

Minutes of the Game, Fish, and Parks Commission  
April 6-7, 2017

Chairperson Peterson called the meeting to order at 1:00 p.m. CT at the Watertown Event Center in Watertown, South Dakota. Commissioners Cathy Peterson, Barry Jensen, Mary Anne Boyd, H. Paul Dennert, Gary Jensen, Russell Olson, W. Scott Phillips and Douglas Sharp were present. Secretary Kelly Hepler was present along with approximately 150 public, staff, and media including the Human Dimensions class from South Dakota State University.

**Executive Session**

Motioned by B. Jensen TO ENTER INTO EXECUTIVE SESSION TO DISCUSS CONTRACTUAL MATTERS.

The Executive Session began at 1:06 p.m. in a private room located in the Watertown Event Center. Commissioners Peterson, B. Jensen, Boyd, Dennert, G. Jensen, Olson, Phillips and Sharp were present. Secretary Hepler, Attorney Dick Neill, Tony Leif, Katie Ceroll, Sean Blanchette and Rachel Comes were present. The session concluded at 1:45 p.m.

**DIVISION OF ADMINISTRATION**

**Conflict of Interest Disclosure**

Chairperson Peterson called for conflicts of interest to be disclosed. None were presented.

**Approval of Minutes**

Chairperson Peterson called for any additions or corrections to the March 2-3, 2017, minutes or a motion for approval.

Motion by Olson with second by B. Jensen TO APPROVE THE MINUTES OF THE MARCH 2-3, 2017, MEETING. Motion carried unanimously.

**Additional Commissioner Salary Days**

Commissioner's Peterson and Boyd each requested one additional salary day to visit land for possible acquisition.

Commissioner Dennert requested half an additional salary day and mileage for his time visiting land for possible acquisition.

Motion by Sharp with second by Phillips TO APPROVE THE ADDITIONAL SALARY DAYS AS REQUESTED. Motion carried unanimously.

**Duerre v. Hepler**

Secretary Hepler gave an introduction to this complex issue and gave a synopsis of what the Game, Fish and Parks response would be to the decision. A guidance

document is being provided to all staff, a press release has been prepared and will be sent out after the commission meeting, and a one page website has been developed to assist staff with answering public questions.

While these documents and resources are based on our best interpretation of the Duerre decision and guidance from the Attorney General's office, it is very possible that others may come to different conclusions on the full meaning and interpretation of this decision.

Tony Leif, wildlife division director, explained the difference between a meandered and nonmeandered body of water.

Attorney Neill explained the statute on meandered law SDCL 43-17-29 – Public rights in lake above high water mark. RE: a navigable lake. This means water is above the ordinary high-water mark of a navigable lake and the public access may not be limited for example Bitter and Waubay lakes.

Commissioner G. Jensen inquired why this would be a legislative matter.

Neill responded that the legislature determines what a beneficial use of water is and in both cases Parks v Cooper and Duerre v Hepler they say water is public and the court says water has beneficial uses. So the question for the legislature is to define if recreation is a beneficial use.

GFP staff further explained their current understanding of this issue includes the following:

- The Supreme Court defined the defendant class as anyone who has used any of these waters in the past or will do so in the future.
- The Justices made it clear that the legislature is the only governing body that can address this issue and must define what recreational uses of non-meandered waters are beneficial to the public
- The Court stated that neither the public nor the landowner plaintiffs have a superior right to use the water or ice lying over private ground.
- It further stated that GFP and the other defendants in this case cannot facilitate access to waters over private land.

In response to this decision and its strict language prohibiting GFP from facilitating access to these waters, staff will be restricting access to public and leased boat launches on 24 non-meandered lakes. These ramps will be cordoned off with cable or chain and will be signed accordingly. Public lands associated with these ramps will still be open to legal use; the only thing being restricted is access and use of the boat launching facilities.

In addition to restricting access to these ramps, GFP will no longer be stocking any of these waters or conducting creel surveys with anglers who are using them. Also,

biological survey information will not be made public, lake maps will be removed from our website, and fishing reports for these waters will not be provided.

Therefore GFP cannot answer whether anglers have the right to fish any of these waters or whether someone could be charged with any violations for utilization of these waters. Individuals must read the decision and make their own conclusions or seek legal advice from their attorney.

### **Outdoor Recreation Economics Study Report**

Scott Simpson, wildlife administration chief, provided an overview of the recent study showing the economic impact that outdoor recreation has in the State of South Dakota. The study included direct spending (money spent in state specifically for that activity) and the full economic contribution (direct spending plus how that money moves through our economy, provides jobs and tax revenue.).

The study indicates outdoor and wildlife-associated recreation contributes \$1.3 billion annually to the South Dakota economy. The top three activities accounting for nearly 90 percent of the \$1.3 billion are hunting (\$683 million), fishing (\$271 million) and state park visitation (\$212 million), supporting an estimated 18,000 full- and part-time jobs which provide \$520 million of income. The Department estimates the total economic contributions to be nearly \$1.9 billion.

### **Nonresident Waterfowl – Commission Authority**

Leif presented the Commission with a powerpoint on the allocation history of nonresident waterfowl licenses for the last 70 years. He explained the 12 recommendations from the working group with one of those recommendations being accepted and going into effect to create 100 nonresident youth licenses. Leif also provided maps of the seasons and maps showing modifications of license units from passed legislation. Leif discussed the scope of the Commission's authority detailing administrative rules indicating all provisions that apply to the statutes and administrative rules.

Commissioner Phillips inquired when the 3 day licenses moved from the Pierre area and if they were originally only for private land and if it had changed.

Leif responded that HB1075 in 2016 made these licenses valid on public and private land in the counties of Campbell, Walworth, McPherson, Edmunds and Faulk.

Commissioner Dennert asked if more than 1,500 applications are received next year for the new Missouri River unit do those counties in Unit 00Y need to give the licenses back?

Per reference HB 1185 amended and removed the language placing statutory limits on license numbers repealed with a 5 percent limit on growth.

Commissioner G. Jensen asked what authority the Commission has to reduce licenses.

Leif noted there is nothing in statute that would hinder the Commission from reducing licenses and that the only limitations are on increasing licenses.

Commissioner G. Jensen clarified that regardless of what the Commission does the legislature can make modifications as they have more authority.

Leif concurred that the Commission authority is provided by state statute and are crafted and granted by the Legislature and they also retain those same authorities.

## **PUBLIC HEARING**

The Public Hearing began at 2:00 p.m. and concluded at 2:05 p.m. Minutes of the Public Hearing will follow the regular commission minutes.

## **OPEN FORUM**

Chairwoman Peterson opened the floor for discussion from those in attendance on matters of importance to them that may not be on the agenda

## **Deer Plan Listening Session**

Tom Kirschenmann, assistant wildlife director, provided an overview and explained that the comment period would be extended to allow more time for the Commission to review and adopt the deer management plan at the June meeting. He noted that formal comments can be submitted electronically through the GFP website.

Commissioner B. Jensen asked if any one area of the plan stands out.

Kirschenmann responded that license structure and allocations is most prominent and that the plan objective specifically focuses on this area.

Dana Rogers, Box Elder, SD referred to the proposals brought forward from Russ Roberts noting some were positive. His first concern as a South Dakota bowhunter is that nonresident archery has negative impact and he thinks there is a need to reevaluate the percentage. Rogers' second concern is that the January season has a significant negative impact in the western part of the state and puts stress on deer. He thinks the Department should review how harvest surveys are done as there is not enough data and increase the cost of nonresident tags.

Jim Schaeffer, president of Southeast SD Quality Deer Management Association read comments provided by Kip Adams, director of education and outreach for Quality Deer Management Association, that was mailed to the Commission. Schaeffers information detailed 9 objectives for white tail and mule deer including: maintain, manage and establish deer habitat, manage deer by conducting biological surveys, manage deer for maximum and quality hunting opportunities, cooperatively work

landowners, monitor risk and impact of deer, provide the public to access, engage the public, promote public landowners of conservation awareness and cooperatively work with municipalities. He also encourage the Department to consider maintaining balanced ratio of age and sex along with size relative to habitat

Ross Swedeen, Rapid City, SD provided the Commission a handout listing his ideas for consideration in regards to the deer management plan. Swedeen stated he agrees with all the ideas in the proposal from Russ Roberts. He noted the proposal is drastic and agrees it would be difficult to get the public's approval. He recommended doing something similar to Montana proving ties to the state paying higher price than residents, but less than nonresident. Sweeden would like to see a less competitive drawing pool for resident applicants and changes with Black Hills any deer to increase odds for non-land owner applicants. He also recommended giving archery or muzzleloader applicant's tags for mule deer in the Black Hills.

Karen McCriel, Akron, IA informed the Commission she would like to see a reduction in limitations to resident.

Bob Lee, Watertown, SD: recommended allowing people to choose their weapon, season and give them an any deer tag. Spread them out and tell people to be happy with what they get.

### **Nonresident Waterfowl License Allocations**

Chuck Dieter, president SD Waterfowl Association provided the Commission with a membership flyer and handout in regards to the mission of the association and concerns on the decline in number of resident waterfowl hunters.

Dave Bankers, Lake City, SD agrees with the comments provided by Dieter and suggested utilizing a reservation app to avoid overcrowding and mitigate conflict in the field.

Alan Thomas, Huron, SD supports the comments made by Chuck Dieter and the SD Waterfowl Association.

Bill Koupal, Pierre, SD told the Commission it is a necessity to have multiple factors to provide opportunity and access. He wants to see efforts to increase the number of resident waterfowl hunters be made a priority.

Tom Camp, Watertown, SD, said waterfowl unlike pheasant cannot be mass produced. The pressure on a regular basis shows in the fewer number of birds seen each year. Camp stated that SD is losing hunting opportunities to Minnesota residents. Need to be a quality hunter to maintain resident waterfowl hunters.

Curt Tasher, Rosholt, SD, said he moved to SD for resident hunting privileges. He explained that waterfowl hunting is extremely sensitive to pressure as these are

migratory birds. Tasher asked if we are we going to protect the waterfowl hunting heritage for our residents or are we going to sell it. He would like to see 500 licenses removed or at least exempt Roberts County. He said SD is not receiving tourism dollars as these people drive over to hunt and return home the same day.

John Simpson, Pierre, SD said this is an economic issue. Simpson stated nonresident waterfowl hunters only are only in SD for a small portion of the 10 day season. He thinks the impact of residents is over looked and under estimated. Simpson said nonresident hunters purchase equipment in their home state and do not participate in SD conservation efforts while residents make the majority of their purchases in state.

Julie Knutson, Watertown Convention Center and Visitors Bureau, Watertown, SD stated facts to the Commission noting the visitors industry is #2 to Agriculture in SD for income and revenue. Knutson said the average hotel stay is 2.7 days with 673 room nights in a month and that sportsmen spend three times more than other travelers with the economic impact for one month at one hotel \$500,000 in revenue. She said that with all 10 hotel properties in the area that would be \$2.5 million in revenue from sportsmen as they do not have attractions like Mount Rushmore or the Missouri River and that hunting and fishing in northeast SD is their natural resource.

Deb Stanley, Ramkota General Manager and president SD Lodging Association, Watertown, SD stated their business is definitely impacted by nonresident hunters as are all South Dakota's hotels.

Mark Pals, Brookings, SD, said he understands that out of state money is important, but our residents spend more.

Alex Russo, Flatland Flyways, Hecla, SD, said he has guided for 5 year in multiple states and said hunting is not killing and it not easy, hunting is work. He disagrees with people who think he is commercializing hunting and wants to share the opportunity. Russo says the way to fix this has nothing to do with nonresidents it has to do with self-interest of people who want to walk on any piece of property they choose and have an easy hunt. He stated the old days are gone and that people need to put the effort into hunting. Russo asked why the federation groups have not come up with ideas to get youth hunters out then stated it is because it's limited and people do not want to put the work into concentrated hunting.

Ben Lardy, Grenville, SD: recommended the Commission focus efforts on youth and minorities. Lardy also noted there is an economic component to the issue.

Mike Shaw, Pierre, SD said he thinks a big part of the reason for the decline in resident hunters is people's relationship with landowners. He recommended GFP look for ways to facilitate relationships between hunters and landowners and increase youth hunting.

Rosie Smith, Director of Glacial Lakes Tourism, Watertown, SD, said she supports the letter sent by opportunity group and hopes to see a compromise made. She does not want to see a decrease in licenses. Smith noted that small town businesses really notice the economic impact of nonresident hunters.

Mark Stodum, Dakota Sportsman board member, Watertown, SD, said he would like to see more youth involvement and possibly allocate tags for nonresident kids.

George Vandel, Pierre, SD stated he found Russo comments offensive. Vandel said he is passionate about this resource and has worked hard to involve the youth. He explained water rights issues is an additional factor for waterfowl hunting as are economics and as we lose resident opportunity we lose a significant number of resident hunters who are economic providers. He noted that there are currently 30,000 resident hunters and 1/3 of them hunt migratory birds. Vandel provided a handout with three recommendations and asked the Commission to consider items 1, 2 and 3 in that order. 1. Remove counties of Campbell, Walworth, McPherson, Edmunds and Faulk from the unit NRW-00Y and reduce the number of licenses available in the unit from 1,500 to 500. 2. Repeal unit NRW-00Y and issue no fall three-day temporary nonresident waterfowl licenses for the counties of Brown, Marshall, Roberts, Day, Grant, Clark Codington, Deuel, and Hamlin. Currently, 500 temporary licenses are available in this unit. 3. Set the number of special nonresident waterfowl licenses to be 8 percent of the number of resident migratory bird certification permits issued in the previous year. A total number of 27,346 migratory bird certification permits were issued in 2016 so the number of special nonresident waterfowl licenses would be reduced from 4,000 to 2,188 in 2017.

Vandel noted that past relationships with landowners helped create the 3 day licenses and wants to see that deal that was previously made be honored.

### **Non Resident Petition**

Norb Barrie, President of the SD Opportunity Group, Turton, SD spoke in support of the petition he submitted to amend ARSD 41:06:16:11 (maximum number of nonresident waterfowl licenses) to implement rules to increase by five percent the numbers of licenses allocated annually, such allocations to continue until the number of licenses double the aforementioned licenses

### **Elk**

Jim Twalmly, Parker, SD spoke in support of his petition to amend ARSD 41:06:01:16 (purchase and accrual of preference points) to (1) change the current preference point system used in awarding elk licenses in order to be more fair in its distribution of elk license to successful applicants, and (2) require the Department to provide the previous year's odds of drawing success breakout of each preference point category in both the paper and electronic application brochure

Mark Stodum, Dakota Sportsman board member, Watertown, SD: recommended having a separate system for people in their 60's and 70's to increase their preference.

### **PETITION FOR RULE CHANGE**

Leif explained the process and noted that the Commission has 30 days to take action on petitions.

### **Proposal to Increase Nonresident Waterfowl Licenses**

Norb Barrie, the president of the South Dakota Opportunity Group, presented a petition to increase the number of nonresident waterfowl licenses available.

Leif explained that license increases are currently restricted to a maximum of 5% per year and that this petition would increase license numbers by 5% annually until the number of licenses has doubled.

Motioned by Sharp, seconded by G. Jensen TO DENY THE PETITION SUBMITTED BY NORB BARRIE. Motion carried.

Motioned by Sharp, seconded by G. Jensen TO ADOPT RESOLUTION 17-05 (APPENDIX E) DENYING THE PETITION. Motion carried.

### **WATERFOWL GROUP PROPOSAL**

Leif presented the proposal provide by the SD Waterfowl Association.

Commissioner Olson stated the legislature would not view the changes to legislation as positive and would possibly take away commission authority.

Motion by G. Jensen TO PROPOSE THE FOLLOWING CHANGES TO ALLOCATIONS OF TEMPORARY NONRESIDENT WATERFOWL LICENSES.

1. Expand NRW-00X to include all of the state except those counties in Unit NRW-00Y and Bennett, Charles Mix, Bon Homme, Yankton, Clay and Union Counties.
2. Move Brown County from NRW-00Y to NRW-00X.
3. Make all NRW-00X licenses valid on private land only.
4. Keep the current license allocation for Unit NRW-00Y at 500 3-day licenses.
5. Keep the current license allocation for Unit NRW-00X at 1,500 3-day licenses

Second by B. Jensen. Motion carried.

Commissioner Phillips stated that it is the Commissions job to handle this issue noting that offering the proposal and providing and extended comment period is a good idea

Commissioner B. Jensen stated that the proposal can amend if needed.



Commissioner Sharp asked what options the Commission has to limit boats in resting areas or if a separate proposal would be needed.

Leif indicated a separate proposal would be best.

Commissioner Olson asked to be provided with information on how other states handle resting areas and season structures.

Commissioner Dennert noted the letter from the SD Waterfowl Association proposed an excessive reduction in the number of licenses.

Peterson indicated she hopes the proposal can help relieve pressure and do so carefully.

### **Proposal for New Elk License Preference Point**

Jim Twamley presented a petition which would change the current elk application preference point system and place it into Administrative Rule.

Leif informed the Commission that there is currently no administrative rules on preference points and that drawings similar to application deadlines are currently done by administrative action or department policy.

Simpson conducted an analysis of the proposed system and found that it would not be sustainable into the future. He explained the number of applicants for the preferred license types would quickly overwhelm the system.

Commissioner Phillips noted that it is not always who we help but who we hurt and that this petition would hurt 10 times more people than it helps.

Motioned by Dennert, seconded by Phillips TO ADOPT RESOLUTION 17-04 (APPENDIX D) DENYING THE PETITION. Motion carried.

### **FINALIZATIONS**

Commissioner Boyd informed the Commission that Jeff VanMeeteren, Division of Parks Regional Supervisor was recently recognized by the Yankton Convention and Visitors Bureau for his years of service to the Yankton area. Jeff received the 2<sup>nd</sup> annual Dorion Tourism Award, named for Pierre Dorion – a fur trader and interpreter who helped the Louis and Clark expedition.

### **Good Earth Visitor Center Rental Fees**

VanMeeteren reassured the commission that State programming will always be the primary purpose of the visitor's center and surrounding grounds at Good Earth State Park, but that there is a desire to make these facilities available to the public for special events when not being used for State purposes. The fees that were proposed reflect the cost of maintaining the facilities as well as the prices of comparable facilities in the local market.

Motioned by Boyd with second by Olson TO APPROVE THE FINALIZATION OF 41:03:04 PARK FACILITY USE FEES AT GOOD EARTH STATE PARK AS PRESENTED. Motion carried unanimously

VanMeeteren also reminded the Commission of the Good Earth State Park Visitor's Center dedication ceremony on May 19th and invited commission members to attend.

### **Authorization for Terminally Ill to Hunt**

Tom Kirschenmann appeared before the Commission to present the finalization to amend the rules governing the issuance of permits allowing terminally ill residents to make application for a permit to take one antelope, turkey and/or deer as authorized by the Department Secretary. The rule change would allow the Secretary to authorize a terminally ill resident to hunt and take the above species outside established hunting season dates should the person's illness advance to a point justifying this special allowance.

Motioned by Olson with second by Dennert TO APPROVE THE FINALIZATION TO 41:06:01 ALLOWING TERMINALLY ILL RESIDENT HUNTERS TO HUNT OUTSIDE THE ESTABLISHED SEASON PER SECRETARY AUTHORIZATION. Motion carried unanimously.

### **Black Hills Elk**

Kirschenmann presented the rule change to adjust the number of licenses available from 1,255 antlerless elk licenses to 1,150 antlerless elk licenses for the 2017 hunting season.

Commissioner Phillips inquired why this recommendation was brought forward as it was scheduled to be a two year proposal with changes being made last year.

Kirschenmann explained this change is recommended based biological data and comments from sportsman and that in keeping with the management plan it may come back for review on an annual basis so as not to deplete the heard.

Motioned by B. Jensen with second by G. Jensen TO APPROVE FINALIZATION OF 41:06:26 REDUCING THE NUMBER OF ANTLERLESS ELK TAGS BY 105. Motion carried unanimously.

### **Archery Elk**

Kirschenmann presented the rule finalization to adjust the number of available licenses for antlerless elk from 140 to 130

Motioned by Dennert with second by Sharp TO APPROVE FINALIZATION OF 41:06:43 REDUCING THE NUMBER OF ANTLERLESS ARCHERY ELK TAGS BY 10. Motion carried unanimously.

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### **Elk Hunting Seasons – Hunting Unit License Allocation**

Kirschenmann explained that in an effort to simplify the process elk license numbers are now placed in the official meeting minutes rather than in Administrative Rule.

Motioned by Sharp with second by B. Jensen TO APPROVE THE ADMINISTRATIVE ACTION ALLICATING ELK LICENSES BY SEASONS AND UNITS. Motion carried unanimously.

### **Prairie Elk**

Kirschenmann explained to the Commission that the original proposal would add part of Todd County to the 11ABCD unit. After meeting with Rosebud tribal officials GFP staff recommended that the Commission reject this proposal, leaving the unit as is. Rejection of this proposal would give staff time to coordinate and work with Rosebud Tribal Wildlife Staff on the best way to address elk issues in the Todd County area.

Motioned by Olson with second by Phillips TO REJECT THE PROPOSAL FOR 41:06:59 PRAIRIE ELK HUNTING SEASON. Motion carried unanimously.

## **DIVISION OF PARKS AND RECREATION**

### **Lewis and Clark Marina Amendment for Video Lottery**

Sean Blanchette, concessions manager, provided the Commission copies of the amendment to the concession agreement for Lewis and Clark Recreation Area. Blanchette spoke to improvement per lease to provide an enclosed and separate area from other concession services. He noted that the improvement have been completed and that previous action taken by the Commission provides authorization and no further action is required.

### **City of Pollock Waterfront Lease – Blanchette**

Blanchette presented the new lease for waterfront property on Lake Oahe in Campbell County to be utilized for public park and recreation purposes by the City of Pollock. He explained how the new lease removes the West Pollock Recreation Area from the lease. Blanchette noted that Parks staff was maintaining this area already.

Motioned by B. Jensen, seconded by Boyd TO APPROVE THE NEW LEASE FOR WATERFRONT PROPERTY FOR PUBLIC PARK AND RECREATION PURPOSES. Motion carried.

### **Big Sioux River Canoe and Kayak Trail**

Jeff VanMeeteren and Travis Theilen, district park manager, were present to provide the Commission information on the Big Sioux River canoe and kayak trail. They noted GFP staff has been working with the SD Canoe and Kayak Association on development of program to provide this recreational experience. Theilen stated the GIS portion of project is key to increasing the activity. He walked through features of GIS map that allows people to view routes to plan the path they would like to take receiving specific details for planning their trip. Theilen indicated work continues on how to

display this info specifically hazards to keep it accurate and available especially through flooding events. VanMeeteren said the information will be available online and as a print brochure. They plan to go live in mid-May.

### **2017 Milestone Events**

Katie Ceroll, parks and recreation division director, provided a presentation on the 2017 milestone events for the division of parks and recreation. Events include the first anniversary of the Custer State Park Visitors Center, Good Earth State Park Visitors Center Dedication to be held May 19, 40<sup>th</sup> Fort Sisseton Historical State Park Festival, Improved Canoe and Kayak Trails on the Big Sioux River, 20<sup>th</sup> Anniversary of the Adams Homestead and Nature Preserve, 20<sup>th</sup> Anniversary of the George S. Michelson Trail and Trail Trek to be held September 15-17 and opening of the Peter Norbeck Outdoor Education Center in late September. Ceroll provided the highlights and visitor statistics for each event.

### **Parks Revenue and Camping Reservation Report**

The park revenue and camping reservation report was provided by Parks and Recreation Assistant Director Bob Schneider. The report includes a year to date comparison of revenue by line and March 2017 year to date comparison by district item. Schneider indicated overall revenue is up 7 percent and that reservations are up despite the report indicating camper units are down 9 percent in the district comparison.

## **DIVISION OF WILDLIFE**

### **Land acquisition projects**

Coughlin provided the list of proposed land acquisition projects in the early development stage. These properties include the Northwest Day County property consisting of 783 acres to be used as a GPA and Lakeshore Frontage Addition to Payne WAA consisting of 1 acre in Lake County to allow for additional public water access at Lake Madison.

### **Roe property – Beadle County**

Paul Coughlin, habitat program administrator provided a request to acquire the Roe Property located in Beadle County. The property consists of 320 acres at a cost of \$1,100,000 to be utilized as a game production area for wildlife habitat management and public hunting access.

Motioned by Olson with second by Dennert TO ADOPT RESOLUTION 17-01(Appendix A) AUTHORIZING AND CONFIRMING THE PURCHASE OF 320 ACRES IN BEADLE COUNTY. Motion carried

### **Rausch property – Stanley County**

Coughlin provided a request to acquire the Rausch property located in Stanley County. The property consists of 106 acres at a cost of \$135,000 to be utilized as a game production area for wildlife habitat management and public hunting access.

Motioned by Boyd with second by Sharp TO ADOPT RESOLUTION 17-02 (Appendix B) AUTHORIZING AND CONFIRMING THE PURCHASE OF 106 ACRES IN STANLEY COUNTY. Motion carried

### **Lynbye property exchange**

Coughlin provided a request to acquire the Lynbye property in Clark County. The property consists of 4.4 acres GPA parcel and 4.4 acre private parcel at a like value exchange to be utilized to consolidate existing Department lands, improve public use and facilitate more efficient and effective wildlife habitat management.

Motioned by Dennert with second by Phillips TO ADOPT RESOLUTION 17-03 (Appendix C) AUTHORIZING AND CONFIRMING THE EXCHANGE OF 4.4 ACRES IN CLARK COUNTY.

### **TB Wildlife Surveillance**

Kirschenmann provided an update on Tuberculosis sampling that has been completed in an area of northwestern South Dakota. This sampling effort was initiated in response to the discovery of TB infections in a private herd of cattle. GFP staff euthanized and necropsied 111 deer, 42 antelope, 37 coyotes, and 9 raccoon with the assistance and cooperation of local landowners, veterinarians, and contract helicopter crews. Testing of these samples is underway and results should be returned soon. All salvageable deer and antelope were processed and will be distributed through Feeding SD after negative TB test results are confirmed.

### **Pheasant Management Plan Update**

Travis Runia, senior wildlife biologist, provided the Commission an update on the pheasant management plan. Runia detailed each of the five goals indicating the work that has been done in the first year of implementation including habitat management programs, land purchases, surveys, research, partnerships and communication with the public.

### **East River Fisheries Management Plan**

Dave Lucchesi, senior fisheries biologist, provided the Commission with an update on the East River Fisheries Management Plan highlighting standard operations, research and steps taken toward plan objectives. Lucchesi detailed work done on plan objectives specifically shoreline restoration, surveys, access improvements and community fisheries.

### **Habitat Partner of the Year Presentation**

Leif presented the GFP habitat partner of the year award to Neil Bien, a landowner and former commissioner from Marshall County. Neil, along with his wife and two sons, owns and operates a 5,000 acre operation near Veblen. Neil's commitment to habitat development is easily seen through the over 50 restored wetlands and multiple grassland management practices that he has implemented on his property.

**License Sales Update**

Simpson provided the licensed sales report as of April 3 for all resident and nonresidents for all license types. Simpson noted resident and nonresident fishing licenses appear to be down due to ice conditions that began to get poor around the first of Feb when it is usually not until the first of March.

**Adjourn**

Motioned by Olson with second by Dennert TO ADJOURN THE MEETING.  
Motion carried unanimously and the meeting adjourned at 12:00 p.m.

Appendix A

**RESOLUTION 17 - 01**

WHEREAS, the Department of Game, Fish, and Parks (GFP) has expressed an interest in acquiring real property presently owned by the estate of Robert A. Roe, 117 Crystal Ridge Road, Brookings, SD 57006, which property is described as:

The Southeast Quarter (SE $\frac{1}{4}$ ) of Section Twenty (20) and the Southwest Quarter (SW $\frac{1}{4}$ ) of Section Twenty-one (21), all in Township One Hundred Nine (109) North, Range Fifty-nine (59) West of the 5th P.M., Beadle County, SD, containing 320 acres, more or less and hereto referred to as the ROE PROPERTY; and

WHEREAS, said property is to be acquired by and utilized by GFP as a Game Production Area; and

WHEREAS, SDCL 41-4-1.1 requires that before GFP acquires and purchases property, GFP must notify owners of land located adjacent to the property sought to be acquired by publishing notice of the same once in each legal newspaper of the county in which the property to be purchased is located; and

WHEREAS, GFP has published the required legal notice at least thirty (30) days prior to the date of action by the Commission authorizing the intended purchases, which notice included the time and location of the meeting at which Commission action is expected and by giving notice of instructions for presenting oral and written comments to the Commission; and

WHEREAS, the Commission has reviewed any and all comments that may have been received relative to the intended purchase and after consideration of the same, the Commission approves the purchase of said property for use as a Game Production Area;

NOW, THEREFORE, BE IT RESOLVED, that GFP is authorized to complete negotiations for the purchase of the ROE PROPERTY and execute and consummate an agreement with the estate of Robert A. Roe, which is acceptable to GFP to acquire by purchase, at the price of \$1,100,000.00, the ROE PROPERTY for use as a Game Production Area.

Appendix B

**RESOLUTION 17 - 02**

WHEREAS, the Department of Game, Fish, and Parks (GFP) has expressed an interest in acquiring real property presently owned by the MTR Limited Land Partnership, 16745 302<sup>nd</sup> Avenue, Gettysburg, SD 57442, which property is described as:

The North Half of the Northwest Quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$ ) and the North 440 Feet of the South Half of the Northwest Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$ ) of Section Twenty-six (26), Township Six (6) North, Range Twenty-five (25) East of the B.H.M., Stanley County, South Dakota, containing 106 acres, more or less, and hereto referred to as the MTR LLP PROPERTY; and

WHEREAS, said property is to be acquired by and utilized by GFP as a Game Production Area; and

WHEREAS, SDCL 41-4-1.1 requires that before GFP acquires and purchases property, GFP must notify owners of land located adjacent to the property sought to be acquired by publishing notice of the same once in each legal newspaper of the county in which the property to be purchased is located; and

WHEREAS, GFP has published the required legal notice at least thirty (30) days prior to the date of action by the Commission authorizing the intended purchases, which notice included the time and location of the meeting at which Commission action is expected and by giving notice of instructions for presenting oral and written comments to the Commission; and

WHEREAS, the Commission has reviewed any and all comments that may have been received relative to the intended purchase and after consideration of the same, the Commission approves the purchase of said property for use as a Game Production Area;

NOW, THEREFORE, BE IT RESOLVED, that GFP is authorized to complete negotiations for the purchase of the MTR LLP PROPERTY and execute and consummate an agreement with MTR Limited Land Partnership, which is acceptable to GFP to acquire by purchase, at the price of \$135,000.00, the MTR LLP PROPERTY for use as a Game Production Area.



## Appendix C

### RESOLUTION 17 - 03

WHEREAS, the State of South Dakota (held by and for the use and benefit of the Department of Game, Fish, and Parks (GFP)) owns an interest in real estate described as:

Lot 3 of Lynbye Addition in the Southeast Quarter of Section 10, Township 119 North, Range 57 West of the 5th P.M., Clark County, South Dakota, containing 4.4 acres, more or less, hereinafter referred to as GFP PROPERTY, which is valued at \$21,560.00; and

WHEREAS, Marty Hemmingson (HEMMINGSON), 15554 428th Ave., Bradley, SD 57217, owns an interest in real estate described as:

Lots 1 and 2 of Lynbye Addition in the Southeast Quarter of Section 10, Township 119 North, Range 57 West of the 5th P.M., Clark County, South Dakota, containing 4.4 acres, more or less, hereinafter referred to as HEMMINGSON PROPERTY, which is valued at \$21,560.00; and

WHEREAS, South Dakota law (SDCL 41-2-29.2) provides that GFP has the power, authority, and duty to trade or exchange real property owned by the State and held by GFP if the GFP Commission shall first determine that real property more suitable to GFP purposes may be obtained by an exchange, provided the parcels of real property to be exchanged are of equal value; and

WHEREAS, GFP and HEMMINGSON desire to exchange interests in GFP PROPERTY and HEMMINGSON PROPERTY, and the GFP Commission having determined that HEMMINGSON PROPERTY is more suitable to GFP for GFP purposes than GFP PROPERTY, and that GFP PROPERTY and HEMMINGSON PROPERTY are of equal value (\$21,560.00 as determined by a qualified appraiser); and

WHEREAS, South Dakota law requires that the conveyance of GFP PROPERTY be approved and executed in the manner provided by SDCL 5-2-11.

NOW, THEREFORE, BE IT RESOLVED that the GFP Commission hereby takes final action on and approves the above referenced exchanges of the above described parcels of real property and hereby directs GFP to take all steps necessary to effectuate the exchange of GFP PROPERTY for HEMMINGSON PROPERTY under procedures mandated by statute.

BE IT FURTHER RESOLVED that the GFP Commission does hereby ratify and confirm the Department's designation of the HEMMINGSON PROPERTY being acquired pursuant to the exchange authorized by this Resolution for utilization by the Division of Wildlife for the purpose of game production and, further, does hereby expressly designate and classify the HEMMINGSON PROPERTY being acquired pursuant to the exchange authorized by this Resolution for use as a game production area.

Appendix D

**RESOLUTION 17 - 04**

WHEREAS, James Twamley of Parker, South Dakota, submitted a Petition to the Game, Fish and Parks Commission (Commission) on March 26, 2017, requesting that the Game, Fish and Parks Commission promulgate a new rule in ARSD 41:06:01 (Application for License) to (1) change the current preference point system used in awarding elk licenses in order to be more fair in its distribution of elk license to successful applicants, and (2) require the Department to provide the previous year's odds of drawing success breakout of each preference point category in both the paper and electronic application brochure, all as more fully explained in the petition (hereinafter referred to as "the Petition"); and

WHEREAS, all members of the Commission have been furnished with and have reviewed a copy of the Petition; and

WHEREAS, the Commission has been advised that a copy of the Petition has been served on all members of the Interim Rules Review Committee and Director of the Legislative Research Council as required by SDCL § 1-26-13; and

WHEREAS, the Commission has been advised that SDCL 1-26-13 requires that within thirty (30) days of submission of a Petition the Commission shall either "deny the petition in writing (stating its reasons for the denials) or shall initiate rule-making proceedings in accordance with SDCL 1-26-4."; and

WHEREAS, the Commission has been advised and is of the opinion that a hearing on the Petition is neither statutorily required nor necessary; and

WHEREAS, the Commission has reviewed and carefully considered the requirements and procedures set out in SDCL 1-26-13 and the contents of the Petition, including the explanation advanced by Petitioner in support of his request to promulgate a new rule in ARSD 41:06:01 (Application for License) to (1) change the current preference point system used in awarding elk licenses in order to be more fair in its distribution of elk license to successful applicants, and (2) require the Department to provide the previous year's odds of drawing success breakout of each preference point category in both the paper and electronic application brochure; and

WHEREAS, elk is a highly sought game species but is a finite resource with limited population levels in South Dakota; and

WHEREAS, demand for these highly sought licenses will never be reached due to the limited population nature; and

WHEREAS, the proposed change to the lottery drawing structure will increase the odds of drawing an elk license for those with 15 or more years of preference, it will only do so by reducing the opportunity for other applicants;

WHEREAS, the proposed change would both enhance and diminish the opportunity to draw an elk license for the group (elderly hunters) the Petitioner seeks to benefit;

NOW, THEREFORE, BE IT RESOLVED, that the Commission does hereby deny the Petition for the reasons hereinabove stated in this Resolution, which said Resolution as adopted by the Commission shall constitute the Commission's written denial of the Petition and its reasons therefore.

BE IT FURTHER RESOLVED that the Petition, a record of the Commission's discussions concerning same, and this Resolution be made a part of the Minutes of the Commission meeting at which this Resolution is adopted, and further, that the Department be and it is hereby authorized and directed in compliance with SDCL 1-26-13 to serve a copy of an extract of that portion of the Commission minutes which pertain to the Commission's discussion of the Petition and its adoption of this Resolution, including a copy of the Resolution, on all members of the Interim Rules Review Committee and Director of the Legislative Research Council with copies also to be provided to the Petitioner, James Twamley of Parker, South Dakota.

Appendix E

**RESOLUTION 17 - 05**

WHEREAS, Norb Barrie, as President and on behalf of SD Opportunity Group, of Turton, South Dakota, has petitioned the SD Game, Fish and Parks Commission to amend ARSD 41:06:16:11 (maximum number of nonresident waterfowl licenses) to implement rules to increase by five percent the number of nonresident waterfowl hunting licenses allocated annually, such allocations to continue until the number of licenses double the aforementioned licenses, all as more fully explained in the petition (hereinafter referred to as “the Petition”); and

WHEREAS, all members of the Commission have been furnished with and have reviewed a copy of the Petition; and

WHEREAS, the Commission has been advised that a copy of the Petition has been served on all members of the Interim Rules Review Committee and Director of the Legislative Research Council as required by SDCL § 1-26-13; and

WHEREAS, the Commission has been advised that SDCL 1-26-13 requires that within thirty (30) days of submission of a Petition the Commission shall either “deny the petition in writing (stating its reasons for the denials) or shall initiate rule-making proceedings in accordance with SDCL 1-26-4.”; and

WHEREAS, the Commission has been advised and is of the opinion that a hearing on the Petition is neither statutorily required nor necessary; and

WHEREAS, the Commission has reviewed and carefully considered the requirements and procedures set out in SDCL 1-26-13 and the contents of the Petition, including the explanation advanced by Petitioner in support of his request to modify ARSD 41:06:16:11 to increase by five percent the number of nonresident waterfowl hunting licenses allocated annually, such allocations to continue until the number of licenses double the aforementioned licenses; and

WHEREAS, the current allocation of temporary nonresident waterfowl licenses are not fully issued on an annual basis; and

WHEREAS, future allocations of nonresident waterfowl licenses should not be determined on a long-term commitment which includes annual incremental increases without annual reviews.

NOW, THEREFORE, BE IT RESOLVED, that the Commission does hereby deny the Petition for the reasons hereinabove stated in this Resolution, which said Resolution as adopted by the Commission shall constitute the Commission’s written denial of the Petition and its reasons therefore.

BE IT FURTHER RESOLVED that the Petition, a record of the Commission’s discussions concerning same, and this Resolution be made a part of the Minutes of the Commission meeting at which this Resolution is adopted, and further, that the Department be and it is hereby authorized and directed in compliance with SDCL 1-26-13 to serve a copy of an extract of that portion of the Commission minutes which pertain

to the Commission's discussion of the Petition and its adoption of this Resolution, including a copy of the Resolution, on all members of the Interim Rules Review Committee and Director of the Legislative Research Council with copies also to be provided to the Petitioner, Norb Barrie, President of SD Opportunity Group, of Turton, South Dakota.

Public Hearing Minutes of the Game, Fish and Parks Commission  
April 6, 2017

The Public Hearing Officer Scott Simpson began the public hearing at 2:00 p.m. at the Watertown Event Center in Watertown, South Dakota with Commissioners Peterson, B. Jensen, Boyd, Dennert, G. Jensen, Olson, Phillips and Sharp present. Simpson indicated written comments were provided to the Commissioners prior to this time and will be reflected in the Public Hearing Minutes. Simpson then invited the public to come forward with oral testimony.

**Good Earth State Park Rental Fees**

No oral or written testimony was received

**Authorization for Terminally Ill Persons to Hunt**

No oral or written testimony was received

**Black Hills Elk**

No oral testimony was received

Written testimony

Adam Coy, Hill City, SD, "ATTENTION COMMISSIONERS - I understand that u are reducing the number of cow tags. I live and ranch in unit 2. I went to feed cows and was not surprised to see a herd of 100 elk standing and eating every blade of green grass that pops up. Grass that my cattle should be eating this spring. I was not surprised cause I see this almost everyday. I was excited last year with the increase Of tags because I thought it was gonna be an opportunity to get the size of this herd down. I am not against elk we just need to get the number down to a manageable size. I understood that the increase in number of tags was supposed to be set for two years why are u going in and changing it after one? We all know that with the success ratio of elk that are actually harvested and the number of calves that are about to be born we aren't going to decrease the population of this herd it is only going to grow. We need to get a better plan and stick with it. "

**Prairie Elk**

No oral or written testimony was received

**Land Acquisitions**

Al Thomas, Huron, SD was present on behalf of the Beadle County Sportsman's Club to read the letter submitted to the Commission by their club president Dave Eichstad in favor of the acquisition of the Roe property in Beadle County. "The Beadle County Sportsman's Club is a member of the South Dakota wildlife Federation and is comprised of 217 members. One of our many purposes is to support, expand and maintain the wildlife and fishing resources and species in South Dakota for the benefit of all sportsmen, their families and the general population of South Dakota. The acquisition of the Bob Roe property in Beadle County provides a unique opportunity to obtain 320 acres of prime wildlife habitat that has been under the watchful eye of Mr.Roeuntil his passing. We understand it was his wishes and desire for this land to

remain for such use and benefit for wildlife and fellow South Dakotan's. Therefore, the Beadle County Sportsmen's Club and its members wish to go on record supporting the acquisition of this 320 acre tract for the benefit of wildlife, education and the resident and nonresident sportsmen and women. In addition, we want to remind all that taxes will be levied on the land in accordance with the soil productivity. We thank you for this opportunity to express our position and thank you for the many responsibilities the Commission has in maintaining one of the finest hunting and fishing opportunities in the United States.” Thomas also said the property is in great shape and is a good addition to the public property in the area. He also took the opportunity to remind everyone listening that the taxes will continue to be paid on this property.”

#### Written testimony

Belle Prairie Township Board, “Dear Commission, It has come to the attention of the Belle Prairie Township in Beadle County, 5D, that the land owned by Robert Roe is under consideration of being acquired by the GF&P. The township board is neither for nor against the acquisition but we are concerned with the consequences of this acquisition. Access to the land is on township roads. Increased traffic on these roads will add additional wear and tear. The upkeep for these roads is the responsibility of the township board. We are not flush with funds to keep up with the higher maintenance that will be required because of increased traffic. The funds we are able to use are tax dollars and we are good stewards of those dollars. Another concern of the board is that the new owners pay the same amount of property taxes that the current owner currently pays. If this property is taken off the tax rolls it will hurt the township financially. We understand that at this time, it is in the Constitution and in Statute that GF&P pays the same amount of tax as paid by other landowners. We appreciate this and hope it continues. Owning agriculture land means dealing with weeds. We understand not every weed can be taken care of but at least trying to control them is most helpful to all other landowners. We know in the past this wasn't always the case. We hope that at least an attempt will be made. As a board we understand the joy of hunting and managing wildlife for all to enjoy but we want you to understand, as a township, we cannot be asked to take on the additional financial burden. Thanking you kindly for your consideration.

The public Hearing concluded at 2:05 p.m.

Respectfully Submitted,

Kelly R. Hepler, Department Secretary