quote directly from that section, "Shooting pen-reared, human-conditioned big game animals within the confines of fenced enclosures that prohibit their normal free-ranging movement is inconsistent with ethical hunting."

Furthermore, in his book Beyond Fair Chase, Jim Posewitz speaks of one of the key fundamentals to ethical hunting, that being the balance between the hunter and the hunted. This balance "allows hunters to occasionally succeed while animals generally avoid being taken." Clearly, the behaviors endorsed in these canned types of activities are entirely foreign to maintaining that type of balance. In times when hunting in general has come under fire by many sectors of the public-at-large, it behooves all of us to be above reproach when it comes to the concept of fair chase. The traditional hunting and non-hunting public will have it no other way.

In conclusion, on behalf of the Minnesota Division of the IWLA, I implore you to act responsibly on behalf of the resource, in this case a majestic big game animal, and unequivocally prohibit this activity which should not be construed as representative of ethical hunting.

Sincerely,

William C. Henke
President, MN Division Izaak Walton League of America
161 St. Anthony Ave., Ste 910
St. Paul, MN 55103
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(218) 847-4004 (H)
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