MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2196

2003 SENATE AGRICULTURE

SB 2196

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2196

Senate Agriculture Committee

☐ Conference Committee

Hearing Date 01/23/03

Tape Number	Side A	Side B	Meter #
1	x		2943 - end
1		x	0 - 1299
Committee Clerk Signature			

Minutes:

Chairman Flakoll opened the hearing on SB 2196. All members were present.

Senator Klein introduced and testified in favor of the bill. SB 2196 addresses some of the concerns of the non traditional livestock producers in the state. Perhaps some of the issues could be resolved by placing someone from the non traditional livestock industry on the Board of Animal Health. Senator Klein is hoping the bill will provide a connection for the pet stores, the zoos, the cervids, the fur bearers, the bird people to give their input on how Board of Animal Health actions affect their industry. Hopefully the bill will allow all the animal groups to work together to maintain a healthy animal community in North Dakota.

Senator Klein also recommended an amendment to the bill on page 2, line 23, to change "advisory council" to "industry". The non traditional livestock council has members from the extension department, health department, game and fish and includes people who could not serve as the representative on the Board of Animal Health.

Senator Nichols asked how it is determined who belongs to the non traditional livestock industry.

Senator Klein believes most of these groups are certified through the state. Others testifying will be able to answer that question when they testify

Duane Bohnsack from the Stonegate Pet Superstore in Grand Forks testified in favor of the bill. (meter # 3583) He represents companion animals such as dogs, cats and birds. The bill would provide feedback both ways, from the non traditional livestock producers to the Board of Animal Health and vice versa. This communication would help solve many of the questions or concerns that have come up in the past. Most non traditional livestock producers do not want to take anything away from the cattle industry, just to assure good communication and avoid adverse actions against each others' businesses.

Jack Sund from House of Sund Pet Center in Bismarck testified in favor of the bill. (written testimony) (meter #3740)

Senator Flakoll asked if Mr. Sund felt a representative of the non traditional livestock industry could understand and deal with the array of other issues facing the Board of Animal Health?

Mr. Sund said it would be a new beginning. It would map out understanding and trust. The non traditional livestock industry feels their concerns have been set outside the Board of Animal Health.

Senator Erbele asked, going back to a question by Senator Nichols, all the other groups with representatives on the Board of Animal Health, the dairy producers, the beef producers, have a state association that submits names to the governor for his selection. Do you have such an organization?

Mr. Sund said absolutely. They have a pet store industry group, informal but they get together on a regular basis. There is the North Dakota Exotic Animal Association, there is the Fin and Feather Association. Three or four different associations would be submitting names.

Senator Erbele clarified Mr. Sund would see these associations getting together to submit a name.

Mr. Sund said yes, they get together now.

Representative Elliot Glassheim, district 18, testified in favor of the bill (meter # 4300). Many citizens in Grand Forks have been concerned for the last couple of years regarding the Board of Animal Health and their perceived lack of regard for small animal issues and concerns. One method of handling the concerns would be to put an additional member on the board to speak to these issues and concerns.

Peter Lies, New Rockford non traditional livestock producer, testified in favor of the bill (written testimony). (meter # 4770) He reviewed the current law regarding membership of the Board of Animal Health. He stated there are no provisions for agency representatives on the board and the board consists entirely of members actively involved and with a financial interest in domestic animal production. On the other hand, the Non Traditional Livestock Advisory Council is made up of non traditional livestock producers as well as agency representatives from the Board of Animal Health, USDA APHIS, Game and Fish, Extension Service, NDSU Veterinary Diagnostic Laboratory, and Department of Health. The Non Traditional Livestock Advisory Council has no real authority. Mr. Lies would like to see the non traditional livestock producers trusted to manage their own health concerns. A non traditional livestock representative to the Board of

Animal Health would provide expertise on these health issues that is currently lacking on the Board of Animal Health.

To answer a previous question, Mr. Lies stated the Feather and Fur Club was established 7/7/88, North Dakota Exotic Animal Association was established 2/28/91, he could find no record of the incorporation of the North Dakota Fur Bearers, and the North Dakota Deer Ranchers were established 9/24/99.

Senator Flakoll asked for a copy of his testimony.

Senator Erbele asked what was the membership of the associations mentioned?

Mr. Lies did not know.

Loren Kittleson, cattle rancher from southeast of Jamestown and also a non traditional livestock producer, testified in favor of the bill. (meter # 6122)

He stated the Feather and Fur Club has 250 members.

He stated the Board of Animal Health is neglecting the cattle industry by spending too much time on non traditional livestock issues. Some diseases pose a threat to cattle and aren't being properly monitored because the Board of Animal Health is too preoccupied with non traditional livestock issues.

Dr. Gary Pearson, veterinarian in small animal practice from Jamestown, testified in favor of the bill. (written testimony) (meter # 390)

Nathan Boehm, dairy farmer from west of Mandan and member of the Board of Animal Health, testified in opposition to the bill.(written testimony) (meter #783)

Senator Flakoll asked if there should be a trigger mechanism regarding dollar value before a group is given a seat at the table?

Mr. Boehm said that would be a good idea but he did not know where the trigger should be set.

Jeff Dahl, member of the Board of Animal Health representing the purebred cattle industry, testified in a negatively neutral position. He agrees there should be some type of trigger mechanism before getting a seat on the board. He would like to suggest an interim study to create such a trigger mechanism. He agrees with Mr. Boehm that if the non traditional livestock industry was given one seat, the cervids might not be happy with the pet store representative or vice versa and soon each group would want a seat on the board.

Dr. Larry Schuler, state veterinarian and executive officer of the Board of Animal Health, testified in a neutral position on the bill. (written testimony) (meter # 1184)

Chairman Flakoll closed the hearing on SB 2196.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2196

Senate Agriculture Committee

❑ Conference Committee

Hearing Date 01/24/03

Tape Number	Side A	Side B	Meter #
1	x		3571 - 5735
Committee Clerk Signature			

Minutes:

Chairman Flakoll opened discussion of SB 2196. All members were present.

Senator Klein said we certainly heard a lot of discussion yesterday. He submitted the bill on behalf of the non traditional livestock industry because they feel the need for a better connection with the Board of Animal Health. The amendment to line 23 is something we need to address, changing "advisory council" to "industry".

Senator Flakoll said he thought someone mentioned non traditional livestock associations?

Senator Klein said when you start talking associations, you don't include everyone.

Senator Klein moved and Senator Urlacher seconded a motion to accept the amendment to line 23 to remove "advisory council" and add "industry".

Senator Erbele said he does not have a clear picture of what the non traditional livestock industry is. Apparently they have separate associations, but the question remains, who would the Board of Animal Health appointee represent? They do not have cohesiveness. Each and every other representative on the Board of Animal Health has a state association, ie sheep, swine, bison.

The non traditional livestock industry has input to the Board of Animal Health through the non traditional livestock advisory council.

Senator Klein does not want to exclude someone who has an interest in the non traditional livestock industry but does not have a state association.

Senator Seymour said perhaps the representative could come from the non traditional livestock advisory council.

Senator Klein said the non traditional livestock advisory council includes representatives of several state agencies who could not be representatives to the Board of Animal Health.

Senator Nichols said if we use the word "industry" does it have to be all inclusive? There may be a difference of opinion among the associations as to who should serve on the Board of Animal Health. When they get together to select two names to recommend to the governor, would there be some confusion as to who is included in the industry?

Senator Flakoll said it won't be a perfect world, you are pulling together several different groups.

Senator Klein said there are several groups, but the biggest voice will be from the dog and cat people. "Industry" may not be the perfect word but as it moves through the process it may be refined.

The motion for a Do Pass on the amendment passed on a roll call vote. Voting yes were Senator Flakoll, Senator Erbele, Senator Klein, Senator Urlacher, Senator Nichols, and Senator Seymour. There were no negative votes cast. (meter #4795)

It was moved by Senator Klein seconded by Senator Seymour that the committee take a Do Pass as Amended action on the bill.

Senator Nichols said he still has a concern about who is included in the decision making. We have, in the past, looked at the economic impact of a potential representative to the Board of Animal Health. Put together, the economic impact of the various groups could be substantial, but fragmented, the various groups within this category would not have the necessary economic impact. He has some opposition to the bill for these reasons.

Senator Klein asked if an amendment to fix the bill would help?

Senator Nichols said no.

Senator Flakoll said it was disappointing that we did not get an indication of total industry dollars during testimony.

Senator Erbele echoed Senator Nichols' concerns. The term "industry" should be an organization that has an end result of an economic impact. Previous additions to the Board of Animal Health have depended on economic impact.

Senator Klein said he could withdraw his motion while more information is gathered regarding economic impact. The issue isn't really the exotics. The real impact is the companion animal group.

Senator Urlacher said it would be wise to delay action and get additional information.

Senator Nichols said if the real economic impact is pet owners, perhaps we should consider looking to that group for a representative. They are a fairly cohesive group.

Senator Klein withdrew his motion and Senator Seymour withdrew his second.

Senator Klein will gather some more information over the weekend.

Chairman Flakoll recessed the meeting of the Senate Agriculture Committee.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2196

Senate Agriculture Committee

☐ Conference Committee

Hearing Date 01/30/03

Tape Number	Side A	Side B	Meter #
1	x		2870 - 3979
Committee Clerk Signature			

Minutes:

Chairman Flakoll opened the discussion on SB 2196. All members were present.

Senator Klein brought copies of the bill with the amendments included for the committee's review.

Senator Nichols asked if Senator Klein asked about the definition of the industry.

Senator Klein said the industry is bigger than we anticipated. It seems to be the best word we can come up with.

Senator Nichols asked if the industry is what the advisory council works with?

Senator Flakoil asked if there could be two names submitted by the horse industry, two by the zoo people, two by the rabbits, etc.?

Senator Klein thinks all groups will get together and submit a total of two names to represent the entire industry.

Senator Erbele asked if the advisory council has regular meetings, by laws, membership?

Senator Klein said Dr. Pearson's testimony on the bill contains some information about the non traditional livestock advisory council. Senator Klein reviewed the membership of the board.

Senator Urlacher asked if all the listed entities would select members for recommendation by the governor and would this group together select two names to submit to the governor.

Senator Klein said that is correct.

Senator Urlacher asked if they are well enough organized as a group to get this accomplished.

Senator Klein said he thinks they get together regularly.

It was moved by Senator Klein and seconded by Senator Seymour that the Senate Agriculture Committee take a Do Pass As Amended action on SB 2196. The motion passed on a roll call vote. Voting yes were Senator Flakoll, Senator Klein, Senator Urlacher, and Senator Seymour. Voting no were Senator Erbele and Senator Nichols. Senator Klein will carry the bill to the floor.

Chairman Flakoll recessed the meeting of the Senate Agriculture Committee.

FISCAL NOTE

Requested by Legislative Council
01/15/2003

Bill/Resolution No.: SB 2196

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$1,000	$0	$1,800	$0	$1,800	$0
Appropriations	$1,000	$0	$1,800	$0	$1,800	$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Adding a member to the Board of Animal Health will result in additional expenses mainly for travel at state rates and the daily compensation for attending meetings of $50. The average annual expenses associated with a board member are $900 or $1,800 per biennium. This will generate no additional revenue.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Jeff Weispfenning	**Agency:**	Agriculture
Phone Number:	328-4758	**Date Prepared:**	01/22/2003

Date: 1/24/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2196

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amendment - Do Pass the Amendment

Motion Made By Sen Klein Seconded By Sen Urlacher

Senators	Yes	No	Senators	Yes	No
Senator Tim Flakoll, Chair	✓		Senator Ronald Nichols	✓	
Senator Robert S. Erbele, V. Chair	✓		Senator Tom Seymour	✓	
Senator Jerry Klein	✓				
Senator Herb Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

Δ line 23 pg. 2 add
~~non traditional livestock~~ "industry"
overstrike — advisory council —

Date: 4/24/03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2196

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken Do Pass As Amended

Motion Made By Sen Klein Seconded By Sen Seymour

Senators	Yes	No	Senators	Yes	No
Senator Tim Flakoll, Chair			Senator Ronald Nichols		
Senator Robert S. Erbele, V. Chair			Senator Tom Seymour		
Senator Jerry Klein					
Senator Herb Urlacher					
Sen Klein withdrew his motion					
Sen. Seymour withdrew his second					

Total (Yes) ____________ No ____________

Absent ____________

Floor Assignment ____________

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

30313.0202
Title.

Prepared by the Legislative Council staff for
Senator Klein
January 29, 2003

PROPOSED AMENDMENTS TO SENATE BILL NO. 2196

Page 2, line 23, replace "advisory council" with "industry"

Renumber accordingly

Date: 1/30/03
Roll Call Vote #: (3)

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2196

Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30313.0202

Action Taken Do Pass as Amended

Motion Made By Sen Klein Seconded By Sen Seymour

Senators	Yes	No	Senators	Yes	No
Senator Tim Flakoll, Chair	✓		Senator Ronald Nichols		✓
Senator Robert S. Erbele, V. Chair		✓	Senator Tom Seymour	✓	
Senator Jerry Klein	✓				
Senator Herb Urlacher	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment Sen Klein

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

REPORT OF STANDING COMMITTEE (410)
January 30, 2003 1:54 p.m.

Module No: SR-18-1369
Carrier: Klein
Insert LC: 30313.0202 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2196: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2196 was placed on the Sixth order on the calendar.

Page 2, line 23, replace "advisory council" with "industry"

Renumber accordingly

2003 HOUSE AGRICULTURE

SB 2196

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2196

House Agriculture Committee

❑ Conference Committee

Hearing Date 2---28----03

Tape Number	Side A	Side B	Meter #
ONE		B	21,2 TO END
TWO	A		00 TO 14.5
Committee Clerk Signature	Edward S Ellefson		

Minutes:

CHAIRMAN NICHOLAS: Committee Members. We will open on SB 2196.

SENATOR KLEIN: SB 2196 is a bill we have been talking about for a couple of sessions. As to representation on Board of Animal Health. Or with the board of animal health. We have all head a lot of the issues that resulted with dogs and cats since we came into this year. It sure took some of the heat off the bill we heard yesterday but non the less we moved forward to address some of those issues. Because of all this discussion we might need to have some representation. On the board of health from the non traditional livestock. Advisory group. This bill dose place a member on that. The nontraditional livestock industry encompasses quite a variety of different animals and groups. Zoo keepers, people that raise exotic birds, there are some dangerous animals. Elks, randier, fur bears industry. It dose represent another big industry. That is the pet stores. Maybe we can bring all those people together, have representation on the board of animal health. Have some direct input. Try to circumvent some problems that we may have on that side. We have people from the industry.

CHAIRMAN NICHOLAS : Any questions?

REPRESENTATIVE FROELICH: Where do horses fall into this?

SENATOR KLEIN: Horses fall in with the nontraditional livestock and I am not sure why.

CHAIRMAN NICHOLAS: Next in support of bill.

WILMER PICK: I am here in support of this Bill. I would like to have representation on the board. I'd like to see a do pass.

CHAIRMAN NICHOLAS: Any other in support?

PETER LIES: OF LIES GAME FARM, NEW ROCKFORD, NORTH DAKOTA. I am here To ask for and to ask you as individuals, to seek a yes vote on SB 2196 Peter passed out some pictures of children with animals. He stated he wanted to speak from the heart prior to getting to his printed testimony. We need help from people that know nontraditional animals. At least some one that likes nontraditional animals. There is room for one more individual in the room

Where board members meet. The board wants me to kill my elk not because they are sick But because I can't prove there not. {{{{please read Peter's testimony}}}}

REP. FROELICH : You have a wide variety of people on your NTL Committee. Who on the committee is going to fill this position if this bill passes? Lets say I was a horse person was on that deal. How would that elevate some of your problems if I represent the horse industry? Now you are not going to be represented, neither are the fur bears or pet stores. See what I am saying. Who is going to best serve the NTL COMMITTEE?

PETER LIES: I guess I don't have all the answers. I guess we have to start somewhere. We have to take the first step. We want to get someone that is on the board that is interested in Nontraditional livestock. Not just people that just say they don't want us around.

CHAIRMAN NICHOLAS: Who else would like to testify in support of this bill.

JACK SUND: House of Sund Pet Center. Bismarck ND

I guess this becomes an emotional issue because this is our livelihood. We are micro managed I don't know how many times I have been before the board of animal health and have been threatened by saying that the question one time was with all the regulations and paper work you guys are complaining about, how expensive it is. Why do we need to have licensing of a prairie dog for example that is ranked number twelve right now in the country as far as being a pet that is domestically bred. They said if it gets to comberson we will ban everything. {{Jack started reading his testimony which attached}} There was a letter that was passed out from the States Attorney from Eddy County. The States Attorney said the regulatory burden which the board has placed on nontraditional livestock owners appears that is disproportionate and unreasonable.

CHAIRMAN NICHOLAS: Are there any questions?

REPRESENTATIVE POLLERT: If bill this bill passes who is going to be represented.

JACK SUND: Everybody on the nontraditional livestock council involved now will get together and I believe as it has been in the past come up with two names and I believe that is submitted to the governor. We are look for somebody that will give us representation on that board which we do not have now, and never have.

CHAIRMAN NICHOLAS: Anyone else in support of bill.

LAURAN KITTLESON: I speak in support of Bill. Lauran basically stated that the board has an elevated expense for nontraditional livestock It is like taxation without representation.

CHAIRMAN NICHOLAS: Anyone else to offer testimony.

NATHAN JAMES BOEHM: Passed out testimony. He is Dairy representative to the State Board of Animal Health. {{please read testimony that Nathan passed out}}

Nathan urged a no vote on SB 2196.

REPRESENTATIVE BOEHNING: You are also regulating hundreds of thousands of pets that really don't have a say on the board. As a voting member. Don't you feel like they are not being represented? We have cattle producers, swine producers and stuff in smaller numbers that have representation on the board we have a large number of citizens that aren't being represented. Except for the advisory board. This bill would give them some representation as a voting member and have a bit of authority. I think with a voting member they will have a little more input. What is your comment on that?

NATHAN JAMES BOEHM: The advisory council is able to give us advice. I go to the meeting and listen to what they say. I represent all of the people of ND That's the way I vote so I don't think adding more people will make a difference. Let the people that the governor appoints to the board do there job.

REP. WRANGHAM : Since you don't seem to favor enlarging the board. There are two representatives from the beef cattle industry. One from the commercial and one from purebred do you support reducing or eliminating one of those and putting a nontraditional person in that place.

NATHAN JAMAES BOEHM: Not the beef cattle industry because that is the largest industry in the State. They bring in more dollars then any other industry.

REPRESENTATIVE POLLERT: The board consists of eight members presently. So are they eight voting members. So could you not add a ninth wouldn't that give one descending vote. Or I should say a deciding vote.

VICE CHAIRMAN POLLERT: Any additional testimony. If not we will close the hearing on SB 2106. HEARING WAS CLOSED.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2196

House Agriculture Committee

☐ Conference Committee

Hearing Date March 14, 2003

Tape Number	Side A	Side B	Meter #
2	X		1320-2242
Committee Clerk Signature Elizabeth R. Frier			

Minutes: **Chair Nicholas:** Opened discussion on SB 2196

Dr. Larry Schuler (State Vet): Neutral with written testimony.

Rep. Boehning: How about small-animals? Nontraditional does not represent dogs and cats. Schuler said the board would not take a position. There are people who raise mountain lions, pheasants, and white-tail deer. Rep. Boehning said he would like to broaden to include small animals.

Rep. Mueller: Will we take care of their problems by adding them to the board? Schuler said he hopes so. The issues that were discussed during testimony were from 10 years ago and the Board is still dealing with those.

Rep. Froehlich: Are the nontraditional members of the board compensated for being on the advisory council? Schuler said no, they are not compensated for the council. Schuler said the amendment from the Senate said the industry, not the advisory council appoints members to the board.

Rep. R. Kelsch: There are too many types of nontraditional animals. Does the representation really just represent their own areas? Schuler said that, for example, the dairy representative has other animals on his/her farm, so they are looking out for all animals. Rep. R. Kelsch noted that when it comes to rules though, they will be looking out for the animal they represent.

Rep. Boe: Do you feel the industry is disenfranchised or just a few? Schuler said that a few created the problems. Most nontraditional animal producers comply with the board.

Chair Nicholas: Closed discussion on 2196

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2196

House Agriculture Committee

☐ Conference Committee

Hearing Date 3--20--03

Tape Number	Side A	Side B	Meter #
ONE	A		20.9 TO 36.1
Committee Clerk Signature	Edward D. Elkton		

Minutes:

CHAIRMAN NICHOLAS: I want to move over to the bills that we have dealing with animal health. I would like you to take a look at 2196. This was the bill that we heard dealing with the board of animal health. And adding a member to the board of animal health. We have Dr Larry Schuller with us so if we have any questions. Currently committee members there is a committee, an advisory committee, through the board of animal health for the folks that are in the exotic animal business. I want to know what the committees wishes are. I know Representative Boehning was talking about some amendments for dogs and cats.

REPRESENTATIVE BOEHNING: I do have an amendment for 2196. Representative Boehning when through his amendment. There was some discussion on the amendment.

CHAIRMAN NICHOLAS: Well, committee members the concern that I have on the bill Is the board of animal health has done an extremely good job of protecting the live stock industry. I think they have always been able to meet the challenges with what ever kind of a health out break there is and I get a little concerned about changing the focus of something that has served us well. I think they have always been on top of all of these various diseases and We do have a huge industry here that could be impacted and I personally get very concerned When we start messing with the system that is in place and has been for a long time and served The industry extremely well. We have a huge livestock industry in ND. It is a big part of our economy. I am just voicing my concerns.

REPRESENTATIVE POLLERT: Thank you Mr Chairman. I will agree with that but I have to differ to it. Every session we always come in here and argue. We have everybody from the nontraditional and the first time it was cats and dogs. I actually am in support of the bill. The reason that I am is I sit and look at that nontraditional industry. Yes I agree that we may not agree with everything that the think but at the same time democracy is one thing. It is simple It is just like us when we come to the floor. If you have the most votes you win your position. If we would allow someone from the nontraditional livestock on the board of animal health they the still have to bring at least four people on there position. In order to get a majority. You would have to bring at least four people on to there discussion. I don't think this changes the board of animal health what it dose is bring in another line. That is the way I am looking at it. I understand we will still have them coming in and trying to get more legislation because they are still not going to be happy. But I think as soon as you give them a voice on the board of animal health I think it automatically it just says ok you have your position talk to the rest of the board and if you get them to come on along fine if you don't you can't come back to us. That is my position.

REP. BELTER : I guess I need a definition of domestic animals. Are we strictly talking about pets? I mean dogs and cats pretty much, is that the majority of what we are talking about?

REPRESENTATIVE BOEHNING: There is not a definition of small domestic animals. Under the rules the domestic animals means dogs, cats, horses, sheep, goats, bison, lama, swine Alpacka what ever.

REPRESENTATIVE BELTER: If I could ask Dr. Schuller to come up and maybe he could explain who represents the nontraditional live stock advisory council so what we know what Representative's are on there.

DR SHCHULLER: The representatives for the nontraditional live stock council there are representatives both from the industry and government. There is a representative from the white tail deer industry, from the fur and feather basically, the exotic bird raisers, the is a live fur taker, fox, there is a pet store representative. There is a representative from the Game and Fish Department, from the Health Department, The extension service, USDA, I think that is everybody. There is a zoo representative.

REPRESENTATIVE MUELLER: Basically stated he bill before us is not a bad piece of legislation.

REPRESENTATIVE FROELICH: Stated that even if we put one of the people on the board of animal health that came in to testify they are still not going to be happy.

REPRESENTATIVE MOVED FOR A DO NOT PASS

REPRESENTATIVE SECONDED THE MOTION

THE CHAIR ASKED FOR DISCUSSION:

WRANGHAM: I AM GOING TO OPPOSE THE DO NOT PASS.

I THINK THAT TIME AND TIME AGAIN I HAVE SEEN WHERE IT IS EASIER TO DEAL WITH PROBLEMS WITH EVERYBODY AT THE TABLE. I THINK IT IS IMPORTANT THAT WE PUT SOMEONE ON THE BOARD FROM NONTRADITIONAL LIVESTOCK. I DON'T SEE WHERE THE BOARD OF ANIMAL HEALTH HAS NOT DONE A GOOD JOB BUT SOMETIMES THINGS JUST NEED A LITTLE CHANGE.

REP. BELTER : The only comment that I is that I feel that the Board Of Animal Health has done a very good job. Our primary emphasis has to be on our traditional livestock. We have to be very careful so we don't water down the board. Or misdirect the priorities of the board of animal health. I support a DO NOT PASS.

CHAIRMAN NICHOLAS: We have a billion dollar industry here in state. Cows, calf's, hogs, sheep so this is a big industry that we are talking about. I want you to understand where I am coming from. The exotic people can sit down, there is a process there. We only saw three people here who actually showed up to testify. There are a whole host of exotic raiser here in the state.

REP. WRANGHAM: I don't think that putting one member on the board that is that large is going to have much of a negative effect on our livestock industry.

REPRESENTATIVE BOE: I think that even if we put a member on the board the group of people that came in and supported this are still going to feel disenfranchised. There are still going to be a couple of guys that don't get what they want.

CHAIRMAN NICHOLAS: ANY OTHER COMMENTS:

THE CLERK WILL TAKE THE ROLL.

FOR A DO NOT PASS CHAIRMAN NICHOLAS VOTE YES.

THERE WERE 6 YES 5 NO AND 2 ABSENT.

CHAIRMAN NICHOLAS CLOSED ON SB 2198

REPRESENTATIVE BELTER CARRIED THE BILL

CHAIRMAN NICHOLAS : CLOSED ON SB 2196

SB 2196
3-20 2003

Date:
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House AGRICULTURE COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Froelich Seconded By Boehning

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN NICHOLAS	✓				
VICE CHAIRMAN POLLERT		✓			
REPRESENTATIVE BELTER	✓				
REPRESENTATIVE BOEHNING	✓				
REPRESENTATIVE KELSCH		✓			
REPRESENTATIVE KINGSBURY	✓				
REPRESENTATIVE KREIDT					
REPRESENTATIVE UGLEM		✓			
REPRESENTATIVE WRANGHAM		✓			
REPRESENTATIVE BOE	✓				
REPRESENTATIVE FROELICH	✓				
REPRESENTATIVE MELLER		✓			
REPRESENTATAIVE ONSTAD					

Total (Yes) 6 No 5

Absent 2

Floor Assignment Rep Belter

REPORT OF STANDING COMMITTEE (410)
March 20, 2003 1:47 p.m.

Module No: HR-50-5334
Carrier: Belter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2196: Agriculture Committee (Rep. Nicholas, Chairman) recommends **DO NOT PASS** (6 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). SB 2196 was placed on the Fourteenth order on the calendar.

2003 TESTIMONY

SB 2196

HOUSE OF SUND PET CENTER
2700 State Street
Bismarck, N.D. 58503
Jack Sund, Owner

STATEMENT REGARDING SENATE BILL NO. 2196
TO ADD A REPRESENTATIVE OF
THE NON-TRADITIONAL LIVESTOCK INDUSTRY TO
THE NORTH DAKOTA BOARD OF ANIMAL HEALTH
PRESENTED AT THE HEARING BY THE
NORTH DAKOTA LEGISLATIVE ASSEMBLY
SENATE AGRICULTURE COMMITTEE

Same testimony given to House

January 24, 2003

A few legislative sessions ago the North Dakota Board Of Animal Health was given broad powers to regulate people with respect to their pets or livestock. There is no question there is need for some controls in this area. Instead of developing responsible regulations that addresses animal health, the BOAH has used an autocratic approach using their real or imagined power to be abusive and non-sensical.

The Fargo Forum stated the BOAH is giving state government a bad name (1-15-03). The Grand Forks Herald states "the BOAH is a regulatory authority that has fallen out of touch" (1-18-03). The Minot Daily News reported "the BOAH has irked and bewildered pet owners and veterinarians" (1-09-03).

The Board of Animal Health has no business making up rules that effects owners of pets and non-traditional livestock since there is no formal representation of these major interests on the Board. Because of this lack of representation, the BOAH has placed a regulatory burden on the owners of non-traditional livestock that is disproportionate and unreasonable.

Who is accountable when arbitrary rules are created, subjecting people to criminal and civil penalties when there is no scientific justification for these regulations in the first place? How do we achieve fairness? How do we protect our industries?

Now, the legislative assembly has the opportunity to approve a member from the non-traditional livestock industry. The addition of a non-traditional livestock representative is a positive first step in addressing some of the existing problems plaguing the Board. We are not after the livestock industry. We are just looking for fairness and accountability, with a goal of more rationalized decisions that are based on real science.

Jan. 23,2003

Report on Senate bill 2196

Mr. Chairman

Members of the committee

I am Peter Lies of Lies game farm, New Rockford, North Dakota. I have lived in N. Dak. all my life. I have raised non-traditional livestock all my life.

I ask for a do pass for Senate Bill 2196!!! with change to line 23

In 1992 the legislature gave the Board of Animal Health the right to regulate N T L **the same** as domestic livestock. And for the last 11 yr. the board has regulated N T L much Much Much! different then the domestic livestock.

I should say, The Board is made up of representatives of domestic animals only. And it is echoed in the Boards Intent to amend administrative Rules on Jan. 14 2003, where under 48-02-01-02 Bison, Cattle, Sheep, and Swine (animals that are represented on the board) are exempt from Import permit requirements. But **no** other animals are aloud any exemption. This seems to include dogs, cats, and other companion animals.

I can contest to the fact that we as producers of N T L have no say in our future or how we are regulated.

The Board Of animal health proposes its own Administrative Rules, the Board adopts its administrative rules, it interprets and administers its administrative Rules. Plus, it enforces its administrative rules, it charges citizens for violations of its administrative rule, it decides the guilt or innocence of those it charges with a violation of its administrative rules. The only avenue of due process open to a citizen who is charged with a violation of the Board's Administrative rule is, after the Board has taken action, to request a hearing before an administrative law judge, and then to appeal to the State District Court. Of course, the time and expense involved in following this process through the courts are prohibitive for most people, so this creates the potential for the Board to use the threat of action to intimidate and coerce citizens into complying with it's interpretations of its Administrative Rule.

On another personal note, The Board has now taken me to the Administrative Judge, who in the first few sentence said that he will make a decision in a short time, send it to the Board of animal Health and they then can do what ever they Wish. (another wasted trip to Bismarck?) The board is asking for a fine of $15,000 and I destroy all the rest of my Elk. These are animals that I have been raising on my farm for the past 25 yrs., are a closed herd, and are all healthy animals.

Why ? Because I did not tag and report (somthing that was not required befor the Board took control) the way the board requires.

On the news Tuesday A Man was find $15,000 for selling drugs, Methefedimens.

As things are so out of control with the Board of animal health I do not think this is the hole answer. But it can be a start.

So again I ask for a **Do Pass** on Senate Bill 2196.

Thank You

Peter Lies

Testimony of Larry A. Schuler, DVM
State Veterinarian and
Executive Officer of the State Board of Animal Health
Senate Bill 2196
Senate Agriculture Committee
Roosevelt Park Room
January 23, 2003

Chairman Flakoll and Committee members, my name is Larry Schuler. I am the state veterinarian and executive officer of the State Board of Animal Health. I am here to testify on SB 2196, which deals with adding a nontraditional livestock representative to the State Board of Animal Health. The State Board of Animal Health has not taken a position on this issue.

The Board's primary concern is to protect the health of domestic animals and nontraditional livestock of this state. The Board attempts to do this while being responsive to the animal industries of this state. The Board frequently seeks input from interested parties and groups and tries to be responsive to the needs and desires of other animal groups that are not represented on the Board. The Board feels that the addition of a nontraditional livestock representative should be dealt with at the legislative level.

Chairman Flakoll and committee members, I would be glad to answer any questions you may have.

Senate Bill 2196

Testimony of Nathan James Boehm
Dairy representative to the State Board of Animal Health
Before the Senate Ag Committee
January 23, 2003

Chairman Flakoll and members of the committee, my name is Nathan Boehm. First and foremost I am a dairy farmer from west of Mandan and secondly I am a member of the State Board of Animal Health ("BOAH"). I am here to testify on my own behalf and not on behalf of the BOAH and I am testifying against Senate Bill 2196.

I have sat on many different committees in the past that have ranged from five members to 29 members. It is my experience that the smaller committees are able to get more work done in a more efficient manner. I have sat on the BOAH since 1998 and have seen this board work together very well with its current membership. Prior to my appointment the BOAH voted to form the non-traditional livestock advisory council ("NTL") to advise the BOAH on those issues that the board wasn't accustomed to with non-traditional livestock. I have not missed an NTL advisory council meeting since I was appointed to the BOAH. The first couple of years the BOAH felt we had to rediscuss the issues that the advisory council discussed because they were not handled thoroughly. These last several years our board meetings have been getting less lengthy and a big part of that is we do not have to discuss these issues like in previous years because the advisory council is doing the job we had intended for them and that was to advise us. If this is the case why do they feel they need to have a seat on the BOAH? Why do we need to make the BOAH larger and in my opinion more cumbersome? Will this be the last request for another seat on the board? I believe that it will not. I do not think the pet industry will be satisfied if a person from the Cervid industry or the zoos is appointed to the board or vice-versa. Do we then go back to the legislature each session and add more board members to account for those who felt left out and make it even larger? Pretty soon the board will be unworkable and accomplish nothing to protect a $720 million dollar industry from the threat of disease. The BOAH relies on information from other industries to make our decisions and one more person on the board will not cover all aspects like the advisory council already does.

However, if this committee feels that this bill is justified I would like to make a suggestion. In reading Senate Bill 2196 I believe there is a direct conflict on page 2, lines 22, 23, and 24 with current North Dakota Century code section 36-01-01, subsection 5 on page 2. It states that the non-traditional livestock advisory council would submit two names to the governor for appointment to the BOAH. The non-traditional livestock council is an entity of the BOAH set up to advise the BOAH on issues that they need more information on. This advisory council is not an organization like the rest of the entities listed in 36-01-01, subsection 5. I believe to make it uniform with the rest of section 36-01-01, subsection 5, the words "advisory council" should be replaced with the word "industry".

Again, I do urge a no vote on Senate Bill 2196.

Chairman Flakoll and members of the committee I would like to thank you for your time and would try to answer any questions you have.

To: Loren Kittleson

From: Larry A. Schuler DVM LASchuler

Re: Form for poultry Imports

I am writing in response to your request for the form required for importation of baby chicks, hatching eggs and eating eggs. There is no specific form for the importation of baby chicks, hatching eggs, or eating eggs. However, I am not sure I understand your request.

Poultry import requirements are found in the North Dakota Administrative Code 48-05.

If this does not meet your needs, please let me know.

GARY L. PEARSON, D.V.M.
1305 Business Loop East
Jamestown, North Dakota 58401
Telephone (701) 252-6036

STATEMENT REGARDING SENATE BILL NO. 2196 TO ADD A REPRESENTATIVE OF THE NONTRADITIONAL LIVESTOCK INDUSTRY TO THE NORTH DAKOTA BOARD OF ANIMAL HEALTH PRESENTED AT THE HEARING BY THE NORTH DAKOTA LEGISLATIVE ASSEMBLY SENATE AGRICULTURE COMMITTEE

January 23, 2003

Over the past two weeks, the citizens of North Dakota have been told by officials of the North Dakota Board of Animal Health that the Board's proposed amendments of its Administrative Rules to require importation permits for all animals entering the State are necessary to "protect the livestock industry from contagious and infectious diseases" (State Veterinarian, November 25, 2002, Notice of Intent to Amend Administrative Rules, *Minot Daily News*, January 9, 2003, *The Forum*, January 15, 2003), then that they are necessary to control rabies, canine distemper and kennel cough (State Veterinarian, *Minot Daily News*, January 9, 2003), and finally, that they are "just ideas" that the Board is putting out for public comment (State Veterinarian, Scott Hennen "Hot Talk," January 16, 2003).

The public has been told that the exemptions to the permit requirement for cattle, sheep, swine and bison are necessary to allow the "normal business operations" of those interests (State Veterinarian, *Minot Daily News*, January 9, 2003), which have representatives on the Board of Animal Health, but that the Board did not "fully consider" the impacts of the regulations on others (State Veterinarian, Scott Hennen "Hot Talk," January 16, 2003).

The public has been told that the importation permit is necessary to ensure that the Board will be notified immediately of animals coming into the State so a disease outbreak can be traced quickly if needed (State Veterinarian, *Minot Daily News*, January 9, 2003). But there is no way to trace the movements of those animals after they arrive in the State. Once they cross the border with an importation permit, they can be sold or given to anyone and taken anywhere in the State with no record of their movements.

We have been told that the permit requirement would be "impossible to enforce" (State Veterinarian, *Minot Daily News*, January 9, 2003), then that the Board "would be looking at law enforcement to assist" (State Veterinarian, The Forum, January 15, 2003), and finally that it was never the intention of the Board to enforce the permit requirement against people traveling with their animals temporarily into the State (State Veterinarian, Scott Hennen "Hot Talk," January 16, 2003). But, do we have any evidence that animals that are imported permanently pose a significantly greater risk of introducing diseases than those that enter the state temporarily? What good is a disease control regulation that is impossible to enforce or is enforced only selectively? Which is it going to be—arbitrary and selective enforcement by the Board of Animal Health? Or the North Dakota Highway Patrol lining cars up on the shoulder of I-94 from the Minnesota to Casselton line on the weekend?

When the North Dakota Legislative Assembly created the Livestock Sanitary Board in 1907 to deal with domestic livestock diseases such as tuberculosis, brucellosis and scabies, it specified that Board would be composed of representatives of the State's various domestic livestock interests. The reason for this was to assure that the regulation of diseases would be responsive to, and would not unduly burden, the domestic livestock industry.

In 1989, the name of the Livestock Sanitary Board was changed to the Board of Animal Health, in 1991 the Legislative Assembly transferred jurisdiction over all wild animals held in captivity from the Game and Fish Department to the Board of Animal Health, and now Board is extending its regulatory control by requiring importation permits for all animals—both domestic and wild—entering the State. However, despite the expansion of the Board's jurisdiction, except for the addition of a representative of the bison industry two years ago, there has been no commensurate expansion of representation of the various other animal interests subject to the Board's regulation.

The predictable result is the current public indignation and controversy over the Board's proposal to require an importation permit for all animals entering the State, the waffling explanations offered by officials of the Board for the requirement, and the resulting erosion of public confidence in, and respect for, State Government. (Attached to this statement are copies of my oral comments and written statement submitted at the Board of Animal Health's January 14, 2003, public hearing which outline in greater detail the flaws and deficiencies in the Board's proposed amendments to its Administrative Rules.)

Only the Legislative Assembly—or an initiated measure—can rectify the situation and avoid embarrassments like this from continuing to occur in the future. The addition of a representative of the nontraditional livestock industry to the Board of Animal Health is a good first step in addressing the serious existing problems with the Board. But, as the current public protest of the Board's importation permit requirement for companion animals and horses shows, it is just that: A good first step.

Currently, the Board of Animal Health is appointed by the governor, but it is accountable to no one but itself. In order to transform the Board into a responsive and accountable agency, I would propose that the Legislative Assemble institute fundamental reforms in the Board modeled after the North Dakota Department of Health. These would include:

1. Instead of being hired by the Board, the State Veterinarian would be appointed by the governor and would serve at the pleasure of the governor.

2. The Board of Animal Health would continue to be appointed by the governor, but the appointments would provide balanced representation of the various interests subject to regulation and the terms of appointment would be reduced from seven years to three years.

3. The Board of Animal Health would be advisory to the State Veterinarian but would not, itself, be empowered to enforce administrative rules or regulations.

Finally, in order to assure full accountability to the public, any rules or regulations proposed by the Board of Animal Health or the State Veterinarian would require approval by the governor.

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I would rather be exposed to the inconveniences of too much liberty than to those of too small a degree of it. - Thomas Jefferson

Governments are instinctively, automatically and invariably, tyrranical. -- William B. Ruger

COMMENTS REGARDING THE NORTH DAKOTA BOARD OF ANIMAL HEALTH NOVEMBER 25, 2002 NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES PERTAINING TO THE IMPORTATION OF ANIMALS INTO NORTH DAKOTA

Bismarck, North Dakota
January 14, 2002

The North Dakota Board of Animal Health's November 25, 2002, Notice of Intent to Amend Administrative Rules proposes to amend Chapters 48-02-01, 48-02-02, 48-12-01 and 48-14-02 of the North Dakota Administrative Code (NCAC) to expand the Board's regulatory authority to encompass every animal of every species from insects to elephants entering the State of North Dakota at any time for any purpose.

The proposed amendments originate from the Board of Animal Health's March 27, 2001, Order No. 2001-01 In the matter of Emergency Measures related to Foot and Mouth Disease, which was occurring in England at that time. The order contained four provisions. The first required an importation permit for all domestic and captive wild animals (nontraditional livestock) entering the State. The second prohibited the importation of equines into North Dakota from countries with foot and mouth disease until six months after the countries have been declared free of the disease. The third established quarantine and treatment measures for companion animals coming into the State from countries with foot and mouth disease. And the fourth provision prohibited the importation into North Dakota of cattle, sheep, swine and other cloven-hoofed animals from countries with foot and mouth disease until six months after the countries have been declared free of the disease. The requirement for importation permits for all animals entering the State and the quarantine and treatment measures for companion animals from countries with foot and mouth disease are incorporated in the proposed amendments of the Board of Animal Health's Administrative Rules, but the prohibitions against the importation of equines and cloven-hoofed livestock from countries with foot and mouth disease until six months after the countries have been declared to be free of the disease are omitted from the proposed amendments.

The Board of Animal Health's current importation permit requirements apply only to domestic sheep, swine, calves under four months of age, female cattle over a year of age, bison, captive elk, and certain other captive wildlife species. The proposed amendments would expand the Board's importation permit requirements to all animals entering the State, including domestic livestock and pets, non-domestic animals and captive wild animals, and they would empower the State Veterinarian to deny importation permit applications without substantiating evidence and to revoke valid permits issued for animals already legally imported into the State.

The issues associated with the Board of Animal Health's proposed amendments of its Administrative Rules pertaining to the importation of animals are discussed below as follows:

Expansion of Importation Permit Requirements

The Board of Animal Health's attempt to extend its regulatory jurisdiction beyond traditional livestock species is demonstrated by its proposal to change the current title of Chapter 48-02-01 from "Importation – All Livestock" to "General Importation Requirements," and to replace the current prohibition in NDAC § 48-02-01-02 against the importation of animals or poultry (poultry also are animals) infected with infectious or transmissible diseases with the requirement that:

> "...no person may import any domestic animal or poultry without first obtaining an import permit from the office of the state veterinarian."

The Board also proposes to expand the importation permit requirements of NDAC Chapter 48-12-01, which currently apply to Category 3, 4, and 5 nontraditional livestock (i.e,, captive wildlife that pose a health risk to wild or domestic animals or are inherently or environmentally dangerous), by adding § 48-12-01-02.1, which would require that:

> "... no person may import any nontraditional livestock without first obtaining an import permit from the office of the state veterinarian."

NDAC § 48-12-01-02 defines Nontraditional Livestock as:

> "...any wildlife held in a cage, fence, enclosure, or other manmade means of confinement that limits its movement within definite boundaries, or an animal that is physically altered to limit movement and facilitate capture."

The Board's Administrative Rules do not define "wildlife," but according to North Dakota Century Code § 20.1-0-02-43:

> "'Wildlife' means **any member of the animal kingdom** including any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, or other invertebrate, and includes any part, product, egg, or offspring thereof or the dead body parts thereof..." (Emphasis added)

Thus, the proposed amendments to the Board's Administrative Rules would expand its regulatory jurisdiction literally to include the requirement for an importation permit for every animal of every species from insects to mammals entering the State of North Dakota at any time for any purpose. This includes not only traditional domestic livestock coming into the state, but also pet dogs and cats accompanying tourists and truck drivers traveling through the State, pets brought across the border from Minnesota for grooming or veterinary care in Fargo or Grand Forks, pet dogs and cats returning with their North Dakota owners from a weekend at the lake in Minnesota, North Dakota hunters returning from South Dakota or Montana with their dogs, and North Dakota citizens who drive to Fargo or Grand Forks with their pets and decide to cross the border to Moorhead or East Grand Forks.

Exemptions from the importation permit requirement are provided for bison, cattle, sheep and swine from Montana, Minnesota and South Dakota that originate from a producer's premises and are consigned directly to a licensed livestock auction market or a state or federally inspected slaughterhouse in North Dakota. According to the State Veterinarian (*Minot Daily News*, January 9, 2003), this exemption is necessary in order to allow normal business operations to proceed without creating additional concern about diseases. The State Veterinarian has not explained how it is that the proposed importation permit requirement would impose an unacceptable burden on the normal business operations of the domestic livestock interests represented on the Board of Animal Health, but would not impose a significant burden on the normal business operations of the owners of other animals or on the general public.

Paradoxically, what these exemptions mean is that a rancher could haul a truckload of cattle from South Dakota to a livestock auction in North Dakota without an importation permit, but he would be in violation of the Board's rules if he doesn't have an importation permit for his dog in the cab

Because, most residents of other states will not be aware of North Dakota's importation permit requirement for their pets, their options will be (1) stop at the border and locate a veterinarian who will call the office of the State Veterinarian to obtain a permit, (2) if it is a weekend or holiday, wait until the office of the State Veterinarian opens 1 to 3 days later, (3) detour around North Dakota and vow never to come back, or (4) ignore the requirement and proceed in violation of the Board's Administrative Rules.

In order to enforce its amended Administrative Rules, it will be necessary for the Board of Animal Health to expand its staff to place personnel at every road entering the State to inspect every vehicle that might be carrying any animals of any kind that do not have the required importation permit from the Board. Perhaps the National Guard can be mobilized to assist in enforcing the importation permit requirement during especially busy times, such as weekends, holidays and the fall hunting season. Indeed, the State Veterinarian has admitted that the proposed importation permit requirement "would be impossible to enforce" (*Minot Daily News*, January 9, 2003).

Despite the acknowledged [illegible] of enforcing the importation permit requirement, the State Veterinarian [illegible] the proposed amendment is "appropriate," and he will interpret it broadly but will exercise discretion in imposing penalties for violations of the rule (*Minot Daily News*, January 9,2003). The State Veterinarian has indicated that the Board of Animal Health will take action on violations of the permit requirement "If we happen to find out about it" (*Minot Daily News*, January 9, 2003). It is important to recognize, however, that failure to enforce the importation permit requirement uniformly would render it virtually useless as a disease control measure, and the kind of arbitrary and selective enforcement proposed by the State Veterinarian would render it legally invalid.

The public is told that an importation permit is necessary to provide for more timely tracing of animals than can be done trough the existing health certificate requirement (*Minot Daily News*, January 9, 2003). Of course, this could—and should—be resolved simply by requiring state animal health agencies to expedite the forwarding of health certificates to their counterparts in the importing states, rather than by imposing additional regulatory burdens on the public. However, rather than addressing its current health certificate requirement that doesn't work, the Board of Animal Health is proposing instead to add another importation permit requirement that can't work.

The public also is told that the importation permit requirement is necessary because the U. S. Department of Agriculture does not notify states of the entry of animals from countries where foot and mouth disease is present. However, instead of proposing that the U. S. Department of Agriculture implement a program to notify states of the importation of animals from countries with foot and mouth disease—or limiting the importation permit requirement to the relatively few animals that are imported into North Dakota from those countries, the Board of Animal Health proposes to impose broad—and unenforceable—importation permit requirements on thousands of animals that have never been out of this country.

And, what about the potential for the cattle, sheep, swine and bison from Minnesota, South Dakota and Montana that are exempt from the importation permit requirement? The incubation period in natural foot and mouth disease infections may be 2 to 4 days, so infected animals could easily pass through livestock auction markets or slaughter houses without signs being detected. Is there no need to trace such animals quickly?

Of course, anyone could call the office of the State Veterinarian, say that he/she is a veterinarian, and request an importation permit and then write the number on a health certificate. The person could request a permit for a black Labrador retriever listed on a health certificate, but then import a different black Labrador retriever, and as soon as it crosses the border they could sell or give it to someone else with no record of where it went.

The Board's Notice of Intent asserts that:

> "The purpose of the proposed rules and amendments is to protect the livestock industry from contagious and infectious diseases."

but it provides no information to show how the proposed requirement for importation permits for all animals entering North Dakota would protect the livestock industry from contagious diseases. For example, how does the requirement for an importation permit for a dog protect the livestock industry from contagious and infectious diseases? What diseases are transmitted from dogs to livestock, and which of those are not already present in dogs, livestock and other animals in North Dakota?

Foot and mouth disease? Dogs and cats are resistant to foot and mouth disease, but the disease occasionally occurs in humans. Although both humans and pets potentially could mechanically transport the virus, under the Board's proposed rules, pets imported into the State would require an importation permit while the humans accompanying them and anyone else from countries with foot and mouth disease could enter with no restrictions whatsoever. It should be noted in this context that foot mouth disease has not occurred in this country since 1929, and most of the outbreaks of foot and mouth disease that occurred in this country in the last century resulted from the importation of infected animal products rather than infected live animals.

Bio-terrorism? What bio-terrorist is going to call the office of the State Veterinarian for an importation permit for a foot and mouth disease-laden beagle? On the other hand, it would be a simple matter to obtain an importation permit that would allow a contaminated animal to enter the State with the full blessing of the Board of Animal Health.

The Board of Animal Health's November 25, 2002, Notice of Intent stated that the purpose of the proposed amendments is to protect the livestock industry from contagious and infectious diseases. However, the public is now being told that the proposed amendments are an attempt to control the spread of diseases such as rabies, distemper and kennel cough (*Minot Daily News*, January 9, 2003).

Rabies is one disease that can be transmitted by dogs and cats to livestock. In 2001, 42 cases of rabies were reported in North Dakota. Twenty-seven of those cases occurred in skunks, two occurred in dogs, three occurred in cats, three occurred in horses and six occurred in cattle, so rabies already is present in North Dakota. In addition, the Board's current Administrative Rules require that dogs over three months of age imported into North Dakota be vaccinated for rabies and they prohibit the importation of dogs less than three months of age from areas under quarantine for rabies. Clearly, adding the requirement for an importation permit for dogs and cats will have no material effect on the occurrence of rabies in North Dakota.

Livestock are not susceptible to canine distemper—in fact, the Board of Animal Health does not even list canine distemper as a reportable disease in North Dakota. Moreover, canine distemper already is widespread in raccoons, skunks and coyotes in North Dakota, and it occurs in unvaccinated dogs in the State, so the requirement for importation permits for dogs would not prevent the introduction of distemper or have any measurable influence on its occurrence. Canine distemper cannot readily be diagnosed in the incubation stage but it is effectively prevented through vaccination. However, the Board is not proposing to amend its Administrative Rules to require vaccination of dogs in the State or those imported into the State for canine distemper.

Livestock also are not susceptible to canine "kennel cough," or infectious tracheobronchitis, and the Board also does not list it as a reportable disease. Infectious tracheobronchitis is common in dogs in North Dakota and it is readily transmitted by aerosol droplets wherever dogs are confined in groups, such as kennels or dog shows. Although infectious tracheobronchitis frequently results in a persistent cough, most dogs recover naturally without complications. The proposed importation permit requirement would have no measurable effect on the occurrence of infectious tracheobrochitis in dogs in North Dakota. Effective vaccines are available but, as with distemper, the Board of Animal Health is not proposing to require the vaccination of dogs in the State or those imported into the State for infectious tracheobronchitis.

It is obvious on its face that the Board's proposed requirement for importation permits for all animals entering North Dakota is unrealistic, unenforceable and of no material value in protecting the livestock industry from the introduction of infectious diseases. Unfortunately, instead of dealing realistically and substantively with the issue, the proposed amendment simply creates a false sense of security that, if anything, makes the livestock industry more vulnerable to the introduction of diseases. Consequently, rather than protecting the livestock industry from contagious diseases, the proposed importation permit requirement simply creates the bureaucratic illusion—or more accurately, the delusion—of "doing something," even if it is of no value and imposes substantial financial and regulatory burdens on the public.

Revocation of Valid Importation Permits

The Board of Animal Health's proposed amendments of NDCA § 48-02-01-02 dealing with the importation of domestic animals and § 48-12-01-02.1 dealing with the importation of captive wild animals would provide that:

> "Upon a determination that the import permit applicant or permittee is or has been in violation of the requirements of the subject permit or that the applicant has provided inaccurate information with respect to the permit request, the state veterinarian may deny, revoke, or suspend existing permit(s) issued pursuant to these rules."

The proposed amendments do not cite the constitutional basis for revoking valid importation permits that already have been obtained legally, and the statutes cited as the authority for the amendments do not provide such authority. Nevertheless, the Board of Animal Health is attempting through the proposed amendments to bestow upon itself that power.

The proposed amendments do not specify what actions the Board of Animal Health may take upon revoking or suspending existing valid importation permits for animals that already have been legally imported into the State, but the most obvious would be either to compel the owner to return the animals to the state of origin or for the Board to confiscate the animals and either destroy them or return them to the state of origin. Indeed, there is no way under the proposed amendments that the owner could legally continue to possess the animals without having a valid importation permit in effect.

It is instructive to consider how this provision might operate. A rancher who has regularly imported cattle from other states every year for five years could apply for an importation permit for a shipment of 20 heifers and 20 steers. However, when the shipment arrives, it is discovered that, instead of 20 heifers and 20 steers, there are 19 heifers and 21 steers. The permit applicant has "provided inaccurate information with respect to the permit request," and the State Veterinarian would have the authority under the proposed amendments to revoke not only the importation permit for this shipment, but the importation permits for all of the cattle the rancher has imported over the previous five years.

A pet owner who obtained an importation permit for a dog from Minnesota could two years later apply for an importation permit for a female kitten from South Dakota. However, when the owner takes the kitten to the veterinarian two months later to be spayed, it is discovered that the kitten is a male. The permit applicant has "provided inaccurate information with respect to the permit request," and the State Veterinarian would have the authority under the proposed amendments to revoke not only the importation permit for the kitten, but also the one issued two years earlier for the dog.

What about the pet store operator who regularly imports animals for his business? He applies for an importation permit for four poodle puppies and five Siamese kittens, but the supplier sends five cocker spaniel puppies and four Persian kittens by mistake. The pet store operator has "provided inaccurate information with respect to the permit request," and under the proposed amendments, the State Veterinarian could revoke the importation permits for the store's entire inventory.

The question is not whether or under what circumstances the State Veterinarian actually would revoke valid importation permits for animals already legally imported into the State, or whether the Board actually would confiscate those animals. The question is why the Board of Animal Health would presume to bestow such powers on itself in the first place, and why it should be granted such arbitrary and authoritarian powers with the potential for that kind of abuse.

Denial of Permits Without Substantive Evidence

The Board of Animal Health's proposed amendments of NDAC § 48-02-01-02 dealing with the importation of domestic animals and NDAC § 48-12-01-02.1 dealing with the importation of captive wild animals would provide that:

> "The state veterinarian may deny an import permit if the state veterinarian **believes or suspects** than an animal:" (Emphasis added)

has not met the Board's importation requirements, may be infected with or exposed to a contagious disease, may originate from an area under quarantine for a contagious disease, or may be a threat to the health of the human or animal population of the State.

While any of these circumstances might constitute a legitimate basis for denying an importation permit, the provision for the State Veterinarian to deny an importation permit simply because he "believes or suspects" such circumstances might exist and without substantive evidence that they actually do exist constitutes an abuse of authority and denial of due process.

Economic Impacts and Limitations of Use of Private Property

The Board of Animal Health's November 25, 2002, Notice of Intent to Amend Administrative Rules asserts unequivocally that:

> "None of the proposed rules and amendments are expected to have an impact on the regulated community in excess of $50,000.00. The proposed amendments will not limit the use of private real property."

These statements not only are made without any substantiation or consideration of the actual impacts of the proposed rules and amendments, but they are demonstrably false.

Thousands of animals of numerous species enter North Dakota for a variety or reasons every year, including tourists and other travelers with their pets, North Dakota residents returning with their pets, hunters with their dogs, pet owners seeking grooming, training and veterinary services, farmers and ranchers bringing livestock into the State, commercial and avocational captive wildlife owners, shooting preserve operators, and pet store owners. The long distance telephone charges to call the Board of Animal Health to request the importation permits alone could approach $50,000. Add the loss of business in North Dakota resulting from people deciding not to go through process required to get an importation permit to bring their animals into the State and the economic impact becomes staggering.

Of course, it is patently ludicrous for the Board of Animal Health to claim that the denial or revocation of importation permits for animals "will not limit the use of private real property."

These statements clearly demonstrate that the Board has done nothing more than make a perfunctory gesture at "jumping through the hoops" of the process prescribed by law for developing administrative rules, without any serious or substantive consideration of the impacts of those rules.

Arbitrary and Authoritarian Enforcement

Through the proposed amendments to its Administrative Rules, the Board of Animal Health would bestow upon itself broad, sweeping and virtually unlimited control over literally every animal of every species entering North Dakota at any time for any purpose, and regardless of whether it poses any real or imagined disease risk. In short, the proposed amendments seek to establish the State Veterinarian as the czar of animal movements into the State.

The Board of Animal Health proposes its own Administrative Rules, the Board adopts its Administrative Rules, it interprets and administers its Administrative Rules, it enforces its Administrative Rules, it charges citizens for violations of its Administrative Rules, it decides the guilt or innocence of those it charges with violations of its Administrative Rules, and it imposes penalties for violations of its Administrative Rules. The only avenue of due process open to a citizen who is charged with a violation of the Board's Administrative Rules is, after the Board has taken the action, to request a hearing before an administrative law judge, and then to appeal to the State District Court. Of course, the time and expense involved in following this process through the courts are prohibitive for most people, so this creates the potential for the Board to use the threat of action to intimidate and coerce citizens into complying with its interpretations of its Administrative Rules.

The State Veterinarian has stated that the Board of Animal Health interprets the proposed amendments of its Administrative Rules broadly and could fine people up to $5,000 for each violation (*Minot Daily News*, January 9, 2003). Is the public to believe that it is the intention of the Board of Animal Health to confer upon itself such broad and unlimited authority over the entry of animals into the State so that it may then exercise that unlimited power only in a very limited manner? Is the public to believe that the Board will not exercise its unbounded power in an arbitrary and autocratic manner? Based upon my personal experience with the Board of Animal Health's enforcement of its regulations, I can state unequivocally and with substantiating documentation that such an assumption would not simply be naïve, but it would be foolhardy and unfounded. It would also be contrary to the evidence.

On July 5, 1993, the Board of Animal Health issued a Notice of Public Hearing on its proposed Administrative Rules for Nontraditional Livestock. Although I am not actively engaged or financially involved in nontraditional livestock, I do provide some wildlife rehabilitation services on a charity basis, and I have a white-tailed deer that was brought to me as a fawn in the spring of 1988 with one rear leg nearly cut off by a hay mower. So, I decided to read the Board's proposed rules to regulate the importation, confinement, transportation, sale and disposition of nontraditional livestock. What I found astonished me. The Board's proposed rules were replete with conceptual flaws, technical deficiencies, legal defects, contradictions, omissions and plain foolishness that revealed a profound lack of understanding of, and appreciation for, what it was doing. As just one example, the Board's proposed rules required that:

> "Nontraditional livestock acquired from another state/province shall be marked with a North Dakota eartag, unless it has an official ID tag, within 30 days of importation and before commingling with similar animals."

The proposed rules included pheasants and a number of other wild birds as nontraditional livestock, but they did not explain how one is supposed to put an ear tag on a bird.

The Board's proposed rules for nontraditional livestock were so poorly written that on August 30, 1993, I submitted 22 ½ pages of comments pointing out some of their more serious flaws and deficiencies. Among the things I noted was that:

> "Other than the requirement for a 'possession license' for the importation of non-traditional livestock and a 'special license' for 'detrimental' and 'restricted' species, the proposed rules provide virtually no useful information on the license requirements for Category 1-4 captive wild animals that would permit a determination of who would need a license or for what. For example, 'a license' is defined as a document obtained from the Board 'for the raising or propagation of a species in North Dakota,' but there is no mention of any license requirement for the possession of wild animals (other than detrimental or restricted species) for purposes other than raising or propagation."

and I specifically asked:

> "What kind of license does the farmer need who has an injured deer but is not raising or propagating deer? What kind of license does a veterinarian or wildlife rehabilitator need to hold wild animals in captivity for treatment?"

Instead of addressing these public comments is a responsible and professional manner, in September 1993, the Board's staff instead prepared and submitted to the Board a sarcastic internal rebuttal that simply ridiculed and dismissed the issues that had been raised.

After learning about the staff's internal memorandum, I objected to the Board's handling of my comments in letters to the State Veterinarian and to the Attorney General, but I did not receive a response from either. However, on October 20, 1993, the Deputy State Veterinarian stopped by my office and he told me that that it was the intent of the Board of Animal Health that its rules pertaining to nontraditional livestock were to apply only to commercial operations.

In early February 1994, I received a letter from the Deputy State Veterinarian addressed to "Dear Producer" and providing information on the Board's licensing requirements for nontraditional livestock. I responded to the Deputy State Veterinarian, with a copy to the Attorney General, reiterating the Deputy State Veterinarian's statement to me On October 20, 1993, about the licensing requirement applying only to commercial operations, and pointing out that:

> "... because a license is a document obtained from the Board 'for the raising or propagation of a species' (presumably, of non-traditional livestock), the rules contain no requirement for a license for the possession of non-traditional livestock for purposes other than 'raising or propagation.'"

I did not receive a response from either the Deputy State Veterinarian or the Attorney General indicating that my interpretation of the rule was incorrect.

On October 28, 1998, Mr. Jack Sund of the House of Sund Pet Center in Bismarck, his attorney, Mr. Richard Baer, and I met with the current State Veterinarian and Deputy State Veterinarian to discuss the Board's Administrative Rules as they pertain to Mr. Sund's business. During the meeting, I provided the State Veterinarian and the Deputy State Veterinarian with a copy of my August 30, 1993, comments on the Board's Administrative Rules for Nontraditional Livestock and pointed out that the rules contain no requirement for a license for the possession of nontraditional livestock for purposes other than raising or propagation. The State Veterinarian and the Deputy State Veterinarian both acknowledged that my interpretation was correct, and they said that they already had discussed amending the rules to expand the licensing requirement to include possession.

On May 21, 1999, *The Jamestown Sun* ran a story on our captive white-tailed deer. The reporter had asked me what kind of permit was needed for the deer. I told him just what the former Deputy State Veterinarian had told me on October 20, 1993, and what and the current State Veterinarian and Deputy State Veterinarian had acknowledged on October 28, 1998, which was that a permit is required for the importation of deer from another state and a license is required for raising or propagating deer, but there is no licensing requirement for possession of deer for purposes other than raising or propagation. And that is what the reporter wrote in his story.

Then on May 26, 1999, I received a "**CERTIFIED MAIL RETURN RECEIPT REQUESTED**" letter from the Deputy State Veterinarian stating that:

> "Several individuals reported that you were quoted in the Bismarck Tribune as stating that 'the North Dakota Board of Animal Health does not require people who want to own a deer to have a permit or license.'
>
> As a matter of record, the Board '**does**' [emphasis in original] require white-tailed deer to be licensed...
>
> Currently, owners of nontraditional livestock, which are being held in captivity without a license, are in violation of the North Dakota Century Code and Administrative Rules. After the owner is notified and given adequate time to meet the requirements, **those that do not comply are turned over to the local state's attorney for further action by the Board of Animal Health** [emphasis added]. The next Board meeting is scheduled for June 9th."

Thus, (1) after acknowledging to me seven months earlier before two witnesses that the Board's Administrative Rules do not require a license for the possession of white-tailed deer for purposes other than raising or propagation, (2) based solely upon reports of what others said they had read in a newspaper, and (3) without conducting a proper investigation to establish the facts, the Deputy State Veterinarian simply sent a "**CERTIFIED MAIL RETURN RECEIPT REQUESTED**" letter summarily declaring that I was in violation of the North Dakota Century Code and the Board's Administrative Rules and threatening to turn the matter over to the local State's Attorney for action by the Board of Animal Health if I did not comply.

I responded with a June 1, 1999, letter requesting that the Deputy State Veterinarian identify the specific sections and paragraphs of the Board's Administrative Rules containing the requirement for a license for possession of white-tailed deer for purposes other than raising or propagation.

On June 14, 1999, I received another "**CERTIFIED MAIL RETURN RECEIPT REQUESTED**" letter from the Deputy State Veterinarian enclosing copies of portions of the same Administrative Rules which the former Deputy State Veterinarian had told me on October 20, 1993, apply only to commercial operations and which the current Deputy State Veterinarian and State Veterinarian had acknowledged on October 28, 1998, do not contain a requirement for a license for the possession of captive wild animals for purposes other than raising or propagation.

Therefore on June 15, 1999, I faxed a letter to the Deputy State Veterinarian pointing out that:

"... as you know, the only license requirement specified in the Administrative Rules is 'for the importation of animals into North Dakota.'

The highlighted provision in the portion of the Administrative Rules enclosed with your June 14, 1999, letter regarding:

'A North Dakota nontraditional livestock license from the board which is valid for a species to be imported or possessed.'

is contained among the requirements for importing nontraditional livestock into North Dakota and, therefore, does not apply to nontraditional livestock that are not being imported. In addition, of course, the Administrative Rules contain no provision for the issuance of a license for purposes other than 'raising or propagation.' Consequently, under the Administrative Rules, there is no North Dakota nontraditional livestock license which is valid for a species to be possessed."

Without addressing these facts or the fact that she and the State Veterinarian had acknowledged eight months earlier that the Administrative Rules contain no requirement for a license for the possession of white-tailed deer for purposes other than raising or propagation, on June 16, 1999, the Deputy State Veterinarian sent a memorandum to the Board of Animal Health informing them that I had been given until the end of the month to obtain a license for our deer.

The memorandum also informed the Board that the State Veterinarian was preparing a news release responding to the story on our deer. In the news release, the State Veterinarian stated categorically that:

"However, a license is required to maintain the animal within the state. North Dakota Administrative Code Section 48-12-01-03 requires: 'All nontraditional livestock premises must be licensed and comply with the administrative rules of the board and other applicable statutes..."

Of course, the State Veterinarian neglected to mention in his news release that the licensing requirement of the Administrative Rules he cites is for "a document obtained from the board for the raising or propagation of a species in North Dakota," and that he had admitted on October 28, 1998, that the Administrative Rules which he cited in the news release contain no requirement for a license for the possession of deer for purposes other than raising or propagation.

Finally, in her June 16, 1999, memorandum to the Board of Animal Health, the Deputy State Veterinarian stated:

"I am enclosing all communications with Dr. Pearson and the editorials. As you can see, he has been given until the end of the month of June to obtain a current NTL license for his premise. **Regardless of his response, the local state's attorney is to be notified of the violation and the Game and Fish Department has been notified.** [Emphasis added] Keeping animals taken in the wild is a direct violation of the Game and Fish Department's regulations under § 20.1-09-02..."

Of course, the Deputy State Veterinarian neglected to tell the Board that on March 10, 1998, the current Director of the North Dakota Game and Fish Department and the current State Veterinarian had signed a Memorandum of Understanding transferring to the Board of Animal Health the authority:

> "To fulfill the licensing, permitting, inspection, regulation and record keeping of native wildlife in accordance with Administrative Rules Chapter 48 and N.D.C.C. 20.1 as staffing and time will allow; and in a manner consistent with prior Departmental program management."

and that she and the State Veterinarian had admitted on October 28, 1998, that Chapter 48 of the Board's Administrative Rules contain no requirement for a license for the possession of deer for purposes other than raising or propagation.

In another "**CERTIFIED MAIL RETURN RECEIPT REQUESTED**" letter on June 16, 1999, the Deputy State Veterinarian stated that:

> "The language in Article 48 may not be easily understood by the public, but the intent of the law is understandable especially in the case of wild native animals that are described within the rules."

But she continued to ignore the fact that she had admitted on October 28, 1998, which is that the Administrative Rules contain no license requirement for the possession of the wild native animals described within the rules for purposes other than raising or propagation, and she summarily asserted that:

> "The Board of Animal Health and the Game and Fish Department equate 'raising' with 'possession.'"

The Deputy State Veterinarian then went on to state that:

> "I want you to know that regardless of changes that may occur in the Administrative Rules in the future, I am obligated to enforce Article 48 as it currently reads... Failure to enforce Article 48 would be neglecting our duties and would negate the licenses of all other Nontraditional Livestock premises."

Of course, enforcing Article 48 as it currently reads simply would mean not requiring a license for the possession of nontraditional livestock for purposes other than raising and propagation, and it would not "negate the licenses of all other Nontraditional Livestock premises" where nontraditional livestock are raised or propagated. The Deputy State Veterinarian apparently does not understand that her only option under the law is to enforce Article 48 as it is written.

The Deputy State Veterinarian then reiterated her threat that:

> "With the above comments in mind, I will wait until the end of June, 1999 and then send a letter to the Stutsman County States Attorney simply informing him of the violation of the state's Administrative Rules concerning 'Lashes' [the name of our deer]. A letter will

also be sent to the Game and Fish Department notifying them of the ongoing violation and the actions to be taken by our office."

In a June 17, 1999, letter to North Dakota Agriculture Commission Roger Johnson, my attorney, Mr. Donald D. Feare, JD, of Fort Worth, Texas, pointed out, regarding the Deputy State Veterinarian's June 16, 1999, letter to me, that:

"... Dr. Keller blatantly admits that she is using the authority of her agency in retaliation for Dr. Pearson publicly taking a position in opposition to hers. This alone would seem to be an unlawful use of such agency power. She goes on to state, 'The language in Article 48 may not be easily understood by the public, but the intent of the law is understandable.' Again, she makes a rather amazing admission. If a law is admittedly 'not easily understood by the public,' then it is vague and ambiguous and hardly sufficient upon which to prosecute and would not withstand constitutional scrutiny. Further, the concept of prosecuting someone for violation of the 'intent' rather than the published language from which the public derives its understanding of the law is without a doubt a concept unique to Dr. Keller."

In a June 22, 1999, **"CERTIFIED MAIL RETURN RECEIPT REQUESTED"** letter to Mr. Feare, the Deputy State Veterinarian said:

"As I mentioned to Dr. Pearson in correspondence, the Board of Animal Health **equates 'raising' with 'possessing.'"** (Emphasis in original)

and she went on to add:

"With that fact in mind and the MOU with the Department of Game and Fish, the Board has evidently not had a need, **up to this point**, to further clarify the law." (Emphasis added)

Of course, the Deputy State Veterinarian neglected to mention that on October 28, 1998, they did not equate raising with possessing.

In his June 24, 1999, response to the Deputy State Veterinarian, Mr. Feare pointed out that:

"... I see nothing in the regulation you provide, requiring a license or permit to merely posses a pet deer."

Mr. Fear went on to note that:

"As it is now near the end of the month and you had previously stated that you would wait until the end of the month to forward a letter to the State's Attorney alleging a violation, I take it from the copy of my letter forwarded to Mr. Paul Germolus, Assistant [Attorney General] that you have proceeded with that plan. I can only assume from this point that the matter is in the hands of the State's Attorney. If that conclusion is incorrect, please advise."

By this time, both Mr. Feare and I were prepared to file a counter-suit against the Board of Animal Health petitioning the Court to find the Board's Administrative Rules for Nontraditional Livestock to be arbitrary, ambiguous and an abuse of authority and to declare them unconstitutional. However, Mr. Feare did not receive a response from the Deputy State Veterinarian and I was never notified by the Stutsman County State's Attorney of any action being taken by the Board of Animal Health against me.

The Board of Animal Health's attempt to use intimidation to coerce compliance with an interpretation of its Administrative Rules which it knew to be erroneous and without legal foundation failed in this case, but it demonstrates, clearly and unequivocally, the arbitrary and authoritarian regulatory philosophy of the Board and the Office of the State Veterinarian.

Conclusions

The amendments proposed by the Board of Animal Health to its Administrative Rules pertaining to the importation of animals into the State of North Dakota raise disturbing questions about the Board's regulatory philosophy and its understanding of the basic principles of administrative law and public policy, and they demonstrate serious problems with the Board's ability to develop realistic, responsible and equitable animal disease prevention and control regulations based on sound scientific principles

The most positive result of the proposed amendments would be if the public attention and indignation they generate prompt the legislative action required to bring about the fundamental and comprehensive reforms in animal disease regulation in North Dakota that are necessary to create a responsible, accountable and professional animal health agency which is able to develop realistic and equitable regulations that effectively protect domestic animals, captive and free-ranging wildlife and humans in North Dakota from the introduction of dangerous infectious animal diseases, without imposing unwarranted burdens on the public.

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I would rather be exposed to the inconveniences of too much liberty than to those of too small a degree of it. – Thomas Jefferson

Governments are instinctively, automatically and invariably tyrranical – William B. Ruger

STATEMENT REGARDING THE NORTH DAKOTA BOARD OF ANIMAL HEALTH NOVEMBER 25, 2002 NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES PERTAINING TO THE IMPORTATION OF ANIMALS INTO NORTH DAKOTA

The North Dakota Board of Animal Health's November 25, 2002, Notice of Intent to Amend Administrative Rules proposes to amend Chapter 48 of the North Dakota Administrative Code to expand the Board's regulatory authority to encompass every animal of every species, from insects to elephants, entering the State of North Dakota at any time for any purpose, and they would empower the State Veterinarian to deny importation permit applications without substantiating evidence and to revoke valid permits issued for animals already legally imported into the State.

The importation permit requirement would include not only traditional domestic livestock, but also pets accompanying tourists, truck drivers and others traveling to and through the State, pets brought across the border from Minnesota for training, grooming or veterinary care in Fargo and Grand Forks, dogs and cats returning with their North Dakota owners after a weekend at the lake in Minnesota, North Dakota hunters returning from South Dakota or Montana with their dogs, and North Dakota citizens who drive to Fargo or Grand Forks with their pets and decide to cross the border to Moorhead or East Grand Forks.

Exemptions from the importation permit requirement are provided for bison, cattle, sheep and swine from adjacent states that originate from a producer's premises and are consigned directly to a licensed livestock auction market or state or federally inspected slaughterhouse. We are told that this exemption is necessary in order to allow normal business operations to proceed. We are not told why it is that the importation permit requirement would impose an unacceptable burden on the normal business operations of the domestic livestock interests who compose the Board of Animal Health, but would not impose a significant burden on the normal business operations of others involved with animals or on the general public.

Because most residents of other states will not be aware of North Dakota's importation permit requirement, their options will be (1) to stop at the border and attempt to locate a veterinarian who will call the office of the State Veterinarian to obtain an importation permit, (2) if it is a weekend or holiday, wait 1-3 days for the office of the State Veterinarian to open, (3) detour around North Dakota and vow never to come back, or most likely (4) say a few choice words about government in general and North Dakota in particular and ignore the importation permit requirement.

In order to enforce its Administrative Rules, the Board of Animal Health would have to increase its staff to station personnel at every road crossing the border to inspect vehicles for animals entering without the required importation permit. Indeed, even the State Veterinarian has admitted that the proposed importation permit requirement "would be impossible to enforce." Of course, failure to enforce the importation permit requirement uniformly would render it virtually useless as a disease control measure, and enforcing it selectively and arbitrarily would render it legally invalid.

The public is told that the importation permit is necessary to provide more timely tracing of animals than can be done through the existing health certificate requirement. However, instead of addressing its current health certificate requirement that doesn't work, the Board is proposing to impose another importation permit requirement that can't work.

It is obvious on its face that the Board's proposed requirement for importation permits for all animals entering North Dakota is unrealistic, unenforceable and of no material value in protecting the livestock industry from the introduction of infectious diseases. Unfortunately, instead of dealing realistically and substantively with the issue, the proposed amendment simply creates a false sense of security that, if anything, makes the livestock industry even more vulnerable to the introduction of diseases. Consequently, rather than protecting the livestock industry from contagious diseases, the proposed importation permit requirement simply creates the bureaucratic illusion—or more accurately, delusion—of "doing something," even if it is of no value and imposes substantial financial and regulatory burdens on the public.

The Board's proposed amendments provide that:

> *"Upon a determination that the import permit applicant is or has been in violation of the requirements of the subject permit or that the applicant has provided inaccurate information with respect to the permit request, the state veterinarian may deny, revoke, or suspend existing permit(s) issued pursuant to these rules."*

The Board does not cite the constitutional basis for revoking valid permits that already have been obtained legally, and the statutes cited as the authority for the amendments do not provide such authority. Nevertheless, the Board is attempting through the proposed amendments to bestow upon itself that power.

The proposed amendments do not specify what actions the Board may take upon revoking or suspending existing permits for animals that already have been legally imported into the State, but the most obvious would be to compel the owner to return the animals to the state of origin or for the Board to confiscate the animals.

The question is not whether or under what circumstances the State Veterinarian would revoke or suspend valid permits for animals already legally imported into the State or whether the Board would actually confiscate those animals. The question is why the Board would presume to bestow such powers on itself in the first place, and why it should be granted such arbitrary and authoritarian powers with the potential for that kind of abuse.

The proposed amendments also provide that:

> *"The state veterinarian may deny an import permit if the state veterinarian believes or suspects than an animal:"*

has not met the Board's importation requirements, may be infected with or exposed to a contagious disease, may originate from an area under quarantine for a contagious disease, or may be a threat to the health of the human or animal population of the State.

While any of these circumstances might constitute a legitimate basis for denying an importation permit, the provision for the State Veterinarian to deny an importation per it simply because he "believes or suspects" such circumstances might exist and without substantive evidence that they really do exist constitutes an abuse of authority and denial of due process.

The Board's Notice of Intent to Amend Administrative Rules asserts unequivocally that:

> *"None of the proposed rules and amendments are expected to have an impact on the regulated community in excess of $50,000.00. The proposed amendments will not limit the use of private real property."*

These statements are made without substantiation or consideration of the actual impacts of the proposed amendments, and they are demonstrably false.

The long distance telephone charges to call the office of the State Veterinarian to request importation permits for the thousands of animals that enter the State each year alone could approach $50,000. Add the loss of business resulting from people deciding not to go through the process required to import animals into North Dakota and the economic impacts become staggering.

Of course, it is ludicrous for the Board to claim that the denial or revocation of permits for animals "will not limit the use of private real property."

Through the proposed amendments, the Board would bestow upon itself broad and virtually unlimited control over literally every animal of every species entering North Dakota, regardless of whether it poses any real or imagined disease risk. In short, the proposed amendments seek to establish the Board of Animal Health as the czar of animal movement into the State.

Is the public to believe that it is the it is the intention to of the Board to confer such broad and unlimited authority on itself so that it may then exercise that unlimited authority in a very limited manner? Is the public to believe that the Board will not exercise its unbounded power in an arbitrary and autocratic manner?

Based upon my own personal experience with the Board's enforcement of its regulations, which is discussed in detail in my written comments, I can state unequivocally and with substantiating documentation that such an assumption would not simply be naïve, but foolhardy and unfounded. It would also be contrary to the evidence.

The Board of Animal Health's attempt to use intimidation to coerce compliance with an interpretation of its Administrative Rules which it knew to be erroneous and without legal foundation failed in this case, but it demonstrates, clearly and unequivocally, the arbitrary and autocratic regulatory philosophy of the Board and the Office of the State Veterinarian.

The amendments proposed by the Board of Animal Health pertaining to the importation of animals into the State of North Dakota raise disturbing questions about the Board's regulatory philosophy and its understanding of the basic principles of administrative law and public policy.

The most positive result of the proposed amendments would be if the public attention and indignation they generate prompt the legislative action required to implement the fundamental and comprehensive reforms in animal disease regulation in North Dakota that are necessary to create a responsible, accountable and professional animal health agency.

Page 5 missing

humans, promptly kill their victims. And because, healthy adult wild animals generally have high survival rates while newborn animals suffer the greatest mortality, wild animal orphans rarely occur under natural conditions. Although it could just as logically be argued that it is "unnatural" to vaccinate cattle or treat calves with diarrhea, the prevailing regulatory philosophy permits and encourages those activities, but it would restrict and discourage treatment of injured and orphaned wild animals.

Control of Diseases vs. Regulation of Animals

As noted above, the Board's administrative rules for domestic animals emphasize control of diseases, but the administrative rules for captive wildlife emphasize regulation of ownership and possession in the name of disease control, public safety and environmental protection. This leads to rules regulating captive wildlife that have little direct relevance to disease control—indeed, if they did, there should be similar rules for domestic animals.

Disenfranchisement of Captive Wildlife Owners

When talking with captive wildlife owners, it soon becomes apparent that no aspect of captive wildlife regulation in North Dakota causes more anger, resentment, distrust and opposition than the feeling that they have no real voice in the regulatory process and that their concerns are not understood or taken seriously and frequently simply are dismissed or ignored. It is important to examine the basis for this feeling.

NDCC 36-01-08 defines the duties of the Board of Animal Health as follows:

> "The board shall protect the health of the domestic animals and nontraditional livestock of this state, shall determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous, contagious, and infectious diseases among the domestic and nontraditional livestock of this state, and shall prevent the escape and release of an animal injurious to or competitive with agriculture, horticulture, forestry, wild animals, and other natural resource interests. . ."

It is important to note again that the statute addresses "domestic animals and nontraditional livestock" simultaneously, and it makes no distinction between the regulation of the two groups. However, in establishing the composition of the Board of Animal Health, which regulates both domestic animals and nontraditional livestock, NDCC 36-01-01 specifies that the Board shall consist of seven members appointed by the governor for terms of seven years each, and that five of the members shall be "actively engaged and financially interested in" the commercial beef cattle industry (candidates to be recommended by the North Dakota [redacted] the registered purebred beef cattle industry (candidates to be recommended by [redacted], the dairy cattle industry (candidates to be recommended by [redacted]), the swine industry (candidates to be recommended by the North Dakota [redacted], and the sheep industry (candidates to be recommended by the North Dakota Wool [redacted] The remaining two members of the Board are graduate veterinarians (candidates nominated by the North Dakota Veterinary Medical Association). Traditionally, the two graduate veterinarians have been private veterinary practitioners [redacted] so they also have been actively involved with and financially [redacted].

It is instructive to note, therefore, that the statute provides for the Board to consist entirely of representatives of the private domestic livestock industries affected by the Board's regulations, and that no provisions are made for government agency officials to hold seats on the Board. From this, two conclusions can be drawn. First, it is apparent that the State Legislature feels that private domestic livestock producers can be trusted to regulate their industry responsibly and to address disease control and related issues in an effective manner, and that they are in the best position to do so. Second, the Legislature clearly took specific and decisive steps to assure that the concerns of private domestic livestock owners would not be dismissed by the Board, and that their interests would be protected.

In 1991, the State Legislature transferred jurisdiction over captive wildlife from the North Dakota Game and Fish Department to the Board of Animal Health, but it took no corresponding steps to expand the composition of the Board to include representatives of the various captive wildlife interest groups in the State. Consequently, captive wildlife interests have no formal voice in their regulation but instead are subject to regulation by a Board of Animal Health composed of representatives of domestic livestock groups and which, by its own admission, has little interest or expertise in captive wildlife issues.

Because it lacks expertise in captive wildlife issues, the Board established a Nontraditional Livestock Advisory Council. However, as defined by the Board:

> "The purpose [of the Council] will be to serve as the coordinating body for investigating issues of concern related to nontraditional animal agriculture in North Dakota and recommending government actions to resolve those concerns."

Two significant points are to be noted. First, by definition, the Board limits the Council's authority to coordinating the investigation of issues "related to nontraditional animal **agriculture**," thus again emphasizing the Board's focus on regulating the commercial production of nontraditional livestock, while disregarding the numerous other ways in which people are involved with wildlife held in captivity. Second, the Board restricts the function of the Council to serving as a "coordinating body" which can only "recommend government actions" to deal with "issues related to nontraditional animal agriculture." Thus, the Council is simply an advisory body, with no real authority in matters related to captive wildlife.

The disenfranchisement of captive wildlife interests does not end there, however. Although the Board of Animal Health, by statute, is constituted entirely of representatives of domestic livestock interests subject to its regulations and has no representatives from government agencies, the Board specifies that the Nontraditional Livestock Advisory Council shall consist of one representative each from the North Dakota Furbearers Association, North Dakota pet stores, North Dakota gamebird producers, cervid owners and dangerous animal owners and one from North Dakota zoos, PLUS one each from the Board of Animal Health (who shall serve as chairman of the Council), the North Dakota Department of Health, the North Dakota State University Veterinary Diagnostic Laboratory, the U.S.D.A./APHIS/Veterinary Services, the North Dakota Game and Fish Department, and the North Dakota Extension Service. Thus, unlike the Board of Animal Health, the Nontraditional Livestock Advisory Council established by the Board to advise it on captive wildlife issues is dominated by government agency officials (6 representatives), with private captive wildlife interests having minority representation (5 – 4 representatives) on the Council. this gives me

It is instructive to note that the *MODEL FOR STATE REGUALTIONS PERTAINING TO CAPTIVE WILD AND EXOTIC ANIMALS* upon which the Board's Administrative Rules for Nontraditional Livestock are based recommends the appointment of a Technical Consulting

Committee to make "recommendations concerning proposed regulations," but it suggests that the committee consist of:

1) A veterinarian with expertise in the medical care and management of captive wild and exotic animals
2) A zoo director, curator, or zoo veterinarian, preferably from a zoo accredited by a national zoological organization
3) A representative from the hunting preserve industry
4) A representative associated with the propagation of captive wild or exotic animals used for meat and other by-products
5) A private breeder and/or exhibitor of ornamental or exotic birds
6) A dealer in the pet industry, either retail or wholesale
7) A commercial gamebird breeder
8) A representative of a humane society
9) A representative from a transient exhibit such as a circus
10) A falconer
11) A representative of the fur farming industry
12) A person from a statewide association representing sportsmen
13) A person from a statewide association representing non-consumptive users of wildlife (e.g., Wildlife Federation, Audubon Society, Sierra Club, etc.)
14) A private breeder and/or exhibitor of captive wild or exotic animals
15) A dealer/broker of captive wild or exotic animals
16) A scientist involved in research on captive wild or exotic animals
17) A person associated with commercial fish culture.

It is instructive to note that, unlike the advisory Council established by the Board of Animal Health, this Technical Consulting Committee suggested by the model regulations consists entirely of those who are subject to the regulations and it includes no representatives of government agencies or those enforcing the regulations.

First, of course, the composition of the North Dakota Nontraditional Livestock Advisory Council strongly implies that, unlike domestic livestock interests, private captive wildlife interests cannot be trusted to regulate their industry responsibly, and that government officials, none of whom have special expertise in captive wildlife, know better than captive wildlife owners how best to regulate the industry. More importantly, however, the composition of the Council virtually assures that the concerns of captive wildlife owners will continually be subordinate to those of government agency officials, and that captive wildlife interests will have to struggle constantly from a minority position to protect their interests. Not surprisingly, it also virtually assures the continued escalation of anger, frustration, distrust and opposition among captive wildlife interests in the State.

Indeed, it is instructive to note that, under the structure and operation of the Council outlined by the Board:

> "Input at meetings [of the Council] will be received from representatives of participating agencies only." (Emphasis added)

Although input at meetings of the Council is permitted from the representatives of all 12groups of the groups listed, this "Freudian slip" is an unfortunate reminder of secondary status of captive wildlife interests on the Nontraditional Livestock Advisory Council and it further emphasizes the disenfranchisement of captive wildlife interests under the Board of Animal Health.

I recognize that it is beyond the scope of the current revision of the Administrative Rules for Nontraditional Livestock to address all of these issue. However, I would hope that these observations and comments might stimulate thought and discussion, and perhaps provide a framework for future changes in the regulation of captive wildlife in North Dakota to make it more equitable and more responsive to captive wildlife interests.

Sincerely,

Gary L. Pearson

Gary L. Pearson, D.V.M.

pc: Mr. Roger Johnson, Commissioner, North Dakota Department of Agriculture
Mr. Roger Rostvet, Deputy Director, North Dakota Game and Fish Department
Mr. Donald D. Feare, JD

REPORT TO THE SENATE AG COMMITTEE

ON SENATE BILL 2196

FEBRUARY 28, 2003

Mr. Chairman and

Members of the House Ag Committee,

I am Peter Lies of Lies Game Farm, New Rockford, North Dakota. I am here to ask for, and to ask you as individuals, to seek a yes vote on Senate Bill 2196. The non-traditional livestock (NTL)industry is very much in need of it's own representative on the Board for a number of various reasons. There are three cattle producers and two large animal vets on the Board to represent cattle diseases. At the Senate Ag Committe meeting hearing for SB 2196, two cattle producers (the only people to speak against SB 2196) are also members of the Board of Animal Health and were only there to say that the Board is working well as is and they don't like to see the size increase. Yet, there were numerous members of the non-traditional livestock industry plus two of the five producers from the non-traditional livestock council there to say that it is not working and there is a very big problem.

Take this meeting today for example, if this bill had to do with cattle, the Board and the State Vet would have had numerours producers contacted to be here, yet not one of them called any of the non-taditional livestock producers to let them know what is happening. The dairy cattle representative represents cattle but as it is now set up, he also is there to represent all other animals, as we do not have a representative on the Board to do it. He should represent us whether he personally agrees with us or not. At the meeting of the Senate Ag Committee the state vet was asked "What is the recourse to a producer if he was not happy with the policy of the board?" He said, "They should go to the Board and then to the Administrative Judge and then to the District Court." He was asked if that worked. He answered "Yes to this point, no one has gone past the Board of Animal Health." Well, I have and I would like to read the opening remarks of the finding of Mr. Allen Hoberg, Administrative Law Judge. In the Peter Lies, Administrative Complaint Hearing on January 27th, 2003, it reads as follows:

"Enclosed please find the original Recommended Findings, of Fact, Conclusions of Law, and Order, as well as the proposed final Order in regard to the above titled matter. If the Board agrees with my recommendations, you may sign the proposed final Order for the Board and serve it on the parties. Alternatively, the Board may issue its own seperate order based on my recommended findings, or it may issue its own findings of fact and conclusions of law its own seperate order based on them."

So now do I go to the district courtt or am I just wasting my time?

The Board of Animal Health proposes its own administrative rules, adopts its administrative rules, it interprets and administers its administrative rules, plus it enforces its administrative rules, it charges citizens for violations of its administrative rules, it decides the guilt or innocence of those it charges with a violation of its administrative rules. The only avenue of due process open to a citizen who is charged with a violation of the board's administrative rules is after the board has taken action, to request a hearing before an administrative law judge, and then to appeal to the state district court. Of course, the time and expense involved in following this process through the courts are prohibitive for most people, so this creates the potential for the board to use the threat of action to intimidate and coerce citizens into complying with it's interpertations of its administrative rule.

The NTL producers have no recorse except to do as told or get rid of your animals with no compensation from the state. You may be doing what you have been doing for 40 yrs. **BUT NOW IT'S NOT LEGAL.** Not because there is a danger greater there for domestic livestock, or there is a disease, but because they have no representation on the Board. The Board thinks it can do any thing it likes because there are more cattle producers in the state then there are NTL producers.

Speaking of these regulatory rules that are putting us out of existence, they were voted on by the NTL Council on Aug. 26,1999, to be rewriten to be more producer frendly. At the Board of Animal Health meeting on Sep. 8 ,1999, Paul Gramalus, atorney for the Board said the rules were not good and should be rewriten. The Board then voted to rewrite them, a committee was formed by the president. But mot one non-triditional livestock producer was included and to date (42) months later they still have not been changed(Until they are, we are still under the old NO GOOD RULES.) I might add that I made the motion on Sept. 26 to change the rules, but then on Oct. 8, 12 days later, I was removed from the NTL Council. The Board said it was because of the fact that I was not licensed. But I hadn't been licensed since Jan. (9) months. I was not licensed because after trying for 7 yrs. I could not ,no way, do what was required . At a meeting of the Board of Animal Health one member suggested that "They make the rules so tough that no one would be able to compile then they would not have to bother with NTL producers."

I was not able to find a lawyer in North Dakota that would take on the Board of Animal Health for $2-$3,000, But found on in texas. After some time an agreement was made on June 15, 2000. Then the board started to charge extra for different species of the same animal family, something that is not done for domestic producers. After reviewing the situation, the Judge and the State's Attorney in Eddy County would not even try the case. Now again in 2003, they have changed the rules again, this time for elk (Domesticated livestock? Still non-traditional to me-divide producers and conquer) and take me to court, but this time to the administrative judge. All for things that I have done for 40 years before 1992 with no problem. But now? They are requesting a fine of $5000 for not tagging animals; $5000 for not sending a report in on time; $5000 for not sending in brain stems, again none of which is required by other domesticated livestock producers.

On January 14, 2003, the Board had a meeting to revise some rules. BIG DISASTER! Quickly the Board rewrote the divisions. The State Vet refused to send me a copy. So when the Board met February 18th, I and at least two other non-traditional livestock council producer members had not been allowed to see what the changes were but the Board approved the changes. We tried to have them postpone the approval until we the public could review the changes but were refused. The lawyer for the Board said that it was okay because everything was done **LEGAL.** I have asked to have a copy sent to me but to date, I have yet to receive a copy.

I might say something about the fact that the Game and Fish are trying to issue tougher rules that would further destroy this industry and we are to accept that we are represented by the cattle, sheep and hog producers that admit that they do not want us around.

Then there is tho fact that if we learn from the Board of Animal Health the people that are here to protect all of the animals of the state from disease. All that we have to do to stop the disease in all of our animals is to appoint someone from the industry to the Board of Animal Health. Then as with domestic livestock, there is no longer a threat for disease. (Bison producers got a member on the Board. Then in Senate Bill 2198, the state vet asked to have bison added to the list of domestic animals that are allowed into North Dakota with no health or import number if they go directly to a sale barn. But then where do they go? There is a vet at the sale market but there are also up to 5,000 head for sale there that day in all weather conditions.)

Now a little about destroying our market. On March 9th, 1999, the Board put together a committee to decide fencing requirements for russian boar as there were people in the state that wanted to get into raising them. At that time I was on the board's non-traditional livestock advisory council. I had raised russian boar for about 15 years but was not allowed to be on the committee to decide fencing requiretments. The president of the Board (Francis Maher) appointed a committee to address possible fencing requirements for wild swine. The committee consisted of Dr. Lewis, veterenarian; Jody Hauge, pork producer; Terry Lincoln, zoo; Rod Gilmore, human health; Dr. Larry White, veterenarian; and Susan Keller, state assistant vet. Not one non-traditional livestock producer was appointed to the committee. Then the buyer was told he must build the fence at a great expense <u>then</u> come to the Board where they would decide if he would be allowed to raise russian boars.

So, if you could ask Scott Stafford or Wayne Berringger if we need representation on the Board, they might say that they don't care because they quit raising these animals (it was just too hard to please the Board of Animal Health) But I say that we as producers need someone on the Board to look after our industry's rights.

All of this in consideration, I ask you to please do pass on Senate Bill 2196.

Thank You

DAKOTA FEATHER & FUR CLUB

Doug & Deb Prock
4860 Hwy.200
Hazen, ND 58545

Newsletter Editors

BISMARCK ND 585
PM
25 MAR
2002

Bill
SB 2196

Kittleson, Loren & Betty
8777 39 St. SE
Jamestown, ND 58401

2002 Breeders List

Adams, Jerry
2455 89th Ave. NE,
Warwick , ND 58381-9511
701-294-2132
ese-Domestic: African, White Chinese **Ducks-Domestic:** Rouen 4/00

Ambers, Gloria
2535 Hwy 30
Harvey, ND 58341-8442
701-547-3224
Poultry-Standard: Polish, Araucana, Hamburgs, Cochins **Poultry-Bantam:** Old English, Japanese
Ducks-Domestic: Mixed **Partridge:** Chukkar **Pigeons:** Capuchine **Guineas** 3/02
Geese-Domestic: Pomeranian

Anderson, Andrea
19601 177th Ave. SW
Minot, ND 58701
No List 3/02

Happy Easter

Andèrson, Danny & Mary Jo
PO Box 47
Noonan, ND 58765
701-925-5728
dmkids@nccray.com
Geese-Domestic: Toulouse **Ducks-Domestic:** Muscovy **Guineas** **Goats:** Fainting **Rabbits:** Harlequin 3/02

Berg, Richard & Linda
3219 20th St. NW
, ND 58759
-679-2414
dogcrazy@restel.net
Poultry-Bantam: Araucana **Caged Birds:** African Gray, Canaries **Dogs:** Toy Poodles, French Bulldogs **Sheep:** Polypay, Shetland
Horses: Miniature **Llamas** **Cats** 4/00

Birdsell, Jerry & Mona
790 Temvik Rd.
Linton, ND 58552
701-782-6279
Poultry-Standards: Cochins, Orpington **Poultry-Bantams:** Old English **Geese-Domestic:** Sebastol **Ducks-Domestic:** Muscovy
Peafowl: India Blue **Turkeys:** Royal Palm **Rabbits:** French Lop, Holland Lops, Northerland Dwarfs 3/02

Bolte, Randy & Donna
Box 1181
Bowman, ND 58623
701-523-5431
Poultry-Standard: Araucanas, Cochins **Geese-Domestic:** Toulouse, Pomeranian **Sheep:** Suffolk, Hampshire **Rabbits:** Dutch, Dwarf, Siamese **Goats:** Nubian **Horses:** Quarter, Paint 5/99

Boschee, Dean
Box 88
Wishek, ND 58495
701-452-2119
st 3/02

Cleveland, Del
PO Box 635
Riverdale, ND 58565
Auctioneer **No List** 04/01

Dannehl, Rodney
2778 6th Ave. #202
Dickinson, ND 58601
701-227-3515
APA & ABA Judge 3/02

Davis, Phil
1429 1st Ave. SE
Minot, ND 58701
701-838-7731
Poultry-Bantams: Old English (BB red, black & silver duckwing), Buff Polish, Dark Brahma, WF Black Spanish, Mille Fleur, Japanese (white) 5/99

Dinius, John
2008 28th Ave. SW
Center, ND 58530
No List 3/02

Eberhardt, Don
11401 13th St. N
Aneta, ND 58212-9169
701-326-4387
Poultry-Bantams: Japanese, Araucana **Geese-Domestic:** African, Pomeranian **Duck-Domestic:** Rouen, Muscovy 4/00

Emil, Wayne & Anita
11400 89th Ave. SE
Bismarck, ND 58504
701-258-3430
Geese-Wild: Canada **Ducks-Wild:** Mallard **Pheasants:** Ringneck **Partridge:** Chukar, Hungarian **Quail:** Bobwhite **Peafowl:** India Blue, White 4/00

Erickson, Dennis & Karla
RR 1 Box 25A
Ruso, ND 58778
701-679-2536
rockytop@restel.com
Poultry-Standard: Cochins **Poultry-Bantam:** Modern Game, Old English **Geese-Domestic:** African, Chinese, Mixed **Duck-Domestic:** Pekin, Muscovy **Ducks-Bantam:** Call **Turkeys:** White **Caged Birds:** Cockatiel **Pigeons:** Fantails **Sheep:** 4-Horned, Painted Desert **Rabbits:** Rex, Satin, New Zealand, Lops, Dutch **Goats:** Pygmy, Nubian, Fainting **Horses:** Appaloosa, Miniature (Paints & Appaloosa) **Llamas Guineas** 3/02

Gerving, Ben
5050 25th St.
New Salem, ND 58563-9139
701-843-7128
Poultry-Bantams: Araucana **Geese-Domestic:** Toulouse, Emden, Chinese **Geese-Wild:** Canada **Ducks-Domestic:** Pekin, ...n, Silver Appleyard, Saxony **Ducks-Wild:** Mallard **Ducks-Bantam:** Call **Pheasants:** Ringneck **Partridge:** Chukkar **Quail:** ...white **Turkeys:** Wild **Peafowl:** India Blue **Llamas:** Bunny Eared **Rabbits:** New Zealand, Lops, Mini Rex, Dutch, Dwarfs, French Lop **Guineas** 3/02

Gessner, Nolan & Griffin
8625 6th Ave. NW
Newberg, ND 58762
701-272-6308
ultry-Standards: Cochins, Leghoms **Poultry-Bantams:** Cochins **Geese-Domestic:** African **Ducks-Domestic:** Pekin, Rouen, nners, Muscovy **Ducks-Bantam:** Call **Guineas** **Rabbits:** Satin, Dutch 3/02

Grove, Dennis
6963 116 Ave. NE
Adams, ND 58210
701-944-2556
Geese-Wild: Barnacle, Emperor, Canada (Cackler) **Turkeys:** Wild, Bourbon Red **Sheep:** Katahdin **Horses:** Miniature 3/02

Hankey, Paul & Joan
RR 2 Box 126
Park River, ND 58270
701-284-6175
No List 7/99

Hirschkorn, Allen & Darlene
31101 383 Ave. NE
Wing, ND 58494
701-943-2327
Caged Birds: Parakeet, Finches **Rabbits:** Rex, Lops, Mini Rex, Dutch, Dwarf, Jersey Wooley **Cats:** Siamese **Guinea Pigs, Hamsters, Gerbils, Mice** 12/00

Hoff, Linda
4840 78th St. SE
on, ND 58552
701-254-4171
Poultry-Standards: Araucana, Silkies, Speckled Sussex **Geese-Domestic:** Toulouse, Emden, Pomeranian, Buff **Ducks-Domestic:** Magpie, Saxony **Turkeys:** Bourbon **Rabbits:** Siamese Satin 4/00

Houmann, Colleen
1869 Norwich Lane
Norwich, ND 58768
ckhome@ndak.net
Pigeons: Modena, Fantail, Giant Homers, Chinese Owls 3/02

Hunter, Terry & Kathy
RR 6 Box 40
Minot, ND 58701
701-852-4545
Geese-Wild: Canada 3/94

Jensen, Gordon
1529 9th St. N
Fargo, ND 58102-2207
701-237-3034
No List 3/02

Johnson, Dayle G.
5241 114 R Ave. SW
Dickinson, ND 58601
701-579-4872
Poultry-Standards: Araucana, Wyandotte **Poultry-Bantams:** Old English, Cochins **Geese-Domestic:** Toulouse **Ducks-Domestic:** Pekin, Rouen, Runners **Turkeys:** Bourbon Red, Royal Palm **Peafowl:** India Blue **Llamas:** Not registered **Horses:** Paint, American Bashkir Curly **Guineas** 3/02

Kersten, Allen
Box 54
Max, ND 58759
701-679-2430
adkersten@yahoo.com
Poultry-Standard: Araucana, Buff Orpington, Game **Poultry-Bantam:** Old English(Silver Ginger, Ginger Red, Silver Duckwing, Molted, Black, Brassy Black, Lemon Blue, Brown Red, Mille Fleur, Red Pyle, BB Red, Spangled), Cochins Partridge **Quail:** Columix (White, Chocolate, Tuxedo, Austalia Speckeled, Normal) **Rabbits:** Mini Rex ,Dutch **Guineas** (White, Pearl, Lavender, Pied) **Dogs:** AKC Springer Spaniels 3/02

Kietzman, Brian D.
7116 Hwy 281
Edgeley, ND 58433
701-493-2349
Poultry-Standard: Wyandotte **Partridge:** Chukkar **Quail:** Bobwhite **Rabbits:** Lops, Dwarfs 5/99

Kimball, Peggy
21 1st Ave. SE #84
Minot, ND 58701
701-838-1137
No List 6/02

Kinn, Marvin & Wendell
RR 1 Box 55
Coleharbor, ND 58531
701-337-5846
No List 4/97

Kittleson, Loren & Betty
8777 39 St. SE
Jamestown, ND 58401
701-252-5306
Geese-Domestic: Toulouse, Pilgrim, Buff **Geese-Wild:** Canada, Snow , Blue, Barnacle, Barhead, Ross, Emperor, Cackler
Ducks-Domestic: Rouen **Ducks-Bantam:** Call, Black East Indies **Ducks-Wild:** Wood Ducks, Mandarin, Pintail, Mallard, Teal
Pheasants: Ringneck, Silver, Reeves, Golden **Peafowl:** India Blue **Guineas** 4/96

Kostelecky, Daniel
11160 41 St. SW
Dickinson, ND 58601
701-264-7277
Ndbirdman@hotmail.com
Poultry-Standard: White Rock **Poultry-Bantam:** Golden Seabright **Geese-Domestic:** Pomeranian, Pilgrim & Toulouse cross
Pigeons: Rollers **Turkeys:** White Giant 3/02

Kraft, Michelle
3819 Hwy 1806
Mandan, ND 58554
...-663-5473
.hellers@hotmail.com
Poultry-Bantam: Modern Game, Old English, Silkies, Sumatras, Necked-Necks, Dorkings, Americana, Frizzles **Ducks-Domestic:** Pekin **Ducks-Bantams:** Call 3/02

Krebs, Lilah
10025 34th St. SW
Gladstone, ND 58630
701-227-1024
Poultry-Standard: Araucana **Peafowl:** India Blue **Sheep:** Columbia **Pigeons:** Fantail, Owl, Capuchine **Rabbits:** Mini-Rex, Dwarfs **Goats:** Pygmy **Llamas Guineas Burros** 3/02

Kroll, Noelle
2080 6th St. SW
Washburn, ND 58577
701-462-3578
ffa_cow_girl@hotmail.com
Sheep: Mixed breeds **Goats:** Pygmy, Nubian, Mixture **Rabbits:** Mixed **Horses:** Miniature **Donkeys:** Miniature 3/02

Krueger, Dixie
HCR 2 Box 45
Garrison, ND 58540
701-743-4161
Poultry-Bantams: Silkies (White & Black), Millie Fleurs **Ducks-Domestic:** Muscovy, Rouen **Pheasant:** Ringnecks, Jumbo Black **...ridge:** Chukkar **Quail:** Gambel **Turkeys:** Royal Palm, Bourbon Red **Pigeons:** Rollers, Fantail **Rabbits:** Norwegian Dwarf **...gs:** Teacup Poodle **Peafowl Guineas**

Kubischta, Kurt
3675 114th Ave. SW
Dickinson, ND 58601
701-483-6679
Geese-Domestic: Toulouse, Embden, African, Chinese **Duck-Domestic:** Muscovy **Goats:** Pygmy, Nubian **Llamas Guineas** 3/02

Kuhn, Della
303 Guthrum St.
Alfred, ND 58454-4200
701-485-3359
Just an interested reader. 3/02

Lies, Peter & Sandra
RR 1 Box 104
New Rockford, ND 58356
701-947-5880
Geese-Wild: Canada **Turkeys: Wild Deer:** Fallow, Syka, Whitetail **Elk:** Rocky Mountain, Roosevelt, Nygle **Sheep:** Muflon 4-Horned **Goats:** African Pygmy **Rhea Llama Russian Wild Boar Bison Bear**

Lizakowski, Ben
RR 1 Box 194
...d Forks, ND 58201
...-775-3227
Poultry-Standard: Araucana **Poultry-Bantam:** Buff **Ducks-Domestic:** Pekin, Appleyard **Ducks-Bantam:** Call **Ducks-Wild:** Mallard **Peafowl:** Brown **Pigeons:** Rollers, Marachino, Capuchine, Homers, Texas Pioneers **Guineas** 3/02

McKay, Kent
15401 268 St. NW
Carpio, ND 58725
~~1-468-5979
:ks-Domestic: Muscovy **Peafowl:** India Blue **Pigeons:** Rollers, Fantail **Guineas Llama** 4/00

Meidinger, Ed & Duana
8470 39th St. SE
Jamestown, ND 58401-9113
Poultry-Standard: Silver Spangled Hamburg **Poultry-Bantams:** Wyandotte (White & Partridge), Cochin (White, Red, Mottled & Buff), Rhode Island Red, Vorwerk **Geese-Domestic:** African, Buff **Geese-Wild:** Canada, Egyptian **Ducks-Domestic:** Rouen, Call (Snowy & White) **Ducks-Wild:** Wood Ducks, Mandarin, Pintail, Mallard, Cinnamon Teal, Bluewinged Teal, Marbled Teal, Snow Mallard **Pheasants:** Idaho Blue, Ringneck, Silver, Reeves, Golden (Red, Yellow & Dark Throated), Lady Amhest, White Winged Afghan **Partridge:** Chukkar **Turkeys:** Wild, Bourbon Red **Peafowl:** India Blue **Guineas:** Pearl, Lavender **Dogs:** Sheltie

Miller, Lee
1251 N. 28th St.
Bismarck, ND 58501
ltmiller@prodigy.net
Pheasants: Ringneck 3/02

Nesheim, Larry
417 Pine St.
Sawyer, ND 58781
701-624-5745
No List 3/02

ylland, Bea
Box 33
Driscoll, ND 58532
No List 3/02

North Dakota State Fair
PO Box 1796
Minot, ND 58702
info@:dstatefair.com
www.ndstatefair.com
No List 3/02

Olsen, Gabriella
RR 1 Box 259S
Stanton, ND 58571
701-745-3734
Geese-Domestic: Toulouse, African **Ducks-Domestic:** Pekin, Rouen, Muscovy **Turkeys:** Wild **Horses:** Arabian 4/00

Olson, Jayme
4440 65th Ave. NW
Plaza, ND 58771
701-497-3790
dvolson@restel.com
Poultry-Bantam: Old English **Ducks-Bantam:** Call **Rabbits:** Satin 3/02

Oppegard, Anne
11421 Highway 1804
Ray, ND 58849
701-568-3852
@nccray.com
Pheasants: Golden **Dogs:** German Shepherds (Black, Black/Tan, White, Sable, Blue, Short & Long Hair) **Guineas** 3/02

Pich, Wilmer & Michelle
304 Bismarck St. S
Menoken, ND 58558-4006
701-673-3439
Poultry-Standard: Hamburgs **Poultry-Bantams:** Old English, Silver Duckwings, BB Rose Comb, Cornish, Araucana, Silkie **Geese-Domestic:** Toulouse, Pomeranian **Geese-Wild:** Giant Canada, Snow, Barnacle, Barhead, Emperor, Cackler, Egyptian, Blue, Lesser White Front, White Font **Ducks-Domestic:** Rouen, Muscovy **Ducks-Bantam:** Call (white, gray & snowy) **Ducks-Wild:** Mandarin, Mallard **Pheasants:** Ringneck **Partridge:** Chukkar, Hungarian **Quail:** Bobwhite, Gambel **Turkeys:** Wild, Bourbon Red, Royal Palm **Peafowl:** India Blue, White, Black Shouldered **Pigeons:** Rollers **Rabbits:** Mini-Lops **Guineas** 5/99

Plesuk, John R.
10920 Hwy 52 S
Minot, ND 58701-2432
701-624-5713
Deer: Whitetail

Prock, Doug & Deb
4860 Hwy 200
Hazen, ND 58545
701-748-2759
white@westriv.com
Poultry-Bantam: Golden Seabright **Ducks-Domestic:** Silver Appleyard **Rabbits:** Chocolate Satin, White Mini Rex **Horses:** Appaloosa **Cats:** 6-toed, Manx 3/02

Renschler, Susy
2776 21st Ave. SE
Driscoll, ND 58532-9400
701-867-2767
Poultry-Standard: Polish, Barnyard mix **Geese-Domestic:** Embden, African, Mixed **Ducks-Domestic:** Barnyard mix **Caged Birds:** Parakeet, Cockatiel, Conures **Turkeys:** Royal Palm, Barnyard cross **Rabbits:** Rex, Lops, Mini-Rex, Dutch, Dwarf, Jersey Wooley **Mice Hamsters Gerbils** 3/01

Ringwall, Kris
1085 State Ave.
Dickinson, ND 58601
701-227-2080
Pigeons: Pomerianian, English 5/95

River Valley Emu Ranch
10910 Hwy 2 & 52 West
Burlington, ND 58722
701-838-2937
pcoadill@nodak.net
Emu Donkeys: Miniature **Horses:** Miniature 6/99

Rubbelke, Denise
12800 226th St. SW
DesLacs, ND 58733-9463
701-725-4342
elke@ndak.net
Rabbits: Holland Lop, Mini Rex, Dutch 3/02

Rutschke, Karen
600 S. 9th St. #08
Bismarck, ND 58504
701-222-2554
darseyn@btigate.com
Pheasants: Golden **Peafowl:** India Blue **Rabbits:** Angora English (Registered) **Horses:** Arabian, Paint 3/02

Samuelson, Mel
RR 1 Box 25
Coleharbor, ND 58531
701-337-5513
No List 3/02

Schaper, John
PO Box 305
Halliday, ND 58636
701-938-4511
Poultry-Standard: Leghorns **Poultry-Bantam:** Japanese, Wyandotte, Silver Sebrigths **Peafowl:** India Blue, Black Shoulder **Turkeys:** Bourbon Red, Giant White **Horses:** Quarter 3/02

field, Darrel
Ash Coulee Dr.
Bismarck, ND 58503-8826
Pigeons: Rollers, Fantail, Giant Homers 4/00

Sherwin, Wade A.
8040 25th Ave. NE
Willow City, ND 58384
701-366-3443
Wade.A.Sherwin@sendit.nodak.ed
Poultry-Standard: Cochins, Auracanas,Polish **Poultry-Bantams:** Silkies, Japanese, Araucana **Geese-Domestic:** Embden, Chinese, Pomeranian, Buff **Ducks-Domestic:** Rouen, Indian Runners, Muscovy, Magpie **Ducks-Bantam:** Call **Peafowl:** White, Pied, Black Shouldered, India Blue **Turkeys:** Bourbon Red, Royal Palm, Blue Slate **Pigeons:** Fantail, Rollers **Sheep:** 4-Horned, Suffolk **Rabbits:** Rex, Satin, Lops, Dutch **Goats:** Pygmy, Nubian (reg), Fainting **Horses:** Appaloosa, Miniature **Donkeys:** Miniature 3/02

Spitzer, Jeff
RR PO Box 651
Eureka, SD 57437
605-284-5237
Donkeys: Spotted Mammoth **Dogs:** Sheltie (Sable & White), Rottweiler **Horses:** Belgian, Percheron, Tennessee Walking 3/97

Stanley, Karla
7050 156th Ave. NW
Bismarck, ND 58501
222-0148
@btinet.net
Rabbits: Mini-Rex, Jersey Wooleys **Sheep:** Dorset Goats: Nubian **Horses:** Half-Arabian, Pintos, Miniature 06/00

Oppegard, Anne
11421 Highway 1804
Ray, ND 58849
701-568-3852
2nccray.com
...easants: Golden **Dogs:** German Shepherds (Black, Black/Tan, White, Sable, Blue, Short & Long Hair) **Guineas** 3/02

Pich, Wilmer & Michelle
304 Bismarck St. S
Menoken, ND 58558-4006
701-673-3439
Poultry-Standard: Hamburgs **Poultry-Bantams:** Old English, Silver Duckwings, BB Rose Comb, Cornish, Araucana, Silkie **Geese-Domestic:** Toulouse, Pomeranian **Geese-Wild:** Giant Canada, Snow, Barnacle, Barhead, Emperor, Cackler, Egyptian, Blue, Lesser White Front, White Font **Ducks-Domestic:** Rouen, Muscovy **Ducks-Bantam:** Call (white, gray & snowy) **Ducks-Wild:** Mandarin, Mallard **Pheasants:** Ringneck **Partridge:** Chukkar, Hungarian **Quail:** Bobwhite, Gambel **Turkeys:** Wild, Bourbon Red, Royal Palm **Peafowl:** India Blue, White, Black Shouldered **Pigeons:** Rollers **Rabbits:** Mini-Lops **Guineas** 5/99

Plesuk, John R.
10920 Hwy 52 S
Minot, ND 58701-2432
701-624-5713
Deer: Whitetail

Prock, Doug & Deb
4860 Hwy 200
Hazen, ND 58545
701-748-2759
white@westriv.com
...ltry-Bantam: Golden Seabright **Ducks-Domestic:** Silver Appleyard **Rabbits:** Chocolate Satin, White Mini Rex **Horses:** Appaloosa **Cats:** 6-toed, Manx 3/02

Renschler, Susy
2776 21st Ave. SE
Driscoll, ND 58532-9400
701-867-2767
Poultry-Standard: Polish, Barnyard mix **Geese-Domestic:** Embden, African, Mixed **Ducks-Domestic:** Barnyard mix **Caged Birds:** Parakeet, Cockatiel, Conures **Turkeys:** Royal Palm, Barnyard cross **Rabbits:** Rex, Lops, Mini-Rex, Dutch, Dwarf, Jersey Wooley **Mice Hamsters Gerbils** 3/01

Ringwall, Kris
1085 State Ave.
Dickinson, ND 58601
701-227-2080
Pigeons: Pomeranian, English 5/95

River Valley Emu Ranch
10910 Hwy 2 & 52 West
Burlington, ND 58722
701-838-2937
pcoqdill@nodak.net
Emu Donkeys: Miniature **Horses:** Miniature 6/99

Stein, Gordon
PO Box 43
Des Lacs, ND 58733
No List 3/03

..utman, Russell & Darlene
6420 35th St. SE
Cleveland, ND 58424
701-763-6166
Poultry-Standard: Polish, Cochins, Leghorn **Geese-Domestic:** Toulouse **Geese-Wild:** Canada **Ducks-Domestic:** Muscovy **Pheasants:** Ringneck, Reeves, Golden, Lady Amherst **Quail:** Bobwhite **Caged Birds:** Parakeet **Turkeys:** Wild, Bourbon Red **Peafowl:** India Blue **Sheep:** Columbia **Rabbits:** English Angora, Lops **Goats:** Pygmy, Nubian **Horses:** Quarter Horse **Cattle:** Hereford **Guineas** 3/97

Vetter, Ervin M.
PO Box 93
Hague, ND 58542
701-336-7356
bigebek@bektel.com
Poultry-Bantam: Cochins, Araucana **Ducks-Domestic:** White Muscovy **Turkeys:** Wild **Peafowl:** India Blue **Rabbits:** Satin, cross **Guineas** 12/00

Violett, Sheryl
3645 37th St.
New Salem, ND 58563
701-843-8506
Poultry-Standard: Leghorns, Sex Link **Poultry-Bantam:** Japanese, Cochins, Araucana, Golden Sebright, Buff Brahma, Milli Fleur **Sheep:** Suffolk, Columbia, Bamboulait cross **Horses:** Quarter **Cats:** Manx 03/02

Vitko, Don & Kim
1800 72nd St. NW
Minot, ND 58703
701-838-5914
No List 3/02

Wardner, Sue
920B 24th Ave NW
Coleharbor, ND 58531-9469
701-448-2241
Poultry-Bantam: Buff Brahma **Geese-Domestic:** Toulouse **Ducks-Domestic:** Pekin, Rouen **Goats:** Toggenberg **Rabbits:** Mini-Rex **Horses:** Quarter 12/00

Wolfer, Lawrence W.
700 North Broadway St.
Linton, ND 58552
701-254-4530
No List 3/02

Senate Bill 2196

Testimony of Nathan James Boehm
Dairy representative to the State Board of Animal Health
Before the House Ag Committee
February 28, 2003

Chairman Nicholas and members of the committee, my name is Nathan Boehm. First, I am a dairy farmer from west of Mandan and secondly I am a member of the State Board of Animal Health ("BOAH"). I am here to testify on my own behalf and not on behalf of the BOAH and I am testifying against Senate Bill 2196.

I have sat on many different committees in the past that have ranged from five members to 29 members. It is my experience that the smaller committees are able to get more work done in a more efficient manner. I have sat on the BOAH since 1998 and have seen this board work together very well with its current membership. Prior to my appointment the BOAH voted to form the non-traditional livestock ("NTL") advisory council to advise the BOAH on those issues that the board wasn't accustomed to with non-traditional livestock. I have not missed an NTL advisory council meeting since I was appointed to the BOAH. The first couple of years the BOAH felt we had to rediscuss the issues that the advisory council discussed because they were not handled thoroughly. These last several years our board meetings have been getting less lengthy and a big part of that is we do not have to discuss these issues as in previous years because the advisory council is doing the job we had intended for them and that was to advise us. If this is the case why do they feel they need to have a seat on the BOAH? Why do we need to make the BOAH larger and in my opinion more cumbersome? Will this be the last request for another seat on the board? I believe that it will not. I do not think the pet industry will be satisfied if a person from the Cervid industry or the zoos is appointed to the board or vice-versa. Do we then go back to the legislature each session and add more board members to account for those who felt left out and make it even larger? Pretty soon the board will be unworkable and accomplish nothing to protect a $720 million dollar industry from the threat of disease. The BOAH relies on information from other industries to make our decisions and one more person on the board will not cover all aspects like the advisory council already does.

As this committee has seen with House Bill 1347, the BOAH went through the proper rule making procedures. They listened to the public comment and adjusted the rules accordingly to try to have a statute that was workable and still would address the concerns for disease control that the BOAH had. One more appointed seat on the BOAH would not have changed that process in the least little bit.

Again, I do urge a no vote on Senate Bill 2196.

Chairman Nicholas and members of the committee I would like to thank you for your time and would try to answer any questions you have.

Robert E. Manly
States Attorney, Eddy County

601 Central Avenue
P O Box 352
New Rockford, ND 58356

Phone (701) 947-2817
Fax (701) 947-2067

March 14, 2002

Ms. Susan J. Keller, DVM
Deputy State Veterinarian
Department of Agriculture
600 E. Boulevard Ave. Dept. 602
Bismarck, North Dakota 58505-0020

Dear Dr. Keller:

In regard to the case against Pete Lies, I have enclosed herewith a copy of the Judge's Order of Dismissal. My belief is that a motion to dismiss based on the arbitrary nature of 36-01-08.1 would be successful. The statute states that the Board "may require a license" for nontraditional livestock, which apparently leaves the board with the decision as to which, if any, nontraditional species are required to be licensed. I see no statutory guidance as to which species should or should not be licensed.

I also feel that the regulatory burden which the board has placed on nontraditional livestock owners is disproportionate and unreasonable. Mr. Lies would appear to have some justifiable complaint, when the nontraditional operators have no representation on the Board of Animal Health, and only minimal representation on the Nontraditional Livestock Advisory Board.

Yours truly,

Robert E Manly

Robert E. Manly

REM*

STATE BOARD OF ANIMAL HEALTH
Department of Agriculture
600 E. Boulevard Ave. Dept. 602
Bismarck, ND 58505-0020
(701) 328-2654
1-800-242-7535
FAX (701) 328-4567

April 6, 2001

Loren Kittelson
8777 39th St SE
Jamestown ND 58401

Dear Mr. Kittelson:

Your question regarding the fees for various bird "species", pointed out a word that may need to be defined in our proposed draft of changes to the NTL rules. To the best of my knowledge and past experience, the word species has always meant the taxanomic classification of birds, below the level of genus.

The Board of Animal Health was given Nontraditional Livestock responsibilities in 1993 and our present staff was not directly involved in the development of the language in the rules we are currently working under. I can not find any information regarding the intent of what constitutes a birds species, but statute 36-01-08.01 also refers to other nonbird species which we license. For example, each "species" or cervids requires a $15 fee up to $100 maximum.

In the past when someone sent a report in stating they had, for example, "geese", there was not enough time or staff to go out and investigate if they had more than one species of geese. Also, the majority of licensed NTL producers have listed Canadian geese, so it was also assumed that unless stated otherwise, "geese" would most likely refer to Canadian geese.

We have had individuals submit information on their inventories that indicates they do have multiple bird species. That information is used when we are inputting information into the computer and when calculating the amount required for fees. My goal has been to carry out the rules as written and as time and staff allowed. We are still in the process of working with the NTL producers, NTL Advisory Council, and the Board to make needed changes to the rules. The suggestions you made regarding what the intent of "bird species" should be, needs to be discussed and addressed at the NTL Advisory Council and the Board meetings before we submit the final draft of the NTL rule changes. I think it would be possible to define "bird species" differently in the rules than what the number one interpretation in the dictionary would now lead me to use.

By addressing the type of species producers have, we have also avoided charging and licensing producers for species that are not indigenous to North Dakota and therefore are Category 1.

Enclosed is your inventory report. Since your note stated that you do not have just Canadian geese, we must rely on producers to inform us of any other species that they possess. Only species indigenous to North Dakota are required to be included in the fee total. If you list just ducks, I will assume that you only have one species and that it is indigenous to North Dakota, so there will only be one charge for ducks.

Thank you for your input and please send in any comments you have so that I can use them for suggestions at the upcoming meetings. Hopefully we will have revised and clearer NTL rules next year.

Sincerely,

Susan J Keller

Susan J Keller, DVM
Deputy State Veterinarian

SJK:brg

122-01

LICENSE CERTIFICATION

NORTH DAKOTA BOARD OF ANIMAL HEALTH
SFN 19752-1 (12-00)

License Number: 103

Name: LOREN & BETTY KITTELSON			
Address: 8777 39TH STREET SE	City: JAMESTOWN	State: ND	Zip Code: 58401

This is to certify that a license has been granted to the above named, to possess and propagate the following species: CANADIAN GEESE, GREATER WHITE FRONT GEESE, ROSS GEESE, SNOW GEESE, AMERICAN WIGEONS, WILD TURKEYS, NORTH AMERICAN WOODDUCKS, NORTHERN PINTAIL, GADWALLS, at Co. STUTSMAN, Sec. 15 Twp. 139 N Rge. 63 W for the year 2001.

CONT.: RING-NECKED PHEASANTS, AMERICAN BLACK DUCK, RED HEADED DUCKS, MALLARD DUCKS

APPROVAL FOR NTL PREMISES LICENSE

ND BOAH Authorized Agent	Date
Susan J Keller DVM	6-8-01

PERMIT TO PROPAGATE, DOMESTICATE, OR POSSESS PROTECTED BIRDS AND/OR ANIMALS

ND Game & Fish Authorized Agent	Date
Roger Rostvet	6-12-01

Ortiz/Vernon

36-01-08.1. Nontraditional livestock license - Fee.

The board of animal health may require a license for nontraditional livestock maintained within this state. The annual fee for a license for a bird species required to be licensed is seven dollars. The maximum amount of annual fees for bird species licenses to be paid by a person holding more than one bird species license is forty dollars. The annual fee for a license for any other species required to be licensed is fifteen dollars. The maximum amount of annual fees for nonbird species licenses to be paid by a person holding more than one nonbird species license is one hundred dollars.

Source: S.L. 1993, ch. 356, § 1; 1999, ch. 50, § 52; 1999, ch. 317, § 4.

Effective Date: The 1999 amendment of this section by section 52 of chapter 50, S.L. 1999 became effective August 1, 1999.

The 1999 amendment of this section by section 4 of chapter 317, S.L. 1999 became effective July 1, 1999.

The 1993 amendment to this section became effective April 20, 1993.

Note: Section 36-01-08.1 was amended twice by the 1999 Legislative Assembly. Pursuant to section 1-02-09.1, the section is printed above to harmonize and give effect to the changes made in section 52 of chapter 50, S.L. 1999, and section 4 of chapter 317, S.L. 1999.

36-01-08.2. Mountain lions, wolves, and wolf hybrids held in captivity - Identification required.

Any person who keeps a mountain lion, wolf, or wolf hybrid in captivity must obtain an identification number from the board. The number must be tattooed in indelible ink inside the ear of the animal for permanent identification purposes.

Source: S.L. 1995, ch. 234, § 2.

Effective Date: This section became effective August 1, 1995.

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OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C. Hoberg
DIRECTOR

701-328-3260
Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

January 27, 2003

Dr. Larry Schuler
State Veterinarian
State Board of Animal Health
600 E. Boulevard Avenue - Dept. 602
Bismarck, ND 58505

Re: Peter Lies - Administrative Complaint hearing

Dear Dr. Schuler:

Enclosed please find the original Recommended Findings of Fact, Conclusions of Law, and Order, as well as the proposed final Order in regard to the above-titled matter. If the Board agrees with my recommendations, you may sign the proposed final Order for the Board and serve it on the parties. Alternatively, the Board may issue its own separate order based on my recommended findings, or it may issue its own findings of fact and conclusions of law its own separate order based on them.

Please send me a copy of the signed proposed final Order, if you sign it. If you do not sign it, please send me a copy of the final order issued by the Board in this matter. Also, please send me a copy of the findings of fact and conclusions of law upon which the order is based, if they are different from my recommended findings and conclusions.

Please send me a copy of any decision or order issued by the district court or the supreme court as a result of an appeal of this matter.

I am closing our file on this matter and returning that portion of the record I have in my possession to you for filing with the official agency record of this matter, as appropriate.

Also, please find enclosed the hearing tapes regarding this matter. Please return them to this office when this matter has been finally disposed of.

Sincerely,

Allen C. Hoberg
Administrative Law Judge

ACH/ljc
Encl.
cc: Peter Lies
Douglas A. Bahr

OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

December 13, 2002

Wayne Stenehjem
ATTORNEY GENERAL

CAPITOL TOWER
State Capitol
600 E. Boulevard Ave.
Dept. 125
Bismarck, ND 58505-0040
701-328-2210
800-366-6888 (TTY)
FAX 701-328-2226

Consumer Protection and Antitrust Division
701-328-3404
Toll Free in North Dakota
800-472-2600
FAX 701-328-3535

Gaming Division
701-328-4848
FAX 701-328-3535

Licensing Section
701-328-2329
FAX 701-328-3535

SOUTH OFFICE BUILDING
500 N. 9th St.
Bismarck, ND 58501-4509
FAX 701-328-4300

Civil Litigation
701-328-3640

Natural Resources
701-328-3640

Racing Commission
701-328-4290

Bureau of Criminal Investigation
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
Toll Free in North Dakota
800-472-2185
FAX 701-328-5510

Fire Marshal
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5555
FAX 701-328-5510

Information Technology
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
FAX 701-328-5510

www.ag.state.nd.us

Mr. Peter Lies
Lies Game Farm
2164 62nd Ave. NE
New Rockford, ND 58356-8799

Re: State Board of Animal Health v. Lies

Dear Mr. Lies:

I am in receipt of your November 25, 2002, Answer to the Administrative Complaint. The Board discussed this case at its December 12, 2002, meeting. The Board has authorized me to informally resolve this matter based upon the following conditions:

- Imposition of a $15,000.00 fine.
- All but $2,500.00 of the fine will be suspended if you comply with all of the terms of the agreement.
- You destroy your remaining elk in a manner approved by the Board and have the elk tested for chronic wasting disease.
- You remain in compliance with N.D.C.C. ch. 36-25 and N.D. Admin. Code § 48-14-03-01 for a period of three years.

If you are interested in resolving this matter based upon the above terms, please let me and I will draft an appropriate agreement for your review.

If this matter is not resolved informally, an adjudicative hearing will be scheduled. An Administrative Law Judge will preside over the hearing, and both parties will have the opportunity to provide testimony, present evidence, and cross-examine witnesses.

If you are interested in informally resolving this matter, please let me know within 10 days.

Thank you for your attention to this matter.

Sincerely,

Douglas A. Bahr
Solicitor General
Office of Attorney General
500 North 9th Street
Bismarck, ND 58501-4509
Telephone (701) 328-3640
Facsimile (701) 328-4300

jjs
cc: Dr. Larry Schuler, State Veterinarian
e:\dixie\c\bahr\lies.ltr.doc

STATE OF NORTH DAKOTA | IN DISTRICT COURT
COUNTY OF EDDY | SOUTHEAST JUDICIAL DISTRICT

State Board of Animal Health, An Agency of the State of North Dakota,
Plaintiff,
v.
Peter Lies, d/b/a Lies Game Farm
Defendant.

STIPULATION FOR DISMISSAL

Civil No. 00-C-2801

The State Board of Animal Health, by and through its counsel, Paul C. Germolus, and Peter Lies, d/b/a Lies Game Farm, pro se, stipulate that all matters in controversy in the above-entitled action have been amicably compromised and settled.

IT IS NOW STIPULATED AND AGREED by and between the parties that this action be in all things, and is, dismissed.

Dated this 15th day of June, 2000.

Heidi Heitkamp
Attorney General
State of North Dakota

By: [signature]
Paul C. Germolus
Assistant Attorney General
State Bar ID No. 05408
900 East Boulevard
Bismarck, ND 58505-0041
Telephone (701) 328-3640
Facsimile (701) 328-4300

Attorneys for Plaintiff.

Dated this _____ day of June, 2000.

Peter Lies, d/b/a Lies Game Farm
Pro Se
2164 62nd Avenue Northeast
New Rockford, ND 58358-8799

Roger Johnson
AGRICULTURE COMMISSIONER

Dr. Larry Schuler
STATE VETERINARIAN

Dr. Susan Keller
DEPUTY STATE VETERINARIAN

Francis Maher, Menoken
PRESIDENT
COMMERCIAL BEEF CATTLE

Jody Hauge, Carson
SECRETARY
SWINE

STATE BOARD OF ANIMAL HEALTH
Department of Agriculture
600 E. Boulevard Ave. Dept. 602
Bismarck, ND 58505-0020
(701) 328-2654
1-800-242-7535
FAX (701) 328-4567

Dr. Steve Yost, Dickinson
VETERINARIAN

Jeff Dahl, Gackle
REGISTERED PUREBRED CATTLE

Paula Swenson, Walcott
SHEEP

Nathan Boehm, Mandan
DAIRY CATTLE

Dr. W. P. Tidball, Beach
VETERINARIAN

Dr. Kenneth Throlson, New Rockford
BISON

Dr. Charlie Stoltenow, Fargo
CONSULTING VETERINARIAN

MEMORANDUM

TO: Nontraditional Livestock Producers

FROM: Susan J. Keller, DVM SJK
Deputy State Veterinarian

RE: 2002 NTL License

Enclosed is your license for Nontraditional Livestock (NTL) for 2002. Thank you for your cooperation and compliance under North Dakota's NTL regulations. Please remind those that you sell birds to, that they need an NTL license also, unless they release their birds within 7 days. The release location needs to be recorded by the person they receive their birds from in that situation. If we can be of any assistance, please feel free to contact our office at any time.

AGRICULTURE COMMISSIONER
ROGER JOHNSON

PHONE (701) 328-2231
(800) 242-7535
FAX (701) 328-4567

DEPARTMENT OF AGRICULTURE
State of North Dakota
600 E. Boulevard Ave. Dept. 602
Bismarck, ND 58505-0020

June 27, 2001

Loren Kittelson
8777 39th St SE
Jamestown, ND 58401

Dear Mr. Kittelson:

This letter is in regard to our conversation on June 26, 2001. I understand your concerns regarding wild game species effecting your avian species and your domestic livestock. However, all wild game species concerns fall under the responsibility of the Game and Fish Department. Concerns regarding wildlife need to be addressed to them.

I have reviewed the Veterinary Diagnostic Laboratory's report on the wild turkey that was found dead in your yard. The cause of that turkey's death will not effect your NPIP (National Poultry Improvement Plan) status and it will not require any additional NPIP testing of your existing flock.

I also want to assure you that our inspector was not out inspecting your facility because of any problem you may have had with the Board of Animal Health personnel. This was a routine inspection that was assigned by me according to the Board of Animal Health's requirement that all NTL (Non Traditional Livestock) facilities are inspected once every two years. Our inspectors try to contact all the producers, who they have been assigned to inspect, before they go out to inspect the NTL facility but sometimes it is difficult to reach everyone by phone. In those situations, I have instructed inspectors to stop in when they are in the area. This is done to avoid additional mileage and costs.

If you have any questions, I can be reached at 328-4761.

Sincerely,

Wayne R Carlson

Wayne R. Carlson
Livestock Services Coordinator

Non-Traditional Livestock Inspection Checklist
North Dakota Board of Animal Health

Larry A. Schuler, DVM , State Veterinarian 701-328-2655
Susan J. Keller, DVM , Deputy State Veterinarian 701-328-2657

Date: 6-23-06 **Inspector:** Harry Molstad · 742-2280

8777 34th St. S.E.

Owner: [illegible] **Address:** Jamestown, N.D. 58401-9117

NTL License Number: 103 County - Stutsman

1. Is their NTL license current? Yes X No ____
2. Approximately how many animals of each NTL species are present? ____
3. Have any changes in animal identification been made and all animals are *appropriately* ID'd since the last inventory report? Yes X No X
4. Have escaped animal(s) been reported to the State Veterinarian and have the animal(s) been recaptured? N/A
5. Does the facility meet the fencing requirements that are detailed in Title 48-12-01-11? Yes
6. Are the handling and holding and quarantine facilities adequate for the handling of the non-traditional livestock on the premises? Yes
7. Welfare: Are the animals in question displayed or housed in such a manner that may endanger themselves or the public? NO
8. Body condition and general appearance of the licensed animals. Good
9. Sanitation: Any concerns or suggestions? None
10. Abuse or neglect of animals? None VET ____
11. Are food and water supplies adequate and sanitary? Yes
12. Is the owner in need of more manifest bill of sales? NO
13. Other comments or concerns. ____

Roger Johnson
Jeff Wiepling } Kiss my ass Lom Kittelson
BOAH

000103

APPLICATION FOR NON-TRADITIONAL LIVESTOCK LICENSE
BOARD OF ANIMAL HEALTH
SFN 19686 (1-94)

Loren + Betty Kettleson	Telephone Number 252-5306

Address (Street or Box Number)	City	State	Zip Code
RR#7 Box 50	Jamestown	ND	58401

List the species of non-traditional livestock that you wish to possess and propagate.

wild geese + wild ducks

Legal description of the property where the birds or animals will be kept.

County	Township	Range	Section
Stutsman	139 N	63 W	15

Directions from nearest town: Jamestown

Cty Rd 9

1/4 S

3/4 EAST

LICENSE FEE:

$ 5.00 for each bird species
.00 for all other species
.00 maximum fee for bird species
.00 maximum fee for non-bird species

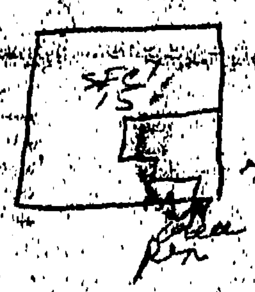
Make check payable to: N.D. Board of Animal Health

I acknowledge receipt of North Dakota Board of Animal Health Rules Article 48 - Non-Traditional Livestock.

Signature of Applicant: [signature]

Date of Application: 3-7-94

Description of facilities used for confining animals for testing/quarantine and identification. 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 additional pages if needed.)



400'X700'
450'X500'

Inspection Completed By (Board of Animal Health Representative)	Date

Recommendations

APPROVAL FOR LICENSE ISSUANCE

Director or Authorized Agent: William A. Pietsberger - Cat 3 - Ducks Geese

CK 4058
Rect. 863

ORIGINAL - Board of Animal Health CANARY - Owner

Judicial Wing, 1st Floor
600 E. Boulevard Avenue
Bismarck, ND 58505-0390
(701) 224-2654
FAX (701) 224-3000

Veterinary Diagnostic Laboratory
North Dakota State University
Van Es Laboratories
Fargo, ND 58105-5406
(701) 231-7527

Accession Number: 01-4901
Date Received: 06/07/01 Report sent: 06/12/01
Billed To: NORTH DAKOTA GAME & FISH
Referring Vet: BILL JENSEN

NORTH DAKOTA GAME & FISH
100 N BISMARCK EXPWY
BISMARCK, ND 58501

RODD COMPSON
PO BOX 309
JAMESTOWN, ND 58402

Species: Turkey Sample ID:

A COPY OF THIS REPORT WAS ALSO SENT TO: COMPSON, RODD

Post mortem examinations have been completed on an adult male wild turkey.

NECROPSY OBSERVATIONS
An adult wild turkey was presented in good plumage with moderate post mortem autolysis. Significant macroscopic findings included multifocally extensive severe hepatic necrosis (coalescing large infarct-like lesions), fibrinous perihepatitis, adhesive fibrinous epi-pericarditis, and segmentally severe necrotizing enteritis (typhlitis), with development of necrotic luminal plaques in the cecal mucosa. The spleen also appeared congested, and the lungs were wet and autolyzed.

HISTOPATHOLOGY
Sections of liver, kidney, lung, spleen, cardiac muscle, skeletal muscle, sciatic nerve, crop, proventriculus, ventriculus, intestine, pancreas, adrenal and thyroid glands, epididymis and brain are examined. The most significant histologic lesions in these tissues occur in sections of liver, spleen, cardiac muscle and cecum, displaying respectively, severe necrotizing hepatitis/hepatic necrosis and fibrinous perihepatitis, acute splenitis with red pulp fibrin and leukocytic debris, marked fibrinous epicarditis with minimal acute inflammation extending to the subepicardial myocardium, and segmentally severe necrotizing enteritis with formation of thick necrotic mucosal plaques heavily laden with bacterial organisms, in the cecum. A few cross-sections of nematode parasites and parasite ova are also noted in some sections of intestine, and Sarcocystis sp. cysts are fairly numerous in sections f skeletal muscle.

PARASITOLOGY
A routine fecal examination was positive for Eimeria oocysts (moderate) and rare Ascaridia sp. ova.

BACTERIOLOGY

Swab (body cavity): Pasteurella sp., Acinetobacter sp., Staphylococcus sp., and alpha streptococcus
Liver: Pasteurella sp., E.coli, Bacillus sp., Staphylococcus sp., alpha streptococcus, Pseudomonas sp., and Acinetobacter sp.
Intestine: E.coli, hemolytic E.coli
Special cultures for Salmonella were negative. Antimicrobial susceptibility profiles for the Pasteurella isolates are enclosed with the veterinarian's copy of the report.

DIAGNOSIS
Severe necrotizing hepatitis/hepatic necrosis, splenitis, fibrinous polyserositis and segmental necrotizing enteritis (typhlitis) - Pasteurella sp. (not P. multocida) and internal parasitism (coccidia with secondary bacterial overgrowth; Ascarids also present)

T.K. Newell
T.K. Newell, DVM, PhD
Diplomate ACVP

LOREN -
HERE IS THE REPORT THAT WE RECEIVED.
THANKS.

Brian D. Kietzman

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NORTH DAKOTA GAME AND FISH DEPARTMENT
AND THE
NORTH DAKOTA STATE BOARD OF ANIMAL HEALTH

DRAFT

This Memorandum of Understanding is between the North Dakota Game and Fish Department ("DEPARTMENT") and the North Dakota State Board of Animal Health ("BOARD").

WHEREAS, N.D.C.C. § 20.1-02-04 imposes a duty on the DEPARTMENT Director to supervise the breeding, propagation, capture, distribution, and preservation of game birds, game animals, and fish as the director deems advisable, and further, to keep a record of all permits issued for the purpose of propagation and domestication of game birds or protected animals;

WHEREAS, N.D.C.C. § 20.1-09-02 allows the DEPARTMENT Director, at the Director's discretion, to issue permits to propagate, domesticate, or possess live protected birds or animals to any North Dakota resident. These permits expire on December thirty-first of the year they are issued. One permit may cover several species of birds or animals, but a single permit may not cover both birds and animals. No person may possess any live protected animal or bird without first obtaining a permit from the director;

WHEREAS, N.D.C.C. § 20.1-03-12(13) allows the DEPARTMENT to charge five dollars for a permit to propagate, domesticate, or possess protected wildlife;

WHEREAS, N.D. Admin. Code chapter 30-04-04 imposes additional DEPARTMENT regulatory requirements upon persons seeking to transplant or introduce fish, fish eggs, game birds, or game animals into North Dakota;

WHEREAS, the BOARD is charged, under N.D.C.C. § 36-01-08, with protecting the health of the domestic animals and nontraditional livestock of this state, determining and employing the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous, contagious, and infectious diseases among such animals, and preventing the escape and release of an animal injurious to or competitive with agriculture, horticulture, forestry, wild animals, and other natural resource interests;

WHEREAS, the BOARD, under N.D.C.C. § 36-01-08.4, may require a license for captive wildlife maintained within this state, and so requires under N.D. Admin. Code § 48-12-01-03;

WHEREAS, it is the mutual desire of the DEPARTMENT and the BOARD to consolidate certain overlapping nontraditional livestock duties into one agency for the benefit and convenience of the public;

WHEREAS, the DEPARTMENT will entrust the BOARD to establish and enforce rules to the best of its ability to:

1. Prevent the introduction and spread of disease or parasites to wild free-ranging wildlife;
2. Prevent the escape or release of an animal injurious to or competitive with forestry, wild animals, and other natural resource interests;
3. Prevent the mistreatment of animals; and

NOW, THEREFORE, the agencies, in exchange for the mutual covenants contained herein, agree as follows:

Scope of Agreement

The BOARD agrees to:

1. Recognize the DEPARTMENT as being the agency responsible for establishing the regulations under which wild free-ranging animals will be managed.
2. Issue permits to propagate, domesticate, or possess live protected birds or animals to North Dakota residents under N.D.C.C. § 20.1-09-02 in a manner consistent with prior DEPARTMENT program management. This authority is subject to the DEPARTMENT Director's supervision and the Director must sign the permits. The DEPARTMENT explicitly reserves authority to issue permits for wildlife rehabilitation purposes.
3. Keep a record of all permits issued for propagation, domestication, and possession of protected birds or animals under N.D.C.C. § 20.1-09-02 in a manner consistent with prior DEPARTMENT program management.
4. Allow the DEPARTMENT to have a member on the nontraditional livestock advisory council so long as the council exists.
5. Consult with the DEPARTMENT when new species are being considered for importation into the state.
6. Notify the DEPARTMENT of possible violations of state wildlife laws and turn over such information as needed to conduct investigations of violations of N.D.C.C. Title 20.1.

The DEPARTMENT agrees to:

1. Give the BOARD copies of any and all past records concerning propagation, domestication, or possession permits, with the express reservation of permits for wildlife rehabilitation purposes.
2. Provide technical and biological information to the BOARD relating in any way to this agreement.
3. Consult with the BOARD on changes to applicable wildlife law that may effect the nontraditional livestock industry.
4. Provide personnel upon request, at their discretion, to facilitate the implementation of nontraditional livestock rules and regulations. Requests will be made on an individual basis and are not considered standing requests.
5. Transfer $63,000 to the BOARD by June 30, 2002 for the 2001-2003 biennium. This funding transfer is to cover activities previously conducted by the DEPARTMENT under N.D.C.C. Title 20.1.
6. To continue its statutory and administrative responsibilities with respect to fish, fish eggs, or other wildlife not covered by this agreement.

The DEPARTMENT and the BOARD mutually agree that:

1. The BOARD will retain the sole authority to collect nontraditional livestock license fees.
2. The BOARD may, at its discretion, charge five dollars for a permit to propagate, domesticate, or possess protected wildlife under N.D.C.C. § 20.1-03-12(13) except for permits for wildlife rehabilitation purposes.
3. Testing or use of artificial fertility control agents, other than surgical sterilization, will not be allowed in free ranging indigenous wildlife in North Dakota without written permission from the DEPARTMENT and the BOARD.
4. Importation or in-State relocation of free ranging, wild protected animals will not be allowed without the written permission of the DEPARTMENT and the BOARD.

Term

This MOU is effective upon execution by both parties and terminates on June 30, 2003 and may be renewed upon mutual consent of the BOARD and the DEPARTMENT.

Termination

This MOU may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice. Any such termination of this MOU is without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

Defined Terms

For the purpose of this agreement, "protected birds" means all varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sagehens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, wild turkeys, mourning doves, and crows.

For the purpose of this agreement, "protected animals" means white-tailed deer, mule deer, moose, elk, bighorn sheep, mountain goats, antelope (pronghorn), mink, muskrats, weasels, wolverines, otters, martens, fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats, lynx, mountain lions, black bears, red or gray foxes, and tree squirrels.

Merger

This agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this agreement.

Dated this ______ day of ________, 2001.

NORTH DAKOTA STATE BOARD OF
ANIMAL HEALTH

____

Dr. Larry A. Schuler
Executive Officer and State Veterinarian

Dated this ______ day of ________, 2001.

NORTH DAKOTA GAME AND
FISH DEPARTMENT

____

Dean Hildebrand
Director

Roger Johnson
COMMISSIONER OF AGRICULTURE

Dr. Larry Schuler
STATE VETERINARIAN

Dr. Susan Keller
DEPUTY STATE VETERINARIAN

Francis Maher, Menoken
PRESIDENT
COMMERCIAL CATTLE

Jody Hauge, Leith
SECRETARY
SWINE

STATE BOARD OF
ANIMAL HEALTH
Department of Agriculture
600 E. Boulevard Ave. Dept. 602
Bismarck, ND 58505-0020
(701) 328-2654
1-800-242-7535
FAX (701) 328-4567

Dr. Steve Yost, Dickinson
VETERINARIAN

Jeff Dahl, Gackle
PUREBRED BEEF CATTLE

Paula Swenson, Walcott
SHEEP

Nathan Boehm, Mandan
DAIRY CATTLE

Dr. W. P. Tidball, Beach
VETERINARIAN

Dr. Charlie Stoltenow, Fargo
CONSULTING VETERINARIAN

MEMORANDUM

TO: Board of Animal Health Members
Nontraditional Livestock (NTL) Advisory Council Members

FROM: Susan J. Keller, DVM SJK
Deputy State Veterinarian

DATE: October 1, 1999

RE: Subcommittee to address NTL Rules

At the September 8, 1999 Board of Animal Health meeting, the Board approved the establishment of a subcommittee to review and revise the NTL administrative rules. The subcommittee, appointed by Board of Animal Health President Maher, consists of seven members:

Zoo - Terry Lincoln – representing NTL Advisory Council
NSAA - Mike Liane – representing NTL Advisory Council
Larry - Jeff Dahl – representing Board of Animal Health
- Paula Swenson – representing Board of Animal Health
Vet assistance - Dr. Gary Pearson
Dr. Susan Keller – one vote between Schuler and Keller
state vet - Dr. Larry Schuler – one vote between Schuler and Keller

Butts
6

11 8

STATE BOARD OF
ANIMAL HEALTH
Department of Agriculture
600 E. Boulevard Ave. Dept. 602
Bismarck, ND 58505-0020
(701) 328-2654
FAX (701) 328-4567

March 9, 1999

Pete Lies
Lies Game Farm
2164 62nd Avenue NE
New Rockford, North Dakota 58356

Dear Pete,

At the last Board of Animal Health meeting, the president of the Board (Francis Maher) appointed a committee to address possible fencing requirements for wild swine. This was in response to the request by Dave Keller for a NTL permit for wild boars. The committee consisted of Dr. Lewis, ret Jody Hauge, Terry Lincoln, Rod Gilmore, Dr. Larry White, and myself (Susan Keller).

Pork Zoo Human Health Vet State Vet.

As I stated earlier, the Board was aware of the fact that you may be involved in selling wild boars to Dave Keller. However, since Mr. Maher appointed the committee, I would offer that he is the person who should answer that question.

As only one member of the committee, I can only give you a partial list of states contacted, but I cannot speak for the entire committee. Dr. Mark Lewis chaired the committee. Some of the states contacted include: Texas, Florida, Oklahoma, and Kansas. The state veterinarians or contact persons from those states also had information regarding surrounding states and their regulations or lack of regarding wild boars.

Sincerely,

Susan

Susan J. Keller, DVM
Deputy State Veterinarian

SJK:tlc

Testimony of Larry A. Schuler, DVM
State Veterinarian and
Executive Officer of the State Board of Animal Health
Senate Bill 2196
House Agriculture Committee
Peace Garden Room
February 28, 2003

Chairman Nicholas and Committee members, my name is Larry Schuler. I am the state veterinarian and executive officer of the State Board of Animal Health. I am here to testify on SB 2196, which deals with adding a nontraditional livestock representative to the State Board of Animal Health. The State Board of Animal Health has taken no position on this issue. The Board's primary concern is maintaining responsiveness to the animal industries of this state. The Board frequently seeks input from interested parties and groups and tries to be responsive to the needs and desires of other animal groups that are not represented on the Board. The Board attempts to do this while maintaining its primary duty of protecting the health of domestic animals and nontraditional livestock of this state. The Board feels that the addition of a nontraditional livestock representative should be dealt with at the legislative level.

Chairman Nicholas and committee members, I would be glad to answer any questions you may have.