

RETENTION OF IN-STATE ELK - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3022 (attached as an appendix) directs a study of the use of incentive programs in North Dakota as a way of keeping elk in the state and providing increased opportunities for landowners, hunters, and the general public. The study states that elk have been exported from Theodore Roosevelt National Park in this state because of overpopulation, while there is a high demand to hunt elk in this state. This study suggests relocating elk on public land or providing incentive programs to landowners in exchange for more elk on private land.

The legislative history for House Concurrent Resolution No. 3022 reveals a number of concerns about elk in this state. The testimony may be summarized as follows. At a certain level, there are too many elk in Theodore Roosevelt National Park. The North Dakota Game and Fish Department has the first choice as to what to do with the surplus elk. Presently, when numbers are too high, the surplus elk are shipped out of state. Rather than ship the elk out of state, others would rather have them hunted within the state. However, hunting is not allowed in Theodore Roosevelt National Park. Hence, surplus elk would have to be hunted on private lands in the western part of this state. The difficulty with hunting elk on public land used for ranching or private land is that elk cause a major amount of damage to fences and other depredation. This study seeks a way to allow the use of the elk raised in this state while providing opportunities for landowners, hunters, and the general public.

One concern expressed in testimony was that before an incentive plan could operate, the elk herd in this state would need to grow two to three times and that would take three to four years. Testimony stated that ranchers around the Theodore Roosevelt National Park feel there are plenty of elk in the area and cannot tolerate any more depredation.

THE HISTORY OF ELK IN THIS STATE

Wild elk are concentrated in the northeast corner of this state and in the southwest portion of this state in the area surrounding Theodore Roosevelt National Park. However, elk may move great distances in search of territory and may be found in any part of this state. In addition, under North Dakota Century Code (NDCC) Chapter 36-25, there may be farmed elk in this state. A farmed elk is a member of the elk family confined in a manmade enclosure designed to prevent escape and raised for fiber, meat, or animal byproducts; or raised for breeding, exhibition, or harvest. This memorandum will focus on the wild elk in the southwest portion of this state.

The recent history of elk in this state begins with elk migrating into the Pembina area in the early 1970s. In the late 1970s, elk escaped from a herd owned by the Three Affiliated Tribes in New Town. The hunting of elk in the Pembina area of the state began in 1982. The first hunting of elk in the Badlands began in 1984. In March 1985, 47 elk were purposely brought into this state by the National Park Service and located in the South Unit of Theodore Roosevelt National Park. By September 1989 a total of 176 elk were counted in the park. The mean annual growth rate of 31 percent from 1985 was one of the highest reported of all time, anywhere.

In January and February of 1993, a total of 220 elk were removed from the park. The majority of these elk were given to various Indian tribes. The Indian tribes sold many of these elk back to private game ranches in this state.

In March 1999 the North Dakota Game and Fish Department counted a total of 410 elk in the Theodore Roosevelt National Park and seven bull elk were counted outside the park. Of the elk in the park, 67 were bulls, 257 were cows, and 86 were calves.

In January 2000 a total of 208 elk were removed from the Theodore Roosevelt National Park. Of the removed elk, 78 were calves, 38 were yearling cows, 92 were mature cows, and 13 were yearling bulls. The majority of these elk were shipped to the Kentucky Game and Fish Department for the reintroduction of elk into that state.

Under the original memorandum of understanding with the Theodore Roosevelt National Park, the North Dakota Game and Fish Department has the first opportunity to obtain surplus elk from the park. The department has not exercised this option because of the lack of acceptable sites for reintroduction outside the current elk range. In 1993 and 2000 the National Park Service gave the elk directly to the Indian tribes and Kentucky Game and Fish Department.

THE HUNTING OF ELK IN THIS STATE

Although elk hunting in the southwest portion of the state began in 1984 with hunting in Dunn and McKenzie Counties, effective hunting around the Theodore Roosevelt National Park did not begin until 1997. In 1991 Billings County was opened to elk hunting, and in 1996 Golden Valley was open to elk hunting. However, before 1997 only two elk had been legally harvested in Golden Valley and Billings Counties, partly due to the lack of elk outside the park during the regular hunting season from October through November.

There were two major changes in 1997. The first change was the adoption of 1997 House Bill No.

1202. Although preferential landowner licenses were created under 1987 Senate Bill No. 2412, they were expanded with 1997 House Bill No. 1202. House Bill No. 1202 provided that if a person receiving a preferential landowner license to hunt elk, other than a transferee, is unsuccessful in harvesting an elk, that person may return the unused license to the Game and Fish Department and is eligible to apply for, but not transfer, a one-time additional license to hunt elk in future years. However, that person is not eligible to participate in the Rocky Mountain Elk Foundation raffle under NDCC Section 21.1-08-04.6. In addition, the bill expanded the area within which the Governor is required to give primary consideration to allowing preferential licenses to hunt elk.

The major change in House Bill No. 1202 was the creation of special elk depredation management licenses to be issued to landowners in designated areas around Theodore Roosevelt National Park upon the payment of a fee required for a resident big game license. The provisions of law governing the number of licenses issued for each unit for hunting elk do not apply to special elk depredation management licenses, and a person who receives this license is eligible to apply for a license to hunt in future years and is eligible to participate in the Rocky Mountain Elk Foundation raffle.

Since the adoption of the special elk depredation management licenses, there has been relatively little change in land ownership in the area where these licenses are offered. Of the original ranches participating in the license program, only two ranches have transferred from an owner/operator to an absentee landowner. In one case, an absentee landowner sold his ranch to another absentee landowner.

Another major change in 1997 was that the entire format for the elk season was changed for the area surrounding Theodore Roosevelt National Park, which includes Billings and Golden Valley Counties. A late August season was offered with 47 permits--17 special elk depredation management licenses and 30 general public permits. Hunters harvested 37 bull elk in the area.

In August 1998 unit E3 made up of Billings and Golden Valley Counties was split into an early and late August season. In unit E3, 58 any elk permits were issued--18 special elk depredation management licenses and 40 general public permits. Hunters harvested 37 elk.

Between May 15 and July 15, 1999, for the first time, landowners with special elk depredation management licenses were allowed to harvest elk during this period as well as the August season. None of the landowners participated, and to this date, no elk have been harvested under this provision.

In August 1999 unit E3 was divided into two units--unit E4 which is selected areas along the north and west boundary of Theodore Roosevelt National Park and a new unit E3 which is the remainder of Billings

and Golden Valley Counties. In unit E4, in early and late August seasons, 58 any elk permits were issued--18 special elk depredation management licenses and 40 general public permits. Hunters harvested 36 elk. In unit E3, 14 any elk permits--two preferential landowner and 12 general public permits--were issued. Hunters harvested eight bull elk. Only landowners within unit E4 are eligible for annual special elk depredation management licenses. In unit E3 preferential landowner licenses are issued only on a once-in-a-lifetime basis as in all other units of this state.

In August 2000, in unit E4, 57 any elk permits--17 special depredation management licenses and 40 general public permits--were issued. Hunters harvested 24 elk. In unit E3, 14 permits were issued--two preferential landowners and 12 general public permits. Hunters harvested a total of 11 bull elk.

In August 2001, in unit E4, there will be 66 permits issued--16 special elk depredation management licenses and 50 general public permits. In unit E3 there will be 14 any elk permits issued--two preferential landowners and 12 general public permits.

The history of hunting elk around Theodore Roosevelt National Park may be summarized as there are more units, more seasons, and generally more elk harvested. Between 1991 and 1996, only two elk were harvested around the park. In 1997 and 1998 hunters harvested 37 elk. In 1999 hunters harvested 44 elk. However, in 2000 hunters harvested 35 elk. The number of general public permits have increased from 30 permits in 1997 and 1998 to 52 permits in 1999 and 2000. In 2001, 62 general public permits will be issued. Seasons have been moved to August when elk are outside the park with two seasons in unit E4 and one season in unit E3. In addition, for the 2001 hunting season, the length of the season has been expanded for preferential and special elk depredation management licenses to include the period of May 14 through July 24.

HUNTING IN THEODORE ROOSEVELT NATIONAL PARK

One solution to handle the problem of surplus elk in Theodore Roosevelt National Park is to have limited access hunting in the park. Various officials of the National Park Service have been approached with this solution. On a local and national level, however, the National Park Service will not support hunting in the park and congressional action is required.

Hunting of elk is allowed in the Grand Teton National Park. However, hunting is specifically allowed in federal legislation. Under United States Code Title 16, Section 673c, the Wyoming Game and Fish Commission and the National Park Service must create a program to ensure the permanent conservation of elk within the Grand Teton National Park. The

program must include controlled reduction of elk in the park by hunters licensed in the state of Wyoming.

The reason hunting was included in the legislation is because of the history of controversy and struggle in creating the Grand Teton National Park. In Wyoming there was a concentrated effort to stop the creation of the park. In North Dakota there was support for Theodore Roosevelt National Park. In fact, in 1921 the North Dakota Legislative Assembly instructed this state's representatives in Congress to assist by setting aside land for the park.

STATE INCENTIVE PROGRAMS

Hunting is an important management tool for controlling elk populations and depredation. When offered the opportunity to hunt on private land, many hunters will pay for the privilege. Revenues from fee hunting can provide steady income and compensation for depredation for landowners.

During the 1999-2000 interim, the Legislative Council's Agriculture Committee received testimony on different forms of compensation for deer depredation. The committee also received testimony on game farms, fee hunting, and the sale of gratis tags as means by which landowners could profit through hunting. The committee received testimony on a pamphlet entitled *Hunting for Habitat: A Practical Guide to State-Landowner Partnerships* published by the Political Economy Research Center in Bozeman, Montana. The pamphlet offers information on ranching for wildlife programs and other similar programs that allow landowners to have control over hunting permits and thereby profit from selling those permits.

Ranching for wildlife is a managed program in eight states based on cooperative agreements between landowners and state wildlife agencies. California, Colorado, Utah, and New Mexico have comprehensive programs. Oklahoma, Washington, Nevada, and Oregon have fledgling programs. The focus of this memorandum will be on the major programs. The ranching for wildlife program encourages landowners to invest time, money, and resources to increase wildlife and hunting opportunities on their properties. In return, the state modifies hunting regulations so landowners can benefit from fee hunting. Ranching for wildlife gives landowners incentives to earn a profit from hunting through longer seasons, transferable game tags, and ranch-specific harvests. Ranching for wildlife opens opportunities for state agencies through more precise management of game, more leverage with landowners, and greater agency savings. New opportunities for sportsmen are offered through better hunting, longer seasons, and another source of a hunting license. These programs are controversial, however, because they involve fee hunting.

California was the first to have an official program. California's program gives landowners transferable

hunting permits, extended seasons, and ranch-specific harvest limits. In return, landowners agree to specific steps to improve habitat and carry out other wildlife and hunter management activities. A landowner who participates in the program must have a wildlife management plan that inventories the wildlife and habitat on the property and proposes specific objectives and improvements. Upon approval and the payment of a fee of \$1,250 to \$2,000, the landowner receives a license to operate a private lands management area for five years. The landowner must follow the state's general hunting regulations in the first year, but after that the state may authorize an extended hunting season and harvest limits that differ from general regulations. These changes are dependent upon the landowner's progress in achieving the plan.

Colorado's program, Ranching for Wildlife, can be used to generally describe the program. In Colorado the landowner is eligible for transferable game tags, extended seasons, and flexible bag limits. The landowner must produce a wildlife management plan that includes proposed harvest levels and a schedule of habitat improvements. A participating landowner pays the same price for tags as does a hunter purchasing a tag from the state. Colorado has high prices for a hunt in the program, which can be attributed to the fact that Colorado limits the number of ranches allowed in the program to 30, requires there be at least 12,000 contiguous acres in a ranch for it to be considered for the program, and requires landowners to provide access at no charge to a limited number of hunters whose names are drawn by lottery.

Utah's program places fewer demands on landowners. As in California and Colorado, landowners in the program are allowed longer hunting seasons, transferable game tags, and flexible bag limits. The landowner must work with a state biologist to prepare an application for the program. The application contains information on the size, location, and ownership of the land, the big game species to be managed, the number of requested permits, and a management plan. Unlike California and Colorado, Utah does not require a schedule of habitat improvements. A property must be at least 10,000 acres in size. Landowners with adjacent tracts can form one management unit to qualify. A portion of the hunting permits allocated to landowners must be given to nonpaying hunters. Paying hunters may obtain the permits from the landowner, and hunters given a permit must participate in a lottery administered by the state.

New Mexico's program is different from other states' programs because it does not require the landowner to develop a wildlife management plan. The allocation of authorizations to landowners is based on animal populations alone. This discourages ranch-specific management, and there are elk depredation problems that remain in certain parts of the state. The

allocation formula funnels numerous authorizations to a few larger ranches, and smaller ranches receive fewer authorizations even though they may be suffering more depredation. A landowner in New Mexico must allow access to a number of hunters selected by lottery who hunt for free. The program does not require that a property be a minimum size.

The main benefit to landowners under a ranching for wildlife program is the issuance of transferable tags that the landowner may sell for cash. Ranching for wildlife would provide an income to cover the expenses of depredation.

Idaho has a different kind of program that mirrors circumstances in North Dakota. Idaho has a program that was created in 1999 and was built on a system much like gratis tags in North Dakota. In Idaho these tags are called landowner appreciation tags and are transferable. They are issued contingent on the landowner providing reasonable public access to hunting. The number of landowner appreciation tags issued to a landowner is based on acreage and is limited to two in number.

SUGGESTED STUDY APPROACH

A program that would provide transferable tags for landowners would provide income to landowners. However, without an increase in the number of tags from present levels there would be no increased opportunities for hunters. In addition, without an increase in the amount of elk outside Theodore Roosevelt National Park, at a certain point more permits do not result in more hunting opportunities. Presently there are significantly more tags issued than are elk harvested. To address this shortcoming, this study suggests an increase in the number of elk outside of Theodore Roosevelt National Park through a management plan with landowners in which the landowner may profit by the elk, and hunters may have more elk to hunt. The committee may want to receive testimony from interested persons, including the Game and Fish Department, hunting groups, conservation groups, and landowners, including the federal government. The testimony may aid the committee in making any policy decision for the development of elk hunting in this state.

ATTACH:1

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE CONCURRENT RESOLUTION NO. 3022
(Representatives Drovdal, Hanson, Porter)
(Senators Lyson, Wardner)

A concurrent resolution directing the Legislative Council to study the use of incentive programs in North Dakota as a way of keeping elk in the state and providing increased opportunities for landowners, hunters, and the general public.

WHEREAS, on at least two separate occasions within the last ten years, "surplus" elk have been exported from the state of North Dakota; and

WHEREAS, under current elk management regulations, the vast majority of the people of North Dakota have only a once-in-a-lifetime chance of getting a permit to hunt elk within the state; and

WHEREAS, the strong demand for elk permits was clearly evident in the year 2000 when there were 11,951 applications received by the Game and Fish Department and only 204 permits made available; and

WHEREAS, exportation of elk from the state denies our residents the future opportunity to hunt, observe, and otherwise benefit from these majestic animals; and

WHEREAS, the elk population of the South Unit of Theodore Roosevelt National Park periodically exceeds acceptable carrying capacity based upon National Park Service guidelines, thus forcing a determination of where to translocate "surplus" animals; and

WHEREAS, there are tens of thousands of acres of public land in North Dakota with suitable habitat to which "surplus" elk could be translocated; and

WHEREAS, there exists a memorandum of understanding between the National Park Service, the Game and Fish Department, and other agencies that gives the Game and Fish Department the first option to accept management of said "surplus" elk; and

WHEREAS, there are a number of states that have designed and implemented custom-tailored programs with incentives to facilitate acceptable solutions to wildlife management issues such as the "surplus" elk issue in North Dakota; and

WHEREAS, the people of North Dakota strongly value their hunting heritage, as evidenced by an overwhelming 80 percent approval of the recent amendment to the Constitution of North Dakota related to that heritage;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study the use of incentive programs implemented in other states that would allow the retention of "surplus" elk and also benefit other wildlife species, incentive programs to enhance landowner tolerance of wildlife and to provide economic benefit opportunities to landowners while increasing access to private land for public hunting, effectiveness of incentive programs to foster a spirit of cooperation between landowners, sportsmen, and regulatory agencies in collaborative wildlife management efforts, and disease concerns associated with the translocation of free ranging wildlife; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-eighth Legislative Assembly.