



Regulating Penned Deer

Latest buzz in the Texas deer community centers around suggestions of “privatizing” deer breeders by changing status of pen-reared whitetails to domestic livestock. Most breeders feel that if they buy them or raise them, then they should own and control them.

story by DAN VAN SCHAIK

CURRENTLY, REGARDLESS OF PERSONAL INVESTMENT OR HIGH-FENCED ENCLOSURE, ALL WHITE-TAILED DEER (LIKE ANY GAME SPECIES) TECHNICALLY BELONG TO THE STATE OF TEXAS. AS THE DEER INDUSTRY GROWS, CONTROVERSY INTENSIFIES OVER TEXAS PARKS & WILDLIFE DEPARTMENT (TPWD) REGULATIONS AND PRIVATE HERD MANAGEMENT ISSUES.

Initial reaction to rising dissatisfaction with TPWD policy is to seek refuge under Texas Department of Agriculture (TDAg) or Texas Animal Health Commission (TAHC) authority. Only assuming that such a move is possible, many breeders already express enthusiastic support...before jumping from the frying pan to the fire, let's step back and take a closer look at several important considerations.

First big hurdle is assigning titles like domestic livestock or wild game animal to white-tailed deer in enclosures. Man has seriously domesticated common livestock for well over 2000 years; whitetails have only been in organized domestication process for about 20 years. Although most evaluations place North American deer farms in the “alternative” livestock category, that description doesn't exactly fit the Texas deer scenario either.

Regardless of degree of domestication, everyone should



recognize a major difference in management between penned deer and wild deer. Preferred native plants in the wild are replaced by unlimited super nutrition in the pens. Acceptable limits for deer densities shift from animals per acre to animals per square feet. Eventual results from natural selection are by-passed with aggressive genetic manipulation. Antiquated Leopoldian principles of game production through habitat development and protection no longer apply to modern deer farming or associated release programs.

No doubt, captive bred whitetails are different from their wild counterparts living on opposite side of the fence, but in light of recent trends in animal welfare legislation, do we really want them categorized with farm animals? Before contemplating who best govern deer breeders, we need to sort out how we want the deer classified; long term. Which brings us to the candidates for regulating deer and deer managers.

TDAg is a state agency established by the Texas Legislature in 1907 to ensure protection of agricultural crops and facilitate trade and market development of agricultural commodities. Today, their role includes regulation of all weights and measures devices; regulation of pesticide use and application; offering financial assistance to farmers and ranchers; administering the National School Lunch/Breakfast programs for school children and providing tools to attract businesses or other economic development opportunities. TDAg is in the business of promoting agriculture and agricultural products through sound economic development/protection.

TAHC was founded in the late 1800s to protect the health of Texas livestock. Their role has developed into one of assuring marketability and mobility of cattle, swine, poul-

try, sheep, goats, equines and exotic (non-indigenous) animals. Historically, most of their involvement with whitetails has been limited to control of possible disease transmissions that includes Bovine Tuberculosis, Brucellosis and Chronic Wasting Disease. TAHC maintains the legislative authority to make and enforce regulations that prevent, control, and eradicate specific infectious animal diseases that endanger livestock. TAHC does not work for, but works directly with USDA-APHIS in administering national health hazard control and enforcing federally mandated disease-monitoring programs. TAHC is in the business of regulating health and care of domestic livestock.

TPWD was formed in 1963 from a merger of the State Parks Board and historic Game & Fish Commission. The Wildlife Conservation Act in 1983 gave TPWD authority for managing fish and wildlife resources in all Texas counties. TPWD provides outdoor recreational opportunities by managing wildlife and wildlife habitat and acquiring parklands or historic areas. TPWD does not work for, but does work directly with U.S. Fish & Wildlife Service in protecting endangered/threatened species, enforcing migratory bird laws and investigating interstate transport of wildlife. Likewise, TPWD is in the business of regulating and protecting wild game species and their habitats.

Clearly, this issue is much further reaching than just ownership or reclassification of penned deer. Trickle-down effect to act of releasing these animals into high-fenced enclosures (or the wild) for subsequent harvest is where things get sticky. After all, this whole industry in Texas evolved from early attempts at controlled breeding to improve wild trophy deer production. I believe that volatile economic conditions in the United States will continue to affect breeder-to-breeder markets, but consistent production of quality “stocker bucks” for release to local hunting herds will always be in demand. Real trouble begins when trying to identify the exact moment at which a “domestic” pen-reared deer, if regulated by TDAg or TAHC, becomes a “wild game animal” then regulated by TPWD. In other words, at what point does a breeder relinquish ownership to the public? And, at what point does one agency assume authority from the other? Way too much gray area here, as regulatory agencies need rules in black or white.

Texas is not alone in the penned deer-wild deer juggling act and precedence has been established in several other states that allow captive breeding. Two approaches that realize moderate success are special preserve license, regulated by state game department and joint oversight, a shared authority by two agencies involved.

Under high-fenced preserve licenses, breeding facilities are within or near larger hunting enclosures that can be permitted for unrestricted release from the pens, self-regulated population control and extended harvest season (replace MLDP). Obviously, application for such a permit requires that new enclosures be void of all native deer. How practical is that on most Texas landscapes? What qualifies “reasonable attempts” to vacate such an enclosure and who enforc-

es that? Also, because of eminent changes in national policy for disease monitoring of susceptible cervids, any chance of captive herd interface with wild herds may soon require double fencing with buffer zone between; since most deer preserves overlap native deer range, this could ultimately be cost prohibitive. Regardless of what the license is called or how liberal activities become under such a permit, reconciled annual inventories along with accurate escapee/harvest data reporting will still be necessary. If you think the general hunting public is mad at high fencing now, you can imagine their reaction to more “special treatment.”

For the past six years, I have worked closely with joint oversight authorities regarding registered elk and captive whitetail herds in other states. In this situation, a “complimentary relationship” exists between both agencies responsible for care and regulation of captive cervids. The state game department actually licenses deer within breeder pens and/or hunting enclosures, while the state animal health commission oversees herd certification, disease monitoring and movement qualification. Upside is you have checks and balances between the governing bodies. Downside is animal health agencies tend to be much stricter on regulating animal movement than game departments and have legally imposed same herd certification restrictions on intrastate transport as with interstate transport. In general, joint oversight has accommodated my interactions, but dual agency guidelines and reporting are not easy to navigate.

In both preserve and joint oversight systems, escape or release to the wild is usually forbidden. Inevitably, wherever captive wildlife species are also indigenous to that same area, conflicts become paramount with regard to proof of animal origin, permanent ID and segregation of captive herd from the wild herd. As previously mentioned, many breeder facilities run parallel with hunting operations in Texas, so our regulatory system (of either persuasion) must include ample provision for release sites.

Although I deal with problems on a daily basis, I am not as critical of TPWD on this matter as most. I will be the first to encourage a total overhaul of other obsolete programs (WMP, MLDP, TTT), but I think the deer breeder program has improved by leaps and bounds over last two to three years under Amber Andel’s direction. When pointing fingers at TPWD, it is only fair to separate administrative program leaders from unpopular enforcement agency agendas.

I worry way more about federal intervention in the future of Texas deer industry. If you look beyond the headlines in controversial deer breeder cases, I think you’ll find U.S. Fish & Wildlife investigation of Lacy Act violations at the root of most TPWD actions. Lacy Act restricts the interstate transport of

illegal or “prohibited” wildlife species or their parts. Unqualified whitetails became prohibited via CWD mandate issued in USDA-APHIS Federal Unified Methods and Rules of 2002. Face it; CWD with all of its regulatory entanglements has given enforcement agencies the key to controlling our white-tailed deer, in or out of pens. What/when will the next major disease be, and how will it further impact our state departments from a federal level?

As usual, we find that there is no simple solution to this complex problem. Perhaps the deer industry has outgrown the ability to be effectively regulated by any one agency and the answer may be a “hybrid authority.” Other state models are out there, but Texas has always fostered a unique association with white-tailed deer and whatever comprehensive regulatory system we develop must be equally distinctive.

On a final note, my experience in bargaining with commissioners, legislators and powers to be has taught me that most constructive progress toward attaining goals of all involved results from unbiased debate based on real facts. Emotionally charged outcries from self-serving special interests groups or political zealots will fall upon deaf ears... they are immune to that. This may be a hard thing to control within an industry that is driven by passion! •

TROPHY WHITE-TAILED DEER MANAGEMENT
HIGH OR LOW-FENCE
by Dan Van Schaik

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