

Minutes of the Game, Fish, and Parks Commission  
October 3-4, 2013

Chair Susie Knippling called the meeting to order at 1:00 PM at the Spearfish Convention Center in Spearfish, South Dakota. Commissioners Susie Knippling, John Cooper, Duane Sather, Cathy Peterson, Jim Spies, Barry Jensen, and Gary Jensen were present. Secretary Jeff Vonk was present along with public, staff, and media numbering approximately eighty.

**Wildlife Management Institute - Big Game Management Review**

Nathan Sanderson, Policy Advisor to Governor Daugaard, provided background information about the Big Game Management Review conducted to identify strengths and weaknesses for the management of big game in South Dakota. Sanderson indicated the Governor was briefed the previous day by Steve Williams and Scott Williamson from Wildlife Management Institute and was pleased with their report. The report indicates the Wildlife Division is doing a good job with room for improvement in a few areas.

Steve Williams provided a PowerPoint Presentation that included background, history, and mission of the Wildlife Management Institute (WMI) and their team. He outlined the process and methodology used to produce the report. Williams provided results about the public outreach; the rule recommendation process; roles and responsibilities of the wildlife staff, GFP senior staff, and commissioners; and management of deer, elk, pronghorn, and mountain lions with recommendations to improve management of big game. The report provided answers to nine questions posed by the Governor's Office; strengths of the Wildlife Division; weaknesses of the management process; and specific objectives to improve the management process to meet the desire for a more sophisticated big game management process.

**Open Forum**

Don Hausle referenced his April letter regarding elk on his land the forage the elk have eaten. He submitted an invoice for \$3,000.00 of hay elk took off his property. He is unhappy that landowners need 240 acres to get landowner elk tag as often times the small operators have additional jobs and will continue to become smaller operators. Hausle wants the Commission to take seriously what is going on in smaller areas with elk as well as the big operators, and cost of elk eating their hay.

Tom Krafka, President of Greater Dacotah Chapter of Safari Club International, who helps with bighorn sheep numbers in the Black Hills. Krafka indicated Safari Club assisted with the auction tag process last year, and provide a handout with questions on how the action tag proceeds are spent and if there will be another auction tag. Chair Knippling indicated a report item later on the agenda may answer his questions.

Marty Davis of Spearfish believes GFP's long term goals for big game management is a better system than Minnesota and South Dakota is more proactive by staying on top of things every year. The mountain lion plan does a good job and allows

hunting while filling the need to provide an opportunity for the common man. He does not want hounds used when hunting lions, appreciates the current system, and the opportunity to use his skills when hunting lions.

Ken Edalla of Rapid City indicated he does not want Lake Oahe limits to change and does not support three day possession as some bodies of waters cannot support this. Believes Lake Oahe's needs should include consideration of water release when setting limits, and how catastrophic events affect the reservoir and fishing. He believes nonresident youth, sixteen and younger, should be allowed to take a limit of fish and he asked about Orman Dam use.

### **Public Hearing**

The Public Hearing began at 2:12 PM and concluded at 3:19 PM. Minutes are attached to the minutes of this regular meeting.

### **Division of Administration**

Action items:

#### **August Minutes Approval**

Chair Knippling asked for additions or corrections to the August minutes or a motion for approval.

Motion by Cooper with second by Gary Jensen TO APPROVE THE AUGUST 2013 GFP COMMISSION MINUTES AS PRESENTED. Motion carried unanimously.

#### **Additional Commissioner Salary Days**

Knippling called for any additional commissioner salary days and Cooper requested a day for the Theodore Roosevelt Conservation Partnership Missouri River Tour near Yankton on August 11 and a day for the Pheasants Forever/Quail Forever Team Meeting in Estes Park, Colorado, on September 10.

Motion by Spies with second by Peterson TO APPROVE THE TWO ADDITIONAL SALARY DAYS REQUESTED BY COOPER. Motion carried unanimously.

#### **2014 Meeting Schedule**

Director Petersen presented the 2014 Commission Meeting Schedule for approval. The schedule was presented at the August meeting for review and the only change is that the December meeting location was moved to Sioux Falls.

Motion by Barry Jensen with second by Jim Spies TO APPROVE THE 2014 GAME, FISH, AND PARKS COMMISSION SCHEDULE AS PRESENTED. Motion carried unanimously.

#### **License List requests**

Director Petersen presented a license list request from the Mitchell Convention and Visitors Bureau of the 2012 Pheasant license holders in Minnesota to send a

postcard marketing the Mitchell area for late season hunting opportunities and repeat trips to South Dakota. The fee for this request would be waived.

Motion by Sather with second by Peterson TO APPROVE THE LICENSE LIST REQUEST FROM MITCHELL CONVENTION AND VISITORS BUREAU AS PRESENTED. Motion carried unanimously.

Petersen presented a request from Del's Taxidermy and Archery LLC of Huron for a list of archery license holders in an eight county area to send a brochure about their hunting business. This is a full fee request.

Motion by Sather with second by Cooper TO APPROVE THE LICENSE LIST REQUEST FROM DEL'S TAXIDERMY AND ARCHERY LLC AS PRESENTED. Motion carried unanimously.

Information item:

### **License Sales Report**

Director Chris Petersen provided the License Sales Totals as of September 26 that indicated that combination license sales are consistent with last year's totals and fishing license sales remain strong. Total license sales reflect a 1.1% increase above sales for the same time frame for last year.

### **Finalizations**

Mountain Lion Hunting Season 41:06:61

Chair Knippling requested an update about the Elk Study Research Project prior to Finalizations. Chad Lehman reported the research is in the third year and 42 cow elk were captured with a 90% pregnancy rate. Calf survival through September 30 is at 41% up from 38% last year and 28 calves are currently wearing collars in eastern Black Hills, Unit 4, near Hermosa and Custer State Park. Cow survival rates are at 83%, up from last year.

Chief Tom Kirschenmann presented the proposed changes to the Mountain Lion Hunting Season along with season dates, harvest limits, requirements, and restrictions. There were no recommended changes to the proposal.

1. Decrease the total mountain lion harvest limit from 100 to 75 and the female harvest limit from 70 to 50.
2. Increase the number of hunting intervals when dog hunting is allowed from 3 to 4 and decrease the number of hunting intervals when no dog hunting is allowed from 5 to 4 for Custer State Park. This structure would include four (4) hunting intervals (17 days in length) with each having 30 access permits (no dog hunting allowed) for a total of 120 access permits and four (4) intervals (7 days in length) with each having 4 access permits (dog hunting allowed) for a total of 16 access permits.

Motion by Gary Jensen with second by Spies TO FINALIZE CHANGES TO THE MOUNTAIN LION HUNTING SEASON 41:06:61 AS PROPOSED. Motion carried unanimously.

## **Petition for Rule Change**

Director Tony Leif presented the five petitions to change the walleye possession limit from two to three times the daily limit statewide. Chief John Lott reviewed current fish harvest regulations and indicated he does not believe the change would have a big biological impact on the resource. Lott believes this is a social issue.

Director Leif provided options for Commission action which included denying the request with a statement of reasons; or making the request a proposal. The proposal would allow public comment before Commission action at the next meeting. Leif recommended accepting the request and have the proposed change include all fish species, not just walleyes. Discussion included the different sizes of lakes and possession limits on waters with neighboring states.

Motion by Spies with second by Gary Jensen TO ACCEPT THE PETITION REQUESTS AND PROPOSE TO MODIFY POSSESSION LIMITS FOR ALL SPECIES OF FISH, FROM TWO TO THREE TIMES THE DAILY TAKE OF FISH, AND TO BE STATEWIDE ON ALL BODIES OF WATER. Motion carried unanimously.

## **Division of Wildlife**

Action items:

### **Fishing regulations**

Geno Adams presented three recommended changes to the general fishing provisions and fish limits. Adams indicated that Black Hills anglers support the change to prohibit felt soled waders. He also shared there are products available to make the felt waders usable. A recent survey of border water anglers indicated their desire that boundary waters regulations be the same as inland waters. Discussion included the spring smelt survey, high angler use, and harvest on Lake Oahe.

1. Add 41:07:01:18 "Felt Soled Waders Prohibited".
2. Modify 41:07:03:02. "South Dakota-Minnesota boundary waters." by changing the possession limit for yellow perch from 15 fish to 30 fish, twice the daily limit.
3. Modify 41:07:03:03. "Daily, possession, and length limit restrictions on special management waters – additional restrictions described." by:
  - a. Adding East and West Heritage GPA ponds to the list of waters with a 15" minimum length limit for largemouth and smallmouth bass.
  - b. Removing current walleye limits of 8 daily, of which at most four can be 15 inches or longer in length, and 24 in possession, and applying statewide harvest restrictions for walleye to Lake Oahe.

Motion by Cooper with second by Sather TO PROPOSE CHANGES TO GENERAL PROVISIONS AND FISH LIMITS AS RECOMMENDED. Motion carried unanimously.

### **Spearing**

Adams presented the recommended changes and supportive information for Commission consideration.

1. Modify 41:07:06:01. "Spearing of rough fish in inland waters." by including the South Dakota-Minnesota boundary waters in this regulation and modifying the title to reflect this change.
2. Repeal 41:07:06:01.2. "Spearing of rough fish in South Dakota-Minnesota boundary waters."
3. Modify 41:07:06:03. "Areas open to spearing of game fish – Additional permit required." by:
  - a. Removing subsection (7) which allows game fish spearing in certain waters in Eastern South Dakota.
  - b. Adding South Island Land and county designations for North and South Island Lakes to subsection (8) which allows northern pike to be taken in inland waters of the state except those managed for muskies.
  - c. Removing verbiage that allows the director of the Division of Wildlife to temporarily open areas to game fish spearing for special events and instead state that the Commission may open areas temporarily for all anglers by resolution.

Motion by Barry Jensen with second by Gary Jensen TO PROPOSE CHANGES TO SPEARING AS RECOMMENDED. Motion carried unanimously.

### **Bait**

Will Saylor presented recommended changes to bait rules with supporting information.

1. Modify 41:09:04:02.02 "Species that may be taken as bait for commercial use." to allow emerald shiners and spottail shiners to be taken and sold by any licensed resident bait dealer or sold by any licensed nonresident bait dealer.
2. Modify 41:09:04:02.04 "Species that may be taken as bait for noncommercial use." to allow golden shiners, emerald shiners, spottail shiners and dead gizzard shad to be transported away from the water from which they were taken to be used as bait.
3. Modify 41:09:04:03 "Waters closed to taking of bait." By modifying:
  - a. "Waters closed year-round to commercial and noncommercial taking of bait." to add the exception of that portion of Lewis and Clark Lake and the Missouri River above Gavins Point Dam in Yankton and Bon Homme Counties for the non-commercial taking of bait.
  - b. "Other Waters." to include Lake Yankton in Yankton County and Lakes Byron and Mud in Beadle County.
  - c. "Waters closed year-round to commercial taking of bait." By removing Lake Yankton (Cottonwood) in Yankton County.

Motion by Peterson with second by Barry Jensen TO PROPOSE CHANGES TO BAIT RULES AS RECOMMENDED. Motion carried unanimously.

Chair Knippling called for a recess at 3:38 PM and meeting resumed at 3:57 PM.

### **License fees proposals**

Director Tony Leif and Chief Scott Simpson presented recommended changes to increase hunting and fishing license fees for 2014. The estimated increase revenue is based on projected 2014 sales. Leif and Simpson provided background on where federal funds dollars are utilized within the division and how alternate funding has been identified prior to proposing fee increases. Many of the fees have not been increase since 2005 and inflation since then is up about 20%. The fee adjustments affect many resident and nonresident license types. The resident preference point for big game licenses will be \$5 and the applicant has the option to pay the fee or not. The

nonresident preference point for big game licenses will be \$10 and applicants will have the option to pay the fee or not.

Chief Simpson presented a license fee comparison of residents and nonresident fees in neighboring states by species or season. Simpson indicated this was a challenging exercise as each state has different criteria for a license and many required more than one fee, license, or stamp to compare with our fees. The report indicated South Dakota fees are comparable with adjacent states. Discussion about the different fees ensued.

Resident fee changes: Annual Fishing \$25-28; Senior Fishing \$10-12; One-Day Fishing \$7-8; Paddlefish Tag \$20-25; Combination \$50-55; Junior Combination \$25-27; Senior Combination \$35-40; Annual Small Game \$30-33; One-Day Small Game \$10-12; Canada Goose Special Season Tags \$11-15; Tundra Swan Tag \$11-18; Spring Turkey 1-tag \$21-25; Spring Turkey 2-tag \$26-35; Fall Turkey 1-tag \$11-15; Fall Turkey 2-tag \$16-20; Any Deer 1-tag \$36-40; Any Deer + Antlerless Deer 2-tag \$46-50; Antlerless Deer 1-tag \$16-20; Antlerless Deer 2-tag \$26-30; Special Buck \$156-175; Any Antelope \$36-40; Any Antelope + Doe/Fawn \$46-50; Doe/Fawn 1-tag \$16-20; Doe/Fawn 2-tag \$26-30; Any Elk \$156-175; Antlerless Elk \$106-116; Mountain Goat \$256-280; Bighorn Sheep \$256-280; Mountain Lion \$26-28; Furbearer \$25-30; and the optional preference point fee on big game licenses will be \$5.

Nonresident fee changes: Annual Fishing \$60-67; Family Fishing \$60-67; One-Day Fishing \$14-16; Three-Day Fishing \$32-37; Paddlefish Tag \$20-40; Game Fish Spearing \$5-10; Spring Light Goose \$46-50; Early Fall Canada Goose \$46-50; Tundra Swan \$16-25; Spring Turkey 1-tag \$86-100; Spring Turkey 2-tag \$101-125; Fall Turkey 1-tag \$76-90; Fall Turkey 2-tag \$86-100; Antlerless Deer 1-tag \$56-80; Antlerless Deer 2-tag \$81-120; Special Buck \$506-560; Antelope Doe/Fawn 1-tag \$56-80; Antelope Doe/Fawn 2-tag \$81-120; Furbearer \$250-275; Predator/Varmint \$35-40; and the optional preference point fee on big game licenses will be \$10.

Motion by Cooper with second by Spies TO PROPOSE INCREASED FEES AS RECOMMENDED BY THE DIVISION OF WILDLIFE. Motion carried unanimously.

Information items:

### **Boating Officer of the Year**

Brandon Gust honored Joe Keaton with the Boating Officer of the Year Award and he was recognized at the national level.

### **Land acquisition projects**

Paul Coughlin provided information about a land exchange and purchase in southeast Sully County adjacent to the Medicine Knoll Creek Game Production Area that will become an action item at the next meeting.

### **Transplant of mountain goats in SD**

This report item was deferred to the next meeting.

### **Bighorn Sheep Update**

Chief Tom Kirschenmann responded to questions from Tom Krafka at the open forum portion of the meeting. Kirschenmann indicated criteria for additional

bighorn sheep tags were placed in rule last year and if three licenses are available for the 2014 season the third tag would be the auction tag. The recommendation and discussion for this season is scheduled for the December Commission meeting. The funds raised from the auction tag have been held by GFP with a specific accounting code allowing for distribution and tracking of these enhancement funds. A meeting of the Bighorn Sheep Working Group is scheduled for Friday, October 11, to discuss how to use these funds.

### **Pheasant Brood Route Report**

Chief Kirschenmann indicated pheasant brood routes are down 64% with a series of events beginning with the drought in the fall of 2012, lack of cover and vegetation during the winter, lack of insects for the young pheasants, a very cool and wet spring, along with loss of habitat all contributed to low numbers. Some of the routes were ran a second time and it confirmed the low numbers and verified a late hatch occurred in early July.

### **Statewide Fisheries Plan**

Director Leif requested this report be moved to the next Commission meeting and he handed out a Division of Wildlife "Perpetuating the Outdoor Heritage of South Dakota" planning document for Commission information.

### **Division of Parks and Recreation**

Action items:

#### **Custer State Park Private Cabin Transfer Resolution**

Custer State Park Superintendent Matt Snyder shared that a cabin owner in Custer State Park wishes to transfer ownership to another party and this requires Commission approval. Resolution 13-11 authorizes the Department to provide consent for the transaction upon completion of all criteria and agreements.

Motion by Peterson with second by Barry Jensen TO APPROVE RESOLUTION 13-11 (Appendix A) AS PRESENTED. Motion carried unanimously.

#### **Custer State Park Resort Employee Housing**

Director Doug Hofer indicated Custer Resorts had another great year with reservations up 4% from the previous year. Hofer introduced Josh Schmaltz, Dave Sweet, and Craig Gult from Custer State Park Resorts, who presented a formal request to purchase two additional employee housing units for Custer State Park to attract and accommodate quality staff. The housing units would be purchased by the resort company. Site preparation and the improvements to existing utilities for the units will be paid for using Repair and Maintenance reserve funds. The Fifth Amendment to the Custer State Park Resort Concession Agreement provides stipulations for the purchase and placement of the buildings as well as granting possessory interest of the structures to the resort company.

Motion by Spies with second by Gary Jensen TO APPROVE THE FIFTH AMENDMENT TO CONCESSION AGREEMENT CUSTER STATE PARK RESORT AS PRESENTED (Appendix B). Motion carried unanimously.

### **Resolution for Adams land transfer**

Director Hofer and Parks and Wildlife Foundation Executive Director Wayne Winter presented Resolution 13-12 for Commission consideration. The approval of the resolution would allow the Department to accept the gift of approximately 18 acres in four individual tracts from the Foundation. The tracts would be added to the existing Adams Homestead and Nature Preserve for park and recreation opportunities.

Motion by Gary Jensen with second by Peterson TO APPROVE RESOLUTION 13-12 AS PRESENTED (Appendix C). Motion carried unanimously.

### **Park fees proposals**

Director Hofer indicated utility costs have increased for camping sites, fish cleaning stations, and general operations; as well as an increase in salaries and health care costs for employees since the last camping fee adjustment three years ago. Assistant Director Bob Schneider presented recommended fee increases beginning January 1 for camping, picnic shelters, firewood, and other facility uses.

Add Sheps Canyon Horse Camp to the list of areas that require an equestrian campground fee, and increase camping permit fees established in ARSD 41:03:04:03 as follows: Custer State Park modern campground fee from \$18.96 to \$21.00; Modern campground fee from \$11.38 to \$13.00; Custer State Park semi-modern campground fee from \$17.06 to \$19.00; Basic campground fee from \$9.48 to \$11.00; Custer State Park French Creek natural area from \$5.69 to \$7.00 for each person; Use of a campground site at Fort Sisseton during the annual Fort Sisseton Festival from \$16.11 to \$25.00 (Festival campers are exempt from paying the camping fee); Equestrian campground fee from \$11.38 to \$13.00 at Bear Butte Horse Camp and Sica Hollow Horse Camp, and increase the camping fee at the remaining equestrian campgrounds from \$13.27 to \$15.00; Camping cabin fee at Lewis and Clark Recreation Area, Pierson Ranch Recreation Area, and Chief White Crane Recreation Area from \$39.81 to \$45.00, and Custer State Park from \$44.55 to \$50.00; Camping cabin fees at all other state parks and recreation areas from \$35.07 to \$40.00. Nonprofit youth group camping fee from \$0.47 for each person or \$5.71, whichever is greater, to \$0.50 for each person or \$6.00, whichever is greater; Preferred campground fee from \$13.27 to \$15.00; Prime campsite fee from \$15.17 to \$17.00; Primitive lodging campsite fee from \$20.85 to \$23.00; Custer State Park group camping are fee from \$5.69 per person for overnight use with a minimum fee of \$113.74 to \$7.00 per person for overnight use with a minimum fee of \$140.00; group lodging fee at Mina Lake State Recreation Area from \$160.00 to \$185.00; Custer State Park, French Creek Horse Camp fee from \$21.80 to \$26.00; Oahe Downstream Group Lodge use fee from \$37.92 to \$40.00 per night for nonprofit youth groups year-round and nonprofit groups and government agencies from November 1 to March 31, inclusive, and from \$118.49 to \$125.00 per night for all other groups year-round, and the use fee for all groups except nonprofit youth groups from \$118.49 to \$125.00 from April 1 to October 31, inclusive; and the additional charge for campground sites with electricity from \$3.79 per unit to \$4.00 per unit.

Increase the fee to reserve a picnic shelter from \$18.96 to \$20.00 a day; increase

the fee to purchase a bundle of firewood from \$4.00 to \$5.00; and adjust the fee to use certain park facilities and authorize fees for new services and facilities as follows: Increase the fee for use of Fort Sisseton south barracks from \$125.00 per day to \$300.00 for a period beginning at 10:00 a.m. on Friday and ending at 6:00 p.m. on Sunday; increase for off-site use of the Fort Sisseton event tent from \$750.00 per day to \$1,000.00 per day plus a \$2.00 per mile transport fee for set up over 25 miles; establish a \$125.00 fee for use of Fort Sisseton grounds for outdoor weddings when park benches are used; establish a Lewis and Clark catamaran dry slip storage fee of \$300.00 for a period beginning May 1 and ending September 30, and for seasonal slip rental beginning on or after July 15 a \$60.00 fee plus \$2.00 per day, and a temporary slip rental fee of \$5.00 per day; and establish an Angostura catamaran dry slip storage fee of \$150.00 for a period beginning May 1 and ending September 30, and for seasonal slip rental beginning on or after July 15 a \$30.00 fee plus \$2.00 per day, and a temporary slip rental fee of \$5.00 per day.

Motion by Cooper with second by Sather TO PROPOSE CHANGES TO CAMPING PERMIT, RULES, FEES, PICNIC SHELTERS, FIREWOOD, AND FACILITY USE AS RECOMMENDED. Motion carried unanimously.

Information items:

#### **Custer State Park Mountain Pine Beetle Update**

Matt Snyder indicated the Sylvan Lake area saw a great influx of mountain pine beetle from the adjacent Forest Service property and contractors are currently working on cut and chunk. The Sylvan area will also have 8,500 infested trees removed. Previous years' work throughout the rest of the park appears to be successful in slowing the beetle activity.

#### **2014 Custer State Park Repair and Maintenance Projects**

Hofer presented the Proposed Custer Resorts 2014 Repair and Maintenance plan which includes structural work at the Blue Bell Lodge, infrastructure improvements for the two employee units, several cabin renovations, hardwood floor refinishing, improvements at the White Buffalo Room, and other planned improvements as well as an emergency fund allocation. According to the proposal, the future carryover balance is anticipated to decline again next year.

#### **Buffalo Roundup**

Snyder indicated the buffalo roundup was a successful event and for the first time held on a Friday. Attendance was comparable to past years, the weather was good, and buffalo movement was good. The Arts Festival and Chili Cook-off saw some impact due the date change; high winds on Sunday blew some tents away and some vendors did pack up and return home; by noon the wind subsided. Sunday attendance ended up to about half compared to previous years.

#### **Park Revenue and Visitation Reports**

Director Hofer indicated revenue for 2013 was up in part due to a change in the reservation system policy that allows reservations and payment for the reservation one-year in advance at Custer State Park and six lodges statewide.

Camping units are up 3.1% as of September 30 insuring that 2013 will be a record year for camping. Hofer estimates an additional 10,000 camping units will use the parks before the end of the year.

Secretary Vonk shared with the Commissioners that letters will be going to hunters with deer licenses in Bennett, Tripp, Corson, and Perkins counties offering a refund for their deer tags prior to the start of the season due to EHD.

Motion by Peterson with second by Gary Jensen TO ADJOURN THE MEETING. Motion carried and meeting adjourned at 6:05 PM.

Respectfully submitted,

Jeffrey R. Vonk, Department Secretary

Appendix A

**RESOLUTION NO. 13-11**

Whereas, the South Dakota Game, Fish, and Parks Commission has been advised that Patrick M. Ginsbach was the owner of a cabin located in Custer State Park (Custer County) on property described as:

No.1 Springdale in the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section Twelve (12), Township Four (4) South, Range Five (5) East, of the Black Hills Meridian, Custer, County South Dakota; and

Whereas, the property upon which the cabin is located is owned by the South Dakota Department of Game, Fish, and Parks and has been leased to Patrick M. Ginsbach by permit by reason of a Stipulation of Settlement and Dismissal entered in Craft v. Wipf, Civil Action No. 85-5092, U.S. District Court for the District of South Dakota, Western Division, and subsequent agreements and permits executed thereafter based on said Stipulation and Dismissal; and

Whereas, the Commission has been advised that Patrick M. Ginsbach desires to and has transferred and assigned all of his interest in said cabin and cabin site permit to Francis Kub and Joan Kub, husband and wife, as joint tenants; and

Whereas, the Commission has been requested to approve said Transfer and Assignment.

Now, therefore, be it resolved that in the event the Department receives an executed Agreement and Assignment of the above described cabin site permit and cabin and appurtenances located thereon and which further provides that said Assignee agrees to abide by all of the terms and conditions of the aforementioned Stipulation of Settlement and Dismissal and all subsequent agreements relative thereto, including but not limited to Cabin Site Permits, Addendums, and all agreements relative to establishing the lease or rental payments due the Department, then in that event, the Department is authorized to execute a Consent to the requested Assignment.

## Appendix B

### **FIFTH AMENDMENT TO CONCESSION AGREEMENT CUSTER STATE PARK RESORT**

This FIFTH AMENDMENT TO CONCESSION AGREEMENT between the South Dakota Department of Game, Fish and Parks (“Department”), 523 East Capitol, Pierre, South Dakota, 57501, and US Hotels and Resorts Management, Inc. and Regency CSP Ventures L.P., a South Dakota Limited Partnership, acting by and through US Hotels and Resorts Management, Inc., as its general partner (“Concessionaire”), 3211 West Sencore Drive, Sioux Falls, South Dakota, 57107.

WHEREAS, the Department entered into a Concession Lease Agreement on the 8<sup>th</sup> day of December, 2006 (“Concession Agreement”), to facilitate the operation of the four resorts at Custer State Park, hereinafter referred to as the “Resort”; and

WHEREAS, The Department and the Concessionaire subsequently entered into written amendments to the Concession Agreement on June 11, 2007, December 7, 2007, September 1, 2009, and October 20, 2010, respectively; and

WHEREAS, the Department and the Concessionaire recognize the need for Concessionaire to provide additional seasonal employee housing units at the Legion Lake Resort and Blue Bell Lodge employee housing complexes at an estimated cost to the Concessionaire of \$136,000; and

WHEREAS, the Department and Concessionaire agree to designate the ownership of said employee housing units as Concessionaire Facilities; and

WHEREAS, such designation of the additional employee housing units as Concessionaire Facilities results in the establishment of a possessory interest held by the Concessionaire in the buildings pursuant to ARSD. Article 41:13.

IT IS THEREFORE AGREED that the Concession Lease Agreement dated December 8, 2006, between Department and the Concessionaire, as subsequently amended, is further amended as follows:

1. The Department Authorizes the Concessionaire to construct and place one (1) 28’ x 64’ seasonal employee housing unit at the Legion Lake Resort employee housing complex and one (1) 28’ x 64’ seasonal employee housing unit at the Blue Bell Lodge employee housing complex.
  - a. The buildings will be “Concessionaire Facilities” for which the Concessionaire shall retain possessory interest.
  - b. The underground utilities for the units shall be considered “Government Facilities” for which no possessory interest can be granted and to which the Department shall retain ownership.

- c. Authorization to provide the seasonal housing units is contingent upon compliance with all applicable building codes and the Department securing all environmental clearances. Final placement of the units is subject to Department approval.
2. Exhibit A-2 will be amended to designate the newly provided seasonal employee housing units as Concessionaire Facilities. The following lines are hereby added to Exhibit A-2 attached to the Concession Agreement

Fac. NO	Description	Replacement Cost	Possessory Interest
	Seasonal Employee Housing Unit (28'x64') Legion Lake Resort – Building Only		Per ARSD Article 41:13
	Seasonal Employee Housing Unit (28'x64') Blue Bell Lodge– Building Only		Per ARSD Article 41:13

3. Except as modified by this Fifth Amendment to Concession Agreement, all other terms and conditions set forth in the Concession Lease Agreement dated December 8, 2006, as subsequently amended on June 11, 2007, on December 7, 2007, September 1, 2009, and October 20, 2010, respectively, shall continue to remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment to Concession Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Douglas Hofer, Director, Division of Parks and Recreation

CONCESSIONAIRE

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
David Sweet, CEO  
US Hotels and Resorts Management, Inc.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
David Sweet, CEO, US Hotels and Resorts Management, Inc.  
As general partner of Regency CSP Ventures, L.P., a South  
Dakota Limited Partnership

## Appendix C

### RESOLUTION 13-12

WHEREAS, South Dakota Parks and Wildlife Foundation owns real estate (Property) described as:

Parcel #1: Adams Tract 3, a vacated Right-of-Way Parcel in the North Half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$ ) of Section 8, Township 89 North, Range 48, West of the 5<sup>th</sup> P.M., Union County, South Dakota, according to the recorded plat in Book 9 of Plats, page 108; and

Parcel #2: Lot 7, Block 2 of Adams Addition to the City of North Sioux City, Union County, South Dakota, according to the recorded plat in Book 12 of Plats, page 94; and

Parcel #3: Adams Tract 12 and Lot C in the Southeast Quarter of Section 8, Township 89 North, Range 48 West of the 5<sup>th</sup> P.M., Union County, South Dakota, as platted in Book 30 of Plats, page 28; and

Parcel #4: Adams Tract 11 in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 8 and in the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 9, all in Township 89 North, Range 48, West of the 5<sup>th</sup> P.M., Union County, South Dakota, as platted in Book 12 of Plats, page 110; and

WHEREAS, South Dakota Parks and Wildlife Foundation desires to gift the Property to the South Dakota Department of Game, Fish, and Parks (Department) as an addition to the existing Adams Homestead and Nature Preserve; and

WHEREAS, the Department has evaluated and determined that the Property would serve very well as an addition to the Adams Homestead and Nature Preserve, offering wildlife habitat and public recreational opportunities; and

WHEREAS, the Department is authorized to accept gifts of property for park and recreational purposes per SDCL §§ 41-2-19 and 41-2-24;

NOW, THEREFORE, BE IT RESOLVED, that the South Dakota Game, Fish, and Parks Commission does hereby authorize the Department to accept the gift of the Property from South Dakota Parks and Wildlife Foundation to be used as an addition to the Adams Homestead and Nature Preserve.

BE IT FURTHER RESOLVED that the South Dakota Game, Fish, and Parks Commission, on behalf of the citizens of South Dakota, does hereby acknowledge and express its deepest appreciation and gratitude to South Dakota Parks and Wildlife Foundation for its generosity, and further acknowledge the outdoor recreational opportunities this gift will provide to South Dakotans for many years to come.

Public Hearing Minutes of the Game, Fish, and Parks Commission  
October 3, 2013

Public Hearing Officer Chuck Schlueter began the public hearing at 2:12 PM Mountain Daylight Time at the Spearfish Holiday Inn Convention Center. Written and oral testimony would be accepted on the Mountain Lion Hunting Season. Schlueter read testimony received prior to the hearing and the attending public provided testimony at the microphone and provided their name, city, and state before addressing the Commission.

#### Mountain Lion Hunting Season

Dan Anderson of Vienna, SD, emailed: I am writing to comment on the proposed mountain lion seasons. I feel that the quotas are far too high. ...The proposed quota of 75 total lions, or 50 females, is not sustainable for the population. In addition, allowing the season to be open the entire year in the rest of the state is a blatant attempt to exterminate cougars outside of the Black Hills."

Scott Jamison of Box Elder, SD, emailed: "...My opinion is that until the deer and elk populations increase back to their prior levels; and the license numbers do the same; mountain lion quotas should increase so that anyone interested in helping reduce the predator population has ample opportunity to do so. I would err on the side of overhunting the predators, letting the deer and elk herds increase; until such time as it is apparent that lion sightings and populations have definitely decreased..."

Chuck Clayton of Huron, SD, emailed: "Why don't we just let hunters kill every lion in the Hills? This thinly veiled attempt to keep everyone happy is probably not going to work. We allow "people" to build houses in every corner that is not public in the hills, reducing the available winter habitat for ungulates and cats alike, but somehow think the cats are the problem?"

I have been hunting in the Hills for at least 35 years. I remember "over the counter tags", and open meadows in many places. Now, if it is private it has been sold off for housing, especially in the foot hills leading to the Black Hills, the traditional Wintering grounds for deer and elk are now houses.

Some people blame the cats for the degradation of the deer and elk, when all they have to do is look in the mirror. To many cats are not good ----- but neither are too many people!"

Jeremy Wells of Rapid City, SD, emailed: "The use of hounds obviously worked in Custer State Park and works in Wyoming so I am proposing that we use hounds in the Black Hills. Whether it be in hunting intervals like CSP or just end the foot season in February and let hounds have the remainder of the season. Its time we start hunting them the right way and stop with the ridiculous excuses!!!!"

Jerod Lutter of Belle Fourche, SD, emailed: "In regards to the upcoming proposal on the upcoming mountain lion seasons quota. I believe that the quota should stay at the 100 cats or 75 female quota."

Justin Deutsch of Langford, SD, emailed: "I was one of the lucky ones to draw a Custer State Park hound tag last year. After hunting with dogs I believe this is the best method to harvest mountain lions. I was able to pass up a small kitten with spots, that had I been in the field foot hunting I probably wouldn't have had enough time to study, and would have shot."

Helen McGinnis, Treasurer of the Prairie Hills Audubon Society emailed information from Dr. Robert Wielgus and a partial transcript of a meeting on August 3 or 4, 2013, and a link to you tube presentation.

David R Love of Custer, SD, emailed: "In a word, the quotas for this year's lion season are too high and I am totally in opposition to them..."

Jeremy S. Ansell of Hermosa, SD, emailed: "I like the idea of being able to hunt year round in the black hills. I like to hunt mountain lion but, due to my job I am limited the days I can hunt. This idea is a very good idea. If this gets passed I will most definitely get my license again. Thank you."

Kent R. Guthrie of Rapid City, SD, emailed: "Fewer mountain lions equal more Mountain Goats, Bighorn Sheep, Elk & Deer. The lion harvest affects many more sportsmen then the few who are fortunate enough to take a lion."

Monte Vande Kop of Brookings, SD, emailed: "I think there should be a higher number of lions harvested during the season. I also think hunters should be allowed to use dogs to track these animals. The lion population is tremendously larger than the Black Hills of South Dakota can house."

Albert J. Berreth of Pierre, SD, emailed: "Please keep the mountain lion season quota at 100 or higher for the coming season."

Randall L. Pratt of Mitchell, SD, emailed: "As I look at your data I sense that a harvest limit of 75 total and 50 females is above what can be supported by the area... I could support a little larger number to control the population with respect to other game but in the event hunting conditions are perfect and the limit easily met I suspect harvest levels as proposed would reduce the population dramatically given 3 consecutive harvests above a sustainable level..."

Tom Mikklos of Custer, SD, emailed: "I feel that there should be a separate hound quota for the black hills season. Hounds are great way to hunt lions and the only way that a selective harvest can be done. I think that 30 lions would be a great number for hound hunters to start with."

Ross Rohde of Rapid City, SD, emailed: "...I think the current proposal for 2014 is a good proposal but would like to see a few more changes. I would really like to see the private land owners have the opportunity to be able to use dogs.... Also I would like to see the use of dogs at the end of the season if the quota has not been filled. I think we all know the mountain lion is a very smart and discreet animal..."

Dann Cecil of Wentworth, SD, emailed: "...We have a hard time trying to understand why the mountain lion is more important to the GFP department than our deer, elk, and big horned sheep populations. The answer seems evident as a

small, very vocal minority want to protect the lions. Does our GFP not understand that the large majority of South Dakotans want few or no lions..."

Carlee Tisdall of Rapid City, SD, emailed: "Dogs should be used during mountain lion season in South Dakota because, a hunter could then see if the lion was a male or female, the size of the lion, and if the female lion was nursing kittens. Whereas the lions being hunted by ground hunters, the sex, size, and if a female lion is nursing kittens, cannot be noticed as easily."

Richard Shelatz of Rapid City, emailed: "I would like to see the harvest numbers for the mountain lions stay at last year level of 100 total or 75 females. SD GFP needs to do more research on the range of the mountain lion in Western South Dakota outside of the Black Hills Fire Protection District. Also the rule should be changed to allow the use of hounds, traps, and baits to be used to aid with the harvest of mountain lion STATE WIDE."

Connie Ryan of Rapid City, SD, emailed: "While I understand that is necessary to have a mountain lion season, I believe the number of lions being allowed to be taken has been increased too much. I live in the Black Hills and believe we are encroaching on their territory. "

Andrew Barreth of South Jordan, UT, emailed: "I do not think that there should be a quota at all for the 2014 mountain lion season. The quota was not met last year, and the lion population seems to be handling it just fine. Why even have a quota if it doesn't get met and the population objective is not adversely affected? Keep the season the same and require reporting. There is no need for hunters to be constantly looking over their shoulder to see if the quota is met if they don't have to. My name is Andrew Berreth. My city of residence is South Jordan, UT, but I maintain my legal residency in Pierre, South Dakota as I am Active Duty Army."

Jim Scull of Rapid City, SD, emailed: "I would encourage the commissioners to keep the harvest numbers high on the mountain lions. I have come to realize it is very difficult for the GFP biologists to estimate numbers in the Black Hills. Every indication is however they have very sustainable numbers at this point plus an excess of animals. I continue to see obvious signs of the lions in my region south of Hill City but I also now see increasing elk calf numbers. I do not see an increasing fawn numbers in the deer yet... We need to find that healthy balance of lions in the hills and I personally don't feel we are there yet. I would urge you to continue to harvest abundant lions until the health of all game is balanced. Without the hunter harvest there will be no control except by nature when they have killed too many deer and elk and their own lion population is then affected. That of course would not be good management."

Chris Matusiak of Black Hawk, SD, emailed: "I would like to vote for NOT having a Lion season this year and any other in the future, and let the population make a comeback."

Chris Kainz of Custer, SD, emailed: "I wish you would consider giving the hound hunters more opportunities to help control the population. The park season is a start but it is also set up to be a difficult hunt.. It would be nice to have a few dog permits out of the park as well."

Christopher Spatz, Cougar Rewilding Foundation emailed: "The Cougar Rewilding Foundation recommends that the commissioners reject the proposed mountain lion quota for 2014 and adopt for the Black Hills National Forest - a forest owned by every United States' taxpayer - a policy similar to Washington State's harvest threshold of 14%."

Christine and Richard VanNess of Rapid City, SD, emailed: "...ask the commission to listen to all the stakeholders here, not just the very vocal and threatening hunting constituents."

Helen McGinnis of Harman, WV, emailed a letter: "...Hunting is one "use" of lions, but not the most important. Acting as "shepherds" of ungulates is another use. So is the fact that many if not most of us humans regard lions as extremely beautiful, graceful animals..."

Donna Watson of Deadwood, SD, emailed: "I oppose mountain lion hunting in any form, and particularly oppose increasing the quota..."

Laura Menefee of Wisconsin emailed: "Apex predators are a vital component of a healthy ecosystem. Indiscriminate trophy hunting for "sport" is not scientifically valid, best practice management. Please allow the population to continue to disperse east, where they are needed to help keep ungulate populations strong and healthy."

Kathryn Weller of Rapid City, SD, emailed: "I am writing to comment on the level of mountain lion hunting both over the past 2 years and also regarding proposed hunting for the coming season. I do not believe the past decisions were objective or based on accurate estimates of lion numbers in the Black Hills region. I am asking for those who are making decisions on this years season to please consider the evidence such as the Washington State experiences with lion management. I believe lions are being mismanaged by the state of SD and that lion numbers have been overestimated. Lions are being overhunted here in our small region!!"

Gary L. Hansen of Custer, SD, emailed: "In regard to your recommendations about the length of the cougar season and the number of cougars to be killed, I urge you to error on the side of the cougar. It is easier to exterminate a species than it is to bring it back to healthy self-sustaining numbers."

Larry Bowden, President, Western SD Fur Harvesters Association emailed: "At the September 8th fall convention of the "Western South Dakota Fur Harvesters Association" our membership had a lengthy discussion about the declining game populations in western SD. Our members are concerned about the lack of deer, elk, smaller game and predators especially in the Black Hills. Our membership suggested that we express our concerns to the commission. We support a 100 mountain lion harvest quota for this season. We also support the use of hounds in and outside of Custer State Park. We also support the use of traps and snares to harvest mountain lions. Lions do get "call shy" to game calls and do not respond as well after several seasons. Coyote, fox, and bobcat get call shy also. The lack of snow cover some winters makes it difficult for hunters to see lions. The southern hills does not have as much snow cover as the central and northern hills making lion harvesting

more difficult. The small harvest of lions in Fall River County over the past seasons supports this theory. Will GF&P explore the possibility of establishing several lion harvest zones or areas to more evenly distribute the lion harvest?"

Susan Bond of Kelso, WA, emailed: "As an advocate for wildlife I oppose your plans of cougar hunting in South Dakota. You have a beautiful State and I have heard such wonderful things about it, and that's why I'm confused as to why you would want to kill these beautiful animals. Please review your plans and ask yourselves if what you want to do is what is in the best interest of your citizens, your state and the ecosystem. Thank you for your time and your consideration."

Ignacio Manjon of Miami, FL, emailed: "I would like to express that in my opinion, cougar hunting practices should stop immediately for they are cruel, unnecessary and incompatible with the stage of maturity and understanding the human race has, when it comes to coexisting with our partners in this planet, the animals."

Julie Anderson of Rapid City, SD, emailed: "I am against the hunting of mountain lions for sport. The use of hounds should be banned, as it is cruel and serves only to allow a hunter a trophy. I am against any trapping of mountain lions, as trapping is the most cruel method of killing an animal. I am against hunting in Custer State park, as these animals are not hurting anyone or causing any problems."

Penny Maldonado, Managing Director of the Cougar Fund emailed a letter: "...Although we are opposed to the sport hunting of cougars, we believe in sensible communication with the goal of respectful and productive dialog between all parties. We acknowledge that the layers of consideration you must factor in order to make your decision are complex. They range from the economic to the philosophical and include ethics, tolerance, tradition, science and politics...The Cougar Fund urges you to reconsider your current +/-32 percent harvest limit for next year's overall and female quota, or face the possible consequences of a younger less stable population of mountain lions and the ensuing likelihood of negative encounters."

#### Oral testimony:

Tim Goodwin of Rapid City, SD, indicated he is a lion hunter at Sheridan Lake and thanked Commission for opportunity to hunt lions; it is the thrill of a lifetime. All hunters are conservationists and do not want to end a population. Lions are still in the mountains and tracks can be seen after any snow event. He believes there are packs of lions in the hills and all cats in the nation contain some Black Hills DNA because of over population. He believes the lack of snow last year was the reason hunters did not harvest 100 lions. He believes there are all kinds of cats in the hills and wants the harvest quota to stay at 100 not 75.

Dean Flage of Sturgis, SD, follows the hunting policies of lion hunting seasons and looks at it from educational background. He believes the big emphasis is balance of nature and that takes a lot of things. Lions do kill deer and to cut down the number cats will increase the coyotes and coyote damage is bigger than lions. Predator control and hunting is a viable use in big game management as hunters seek the biggest and best of a breed or species. Lions

go for the weaker of a species. Balance of nature better manages the quality of a population where hunting manages the quantity. Flage questions the estimate of lions in the Black Hills and when hunters can't fill the quota it is more likely because the cats are not there.

Gardner Gray of Pringle, SD, has never seen a cat, does hear coyotes every night, and has deer and elk in his area. He believes fear is one reason for the hunting season while others get a thrill for the hunt; and neither is a reason for a season. He indicated it is impossible to know the sex of cat or if they have kittens before killing it. He sees no need for season at all; we have plenty of deer and elk; and lions take old, weak, and infirm.

Nancy Hilding, Black Hawk, SD, provided handouts and sent emails with information. She is President of Prairie Audubon Society and is concerned with the prairie lion season. She disagrees with Department that lions on prairie are only disbursing males from the Black Hills. Hilding provided data that shows lion mortality and selected lions outside the Black Hills that showed females killed which indicated the prairie population is more than males. She indicated habitat along the Missouri River and Custer National Forest is good for lions and showed substantial lion mortality north of CNF. There is good habitat above I-90 and north of BHFPD, along the Cheyenne River, Pine Ridge, and into Bennett County. Hilding wants to get rid of the 365 day unlimited season on the prairie and it should be for landowners only, and wants to remove these additional areas out of the prairie season.

Brad Tisdall, of Rapid City, SD, indicated he is a SD Hounds man, lion, deer, and elk hunter, he is the Chairman for Western SD Hounds men and thanked the Commission, GFP, and CSP for advancing the opportunity to use hounds in Custer State Park. He was happy to participate in hunts and harvested a nine year old male lion that was never tagged or collared and CSP staff did not know it existed; he wonders how many others there may be. Hounds men released five lions during the season last year. They would like to use hounds on public lands and private lands with landowner permission and landowner assistance to harvest a lion. Hunting with hounds is part of the sport of hunting and an old one. Hounds men in South Dakota would help landowners if allowed to. He believes the quota should be 100 this coming season, and there is a need to harvest females to control the population. Private landowners on the prairie want to use hounds, he would like to see a training season, and hopes you [the Commission] will do the right thing.

Harry Bork of Hermosa, SD, stated he is here to protect lions; he recognizes and respects views of others. He has a problem with a quota on lions as it is the shoot, shovel, and shut up lions that are counted, lions killed by accident should be counted in quota taken in a year. He concerned for lions traveling together especially when using hounds. He appealed to the Commission not to enlarge the quota of lions.

Curt Munz of Belle Fourche, SD, stated he is a lion hunter and lives in the forest during the lion season. He has seen only five elk the last year and believes lions take elk as he witnessed a lion take a large elk. He believes there are too many lions and wants the use of hounds especially for young hunters. Lions are

pushing the elk out of the hills and depredation is a problem north of the hills. Hounds are used hunting bobcats why not lions? Please allow the use of hounds.

Rick Hanson of Spearfish, SD, indicated he hunts three days a week and has seen four cats. He wonders if the quota for last year was not filled because it is no longer a novelty. He scouts 150 days a year and has not had the opportunity to see a lion during the season.

Arlan Stratmeyer by Rockerville, SD, stated the August 2nd PowerPoint was prepared to justify lowering the 2013 quota indicating snowfall in 2012 and 2013 had an affect lion harvest. He is concerned about the information provided and many areas of the hills had no snow. He did not hunt lions in the snow and believes the presentation was to line you down a path and is not science. He cautions the information about snow events and how it affects hunting. He believes there can be snow events that are worthless in relations to lion hunting and what is the difference in the other weather conditions during the different snow events? The most common obstacle is air temperature and sun as they will end a hunt because snow melts and falls on the ground and looks like lion tracks or will end a hunt quickly. Questions why this information was not provided at the August meeting?

Steve Brule of Hayward, SD, questioned estimated population formulas from past years. Presented past articles about lion populations and this does not make sense and numbers just don't add up.

Clark Blake of Belle Fourche, SD, believes lowering the lion quota would be a big mistake. Lions have a big effect on the deer and elk populations. Blake referenced the Wyoming and Montana seasons and would like to see the use of dogs outside the Black Hills Fire Protection District and to lower the lion population will devastate the big game north of the Black Hills. He agrees with Hilding that females are in the prairie unit as they are being pushed out of the hills.

The Public Hearing concluded at 3:19 PM.

Respectfully submitted,

Jeffrey R. Vonk, Department Secretary