

16 November, 2022

Mississippi Commission on Wildlife, Fisheries, and Parks

1505 Eastover Drive
Jackson, MS 39211

RE: Attorney General Opinion Regarding the Authority of the Commission to Promulgate a Regulation Regarding Commercial Trade of White-Tailed Deer within High-Fenced Enclosures

Dear Commissioners,

The undersigned organizations, representing hundreds-of-thousands of hunters, anglers, wildlife professionals, and outdoor enthusiasts, are writing to object to the recent Attorney General's opinion regarding commercial trade of white-tailed deer. The opinion reverses previous legal advice, plainly contradicts Mississippi law, and opens the door to proposals we will vigorously oppose.

According to the opinion, the Commission believes that the plenary authority granted to it in Mississippi Code Annotated Section 49-7-58(3) in matters relating to white-tailed deer in enclosures provides the authority to promulgate a regulation allowing for the commercial trade of white-tailed deer held within high-fenced enclosures between registered white-tailed deer captive breeders. Despite state law expressly prohibiting the buying and selling of white-tailed deer (Miss. Code Ann. § 49-7-51(1)(a)) and a previous Attorney General opinion concluding to the contrary, the Attorney General has concluded that "the Commission could craft a regulation allowing for the commercial trade of white-tailed deer held within high-fenced enclosures between registered captive breeders without specifically contravening an express legislative act."

Not only do we believe this conclusion is erroneous and contrary to Mississippi law, but we have significant conservation concerns should the Commission promulgate a regulation allowing for the commercial trade of white-tailed deer held within high-fenced enclosures. Specifically, we have concerns about disease transmission – namely, chronic wasting disease (CWD) – should the Commission allow for the commercial trade and live movement of captive white-tailed deer between captive deer facilities, both intra and interstate.

CWD is an always-fatal brain disease affecting members of the deer family (cervids). The disease is caused by prions, or misshapen proteins, that create holes in the brain and eventually lead to death. There is currently no vaccine or treatment. Spread of CWD in 30 states presents a fundamental, persistent, and growing threat to the health of wild cervid populations and the outdoor recreation and conservation interests that depend on them. It is unquestionably one of the largest threats to wildlife conservation that we've encountered over the last century.

In many cases, the regulatory matrix of who oversees captive cervids within a certain jurisdiction is a direct result of lobbied and enacted law, transferring oversight from one agency to another. Inconsistencies across state or provincial boundaries can cause missed opportunities for communication between agencies responsible for regulating captive cervid facilities and certainly limits disease management efforts. Given the potential for disease transmission and the threat to our multi-billion-dollar hunting industry, we support sole regulatory authority of captive cervid facilities to belong to state/provincial wildlife agencies. These agencies have more experience with wildlife species and have more at stake with wildlife disease issues, especially regarding transmission to free-ranging, wild populations. Fortunately, the Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) already has the sole regulatory authority over captive deer facilities, and the Department

has put in place many necessary regulations to ensure that disease risk to the state's wild deer from captive facilities is minimized as much as possible.

Similarly, we advocate that captive cervids be categorized as wildlife so they are protected under the Federal Lacey Act of 1900 and the North American Model of Wildlife Conservation. On a jurisdictional basis, the authority which oversees captive cervids may have the ability to classify them as either "wildlife" or "livestock". The problem is this inconsistency across state or provincial boundaries possibly creates missed opportunities for communication among agencies controlling and regulating captive cervid facilities and certainly limits management efforts. There are also philosophical differences between wildlife and agricultural departments regarding captive cervid issues and free-ranging wildlife populations. Again, MDWFP already classifies captive deer as wildlife – a classification we support.

The most common concerns surrounding captive cervid facilities are introduction of novel diseases from captive cervids to native wildlife and domestic livestock, competition of escaped cervids with native species for space and forage, and hybridization between escaped captive and native cervids. Other concerns are conservation issues regarding the privatization of wildlife, fair chase issues related to commercial hunting, the inability to distinguish escaped captive cervids without ear tags from free-ranging species, and the wildlife agency's responsibility to remove escaped animals not recovered by the owner. These risks are only increased when captive cervid facilities are enabled to import or translocate individuals.

Translocation of cervids for restoration purposes has been a successful strategy in North America that gained widespread public approval. However, the need for restoration has passed and most agency restoration programs have been abandoned or continue as a result of political motivations. The current trapping and translocation of cervids to increase populations for hunting, provide trophy animals for canned hunts, or to alter the genetic characteristics of a herd raises ethical questions. Important issues include a need for understanding the historical role of trapping and translocation of cervids, potential disease transmission (especially CWD), conservation and genetic issues, and legal issues. These issues are also relevant to movements of other cervid species that could potentially harbor CWD.

We oppose all movements of live cervids, by private individuals or wildlife agencies, until a reliable and practical live-animal test exists. While there remains much to learn about CWD, we do know that moving deer and other cervids, dead or alive, can facilitate the disease's spread, including the transport of carcasses by hunters who can't be immediately sure if their deer is infected. CWD spreads the fastest and the furthest when carried in a vehicle, and that's something that all deer managers and hunters should be concerned about.

MDWFP already has taken significant steps to limit the spread of CWD and other diseases in the state, both in wild and captive herds. We unequivocally support those measures and the currently regulatory structure and classification of captive deer in the state. We strongly disagree with the Attorney General opinion that the Commission could craft a regulation allowing for the commercial trade of white-tailed deer held within high-fenced enclosures between registered captive breeders, and we strongly discourage the promulgation of any regulation by the Commission to that effect.

Sincerely,

Artemis
Backcountry Hunters and Anglers – National
Backcountry Hunters and Anglers – Southeast Chapter
Boone and Crockett Club

Mississippi Wildlife Federation
National Deer Association
National Wildlife Federation
Pope and Young Club
Theodore Roosevelt Conservation Partnership