

**North Dakota Game and Fish Department
Testimony Concerning Administrative Rules
Chapter 30-02-02 – Falconry**

December 12, 2012

1. The rules did not result from statutory changes made by the Legislative Assembly.
2. The rules are related to a federal regulatory change (explained in #6).
3. Public notice concerning these administrative rules was published in each official county newspaper. A public hearing was held at the ND Game and Fish Department's Bismarck office on June 29, 2010. Written comments were also accepted by the Department.
4. Summary and Response of Oral and Written Comments (See Attachment A).
5. The cost of publishing notice of the rules was \$1,573.00. Other than staff time, there were no other significant costs for making these rules.
6. Chapter 30-02-02 – Falconry
According to the U.S Fish and Wildlife Service, *Falconry* is caring for and training raptors for pursuit of wild game, and hunting wild game with raptors. Falconry includes the taking of raptors from the wild to use in the sport; and caring for, training, and transporting raptors held for falconry (50 CFR § 21.3).

Raptors are protected under the federal Migratory Bird Treaty Act of 1918, as well as other state laws. The conservation of all migratory birds is a cooperative effort between the U.S. Fish and Wildlife Service and individual states. The Migratory Bird Treaty Act,

under strict regulations, governs the possession, welfare, training, and transportation of raptors and makes allowances for the sport of falconry.

On October 8, 2008, the U.S. Fish and Wildlife Service announced a major revision to the regulations governing falconry in the United States and its territories. The changes, published in the *Federal Register*, simplify the agency's regulations and reflect current practices in the traditional use of raptors for sport hunting.

One major aspect of the new federal falconry regulations is the elimination of the federal permit in favor of state, tribal or territorial falconry permits. States, except Hawaii, already administer falconry permitting programs. Dual state/federal permitting will no longer be necessary. The Service will approve falconry regulations to be promulgated under state, tribal or territorial laws and regulations by January 1, 2014, when the federal permit program will be discontinued. Hence, the reason North Dakota is proposing these amendments to Chapter 30-02-02, pertaining to Falconry.

In order for the sport of falconry to be allowed in our state beyond January 1, 2014, North Dakota must have promulgated state regulations that meet the approval of the U.S. Fish and Wildlife Service. We have submitted these proposed administrative rules and they have met federal approval.

7. A regulatory analysis was not required nor requested. The rules were not expected to have an impact on the regulated community in excess of \$50,000.
8. For all the proposed rules, the following were considered:

Establishing less stringent compliance or reporting requirements

The falconry program must meet the requirements and standards of 50 CFR § 21.29. States may be more restrictive than Federal standards but may not be less stringent.

Establishing less stringent schedules or deadlines for compliance or reporting requirements

The falconry program must meet the requirements and standards of 50 CFR § 21.29. States may be more restrictive than Federal standards but may not be less stringent.

Consolidating or simplifying compliance or reporting requirements

Compliance or reporting requirements have been consolidated or simplified as much as possible.

Establishing performance standards that replace or design or operational standards required in the proposed rule

Performance standards are used when possible

Exempting small entities from all or part of the rule's requirements

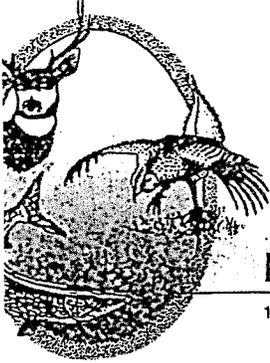
Not applicable. The rules pertain only to individuals participating in falconry.

9. A takings assessment was not required since the rules will not limit the use of private real property.

10. These rules were not adopted as emergency rules.

ATTACHMENT A

**Public Comments Received From
Administrative Rules Hearing
(June 29, 2010)**



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

June 7, 2010

Dear North Dakota Licensed Falconer:

The North Dakota Game and Fish Department has revised Section 30-02-02 of the Administrative Code relating to falconry. A public hearing to address proposed changes will be held at the ND Game and Fish Department office headquarters, 100 N. Bismarck Expressway, Bismarck ND, on Tuesday, June 29, 2010 at 1:15 p.m. The proposed rules are available on the Department's website at <http://gf.nd.gov/> or a copy may be obtained by calling the Department at 701-328-6305. Also, written comments may be submitted to the above address until July 12, 2010.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Johnson". The signature is written in black ink and is positioned above the printed name.

Sandra Johnson

Nongame Biologist

Comments on Proposed Rule Change Regarding Falconry and NDGFD Considerations

William E. Cornatzer, M.D. (WEC)

400 Restfull Dr

Bismarck, ND 58503

WEC Comment #1

“License conditions: 30-02—02-04 I believe the Missing should be deleted in in the sentence if a raptor is stolen, missing, or lost license must be reported to the dept and USFWS within 24rs”

NDGFD Consideration:

Department staff time will be reduced if missing or lost raptors are reported as soon as possible. This is a proactive measure to eliminate confusion when unreported missing or lost falconry raptors are found by the public and reported to the Department or FWS. Also, as raptors require daily care and feeding, there should be no burden to report raptors that are stolen, missing or lost within 24 hours. Keep language as is.

WEC Comment #2

“Classes of Licenses 30-02-02-05 General falconer should be allowed two replacement raptors in a calendar year.”

NDGFD Consideration:

The regulation shall be as it was in the 2000 version: “*A General licensee ...may not obtain more than two raptors for replacement birds...*” The language in the proposed regulations will allow for two replacement birds for General class licensees.

WEC Comment #3

“Restrictions of taking Raptors from the Wild 30-02-02-09 I as the other falconers in the state feel the NDGF must have to document why they can deny take or reduce total take as in any other hunting situation. The Dept has in place methods to close seasons on game species and these should be used instead of the blanket statement in the Falconry regulations. I feel that closure or non allowing take without a formal department closure could lead to litigation on capricious judgment calls.”

NDGFD Consideration:

The sentence will be removed.

WEC Comment #4

“It is my opinion that the total number of take of different species should be 5% of nestling population of nesting raptor species in the state of ND. This has been proven to be non-detrimental to populations. On passage birds that come thru North Dakota from Canada or other

states IMO there should be no Limit on take of any of the species listed. We know even on sensitive species such as Prairie falcons that there are thousands of these birds in North Dakota in the fall. My major comparison of other species managed by the NDGF would be the Cougar or Mountain lion. There is a limited take in the Badlands but the remainder of the state is open as many lions as possible shot. Here is a species that many would love to see in the wild but the dept is allowing all to be shot. I personally feel the limit should be of eyass take only with a limit of 50 cooper's hawks, 50 sharpshinned hawks, 100 Redtail hawks, 100 Kestrels, 6 merlins, 6 prairie falcons as eyass take. There should be no limit on number of passage raptor take. I have given you raptor populations studies that would go along with these recommendations."

NDGFD Consideration:

The Department concurs that available information has shown the take of raptors for falconry will have no discernible effect on nesting populations. Subsection (3) will be deleted from the proposed regulations. The Department retains authority to deny take of a raptor species, or reduce total annual take, if the population declines or evaluation of the data available for any species show that take has reached the level of concern indicating that take of the species should be limited.

WEC Comment #5

"I personally feel that Non-resident passage raptor take should also be increased to 10% of allowed resident take. With 14 falconers being allowed to take 30+ raptors a year Non residents should be increased to 3 permits/ year. This is what is allowed with big game hunting and was where the one bird everyother year came from 10 years ago when there were only 3 falconers in the state. The cost of a non-resident permit is equivalent to a biggame tag and would pay for the paperwork etc."

NDGFD Consideration:

The Department believes resident falconers should be given preference over non-residents. Regardless of the cost the permit, increasing the number and frequency of nonresident permits would increase the workload of already limited staff. The language shall remain as written in the proposed rule.

WEC Comment #6

"General falconers should be allowed two wild raptors/year as previous in our regulations."

NDGFD Consideration:

The Department concurs and the language will be revised to allow for two wild raptors for General class licensees.

WEC Comment #7

"Other restrictions and provisions 30-02-02-16 I believe that General or Master falconers should be allowed to conduct educational activities with live raptors as long as there is no money or financial considerations."

NDGFD Consideration:

The Department will not allow a wild raptor to be used in education programs in order to limit the raptor's exposure to humans. Wild raptors are most often released back to the wild after a falconer has used it in falconry. Raptors taken from the wild are always considered to be "wild" and care should be taken to minimize their opportunity to acclimate to humans. Subsection (5) will be revised to not allow use of wild raptors in photography and filming but captive-bred will be allowed.

WEC Comment #8

"Also under this provision is the section on visitors to the United states, this should be rewritten like the federal regulations allowing the visitors to obtain a north Dakota falconry license after passing the examination and facilities inspection with the cost of the license the same or slightly higher than residents."

NDGFD Consideration:

Subsection (8) allows for a visitor to the United States to practice falconry in North Dakota the same as any other nonresident. A raptor may be imported to the United States in compliance with proper importation rules. While these rules may seem stringent, they are needed to ensure unwanted diseases are not introduced in the United States and North Dakota. The Department believes the existing is a sufficient avenue for visitors to practice falconry in North Dakota. Providing an alternative option of allowing a visitor to practice falconry in the United States and North Dakota (as suggested) would entail Department staff to administer a falconry test and facility inspection to the individual. This would require substantial staff time and resources.

WEC Comment #9

"Penalties 30-02-02-17 All of these rules if violated should be considered a noncriminal offense. I believe you have only the first Section licensing listed as a Criminal offense. This is way to extreme to consider forgetting to renew a license or a nonresident forgetting to go online to be charged the same as someone that has committed a DUI or Criminal offense of such. I believe that would make the Newspapers.....The violations should all be non-criminal with appropriate fines."

NDGFD Consideration:

It is a criminal offense to hunt, catch, take, trap or kill any small game or big game animal unless that person first obtains a license. Similar to virtually all other licensed activities, it should also be a criminal offense to practice falconry without a falconry license. Subsections (1) and (2) have no penalty assigned and will be charged under the appropriate criminal statute which is consistent with all other activities which require a license (e.g. fishing without a license, bait vending without a license, hunting with a license). The Department concurs that subsections (3), (4) and (5) should not be a criminal offense and language will be changed accordingly.

Comments on Proposed Rule Change Regarding Falconry and NDGFD Considerations
AJ Warm (AJW)
raptorrogue@ndsupernet.com

AJW Comment #1

“License conditions: 30-02—02-04 I believe the Missing should be deleted in the sentence if a raptor is stolen, missing , or lost license must be reported to the dept and USFWS within 24rs”

NDGFD Consideration:

Department staff time will be reduced if missing or lost raptors are reported as soon as possible. This is a proactive measure to eliminate confusion when unreported missing or lost falconry raptors are found by the public and reported to the Department or FWS. Also, as raptors require daily care and feeding, there should be no burden to report raptors that are stolen, missing or lost within 24 hours. Keep language as is.

AJW Comment #2

“Classes of Licenses 30-02-02-05 General falconer should be allowed two replacement raptors in a calendar year.”

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The regulation shall be as it was in the 2000 version: “*A General licensee...may not obtain more than two raptors for replacement birds...*” The language in the proposed regulations will allow for two replacement birds for General class licensees.

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“Restrictions of taking Raptors from the Wild 30-02-02-09 I as the other falconers in the state feel the NDGF must have to document why they can deny take or reduce total take as in any other hunting situation. The Dept has in place methods to close seasons on game species and these should be used instead of the blanket statement in the Falconry regulations. I feel that closure or non allowing take without a formal department closure could lead to litigation on capricious judgment calls.”

NDGFD Consideration:

The sentence will be removed.

AJW Comment #4

“It is my opinion that the total number of take of different species should be 5% of nestling population of nesting raptor species in the state of ND. This has been proven to be non-detrimental to populations. On passage birds that come thru North Dakota from Canada or other states IMO there should be no Limit on take of any of the species listed. We know even on

sensitive species such as Prairie falcons that there are thousands of these birds in North Dakota in the fall.”

NDGFD Consideration:

The Department concurs that available information has shown the take of raptors for falconry will have no discernible effect on nesting populations. Subsection (3) will be deleted from the proposed regulations. The Department retains authority to deny take of a raptor species, or reduce total annual take, if the population declines or evaluation of the data available for any species show that take has reached the level of concern indicating that take of the species should be limited.

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“I personally feel that Non-resident passage raptor take should also be increased to 10% of allowed resident take. With 14 falconers being allowed to take 30+ raptors a year Non residents should be increased to 3 permits/ year. This is what is allowed with big game hunting and was where the one bird everyother year came from 10 years ago when there were only 3 falconers in the state. The cost of a non-resident permit is equivalent to a biggame tag and would pay for the paperwork etc.”

NDGFD Consideration:

The Department believes resident falconers should be given preference over non-residents. Regardless of the cost the permit, increasing the number and frequency of nonresident permits would increase the workload of already limited staff. The language shall remain as written in the proposed rule.

AJW Comment #6

“General falconers should be allowed two wild raptors/year as previous in our regulations.”

NDGFD Consideration:

The Department concurs and the language will be revised to allow for two wild raptors for General class licensees.

AJW Comment #7

“Other restrictions and provisions 30-02-02-16 I believe that General or Master falconers should be allowed to conduct educational activities with live raptors as long as there is no money or financial considerations.”

NDGFD Consideration:

The Department will not allow a wild raptor to be used in education programs in order to limit the raptor’s exposure to humans. Wild raptors are most often released back to the wild after a falconer has used it in falconry. Raptors taken from the wild are always considered to be “wild” and care should be taken to minimize their opportunity to acclimate to humans. Subsection (5)

will be revised to not allow use of wild raptors in photography and filming but captive-bred will be allowed.

AJW Comment #8

“Also under this provision is the section on visitors to the United states, this should be rewritten like the federal regulations allowing the visitors to obtain a north Dakota falconry license after passing the examination and facilities inspection with the cost of the license the same or slightly higher than residents.”

NDGFD Consideration:

Subsection (8) allows for a visitor to the United States to practice falconry in North Dakota the same as any other nonresident. A raptor may be imported to the United States in compliance with proper importation rules. While these rules may seem stringent, they are needed to ensure unwanted diseases are not introduced in the United States and North Dakota. The Department believes the existing is a sufficient avenue for visitors to practice falconry in North Dakota. Providing an alternative option of allowing a visitor to practice falconry in the United States and North Dakota (as suggested) would entail Department staff to administer a falconry test and facility inspection to the individual. This would require substantial staff time and resources.

AJW Comment #9

“Penalties 30-02-02-17 All of these rules if violated should be considered a noncriminal offense. I believe you have only the first Section licensing listed as a Criminal offense. This is way to extreme to consider forgetting to renew a license or a nonresident forgetting to go online to be charged the same as someone that has committed a DUI or Criminal offense of such. I believe that would make the Newspapers.....The violations should all be non-criminal with appropriate fines”

NDGFD Consideration:

It is a criminal offense to hunt, catch, take, trap or kill any small game or big game animal unless that person first obtains a license. Similar to virtually all other licensed activities, it should also be a criminal offense to practice falconry without a falconry license. Subsections (1) and (2) have no penalty assigned and will be charged under the appropriate criminal statute which is consistent with all other activities which require a license (e.g. fishing without a license, bait vending without a license, hunting with a license). The Department concurs that subsections (3), (4) and (5) should not be a criminal offense and language will be changed accordingly.

Comments on Proposed Rule Change Regarding Falconry and NDGFD Considerations
Jeremy Guinn (JG)

JG Comment #1, 30-02-02-16 (4)

Concern regarding restriction of not allowing wild raptors to be used in falconry education programs.

NDGFD Consideration:

The Department will not allow a wild raptor to be used in education programs in order to limit the raptor's exposure to humans. Wild raptors are most often released back to the wild after a falconer has used it in falconry. Raptors taken from the wild are always considered to be "wild" and care should be taken to minimize their opportunity to acclimate to humans. Subsection (5) will be revised to not allow use of wild raptors in photography and filming but captive-bred will be allowed.

JG Comment #2, 30-02-02-05

Clarification regarding who may serve as a sponsor, would like this language to remain.

NDGFD Consideration:

The definition of sponsor is listed in 30-02-02-01 (14).

Comments on Revised Falconry Regulations (after public meeting) and NDGFD Considerations

William E. Cornatzer, M.D. (WEC)
225 North Seventh Street, Suite B
Bismarck, North Dakota 58501

WEC letter dated October 6, 2011

WEC Comment #1

“As I had commented in the public meeting of 2010, under 30-02-02-16, paragraph 8, there needs to be wording that allows visitors to be able to get a Falconry license in North Dakota. This would include having facilities with inspection, and taking the North Dakota Falconry examination and receiving a passing grade. I would suggest a reasonable cost for this, perhaps the same as what a Resident North Dakota Falconer would pay.”

NDGFD Consideration:

The following is an excerpt from NDGF email communication on June 25, 2010 with George T. Allen, Chief of Branch of Permits and Regulations, Division of Migratory Bird Management, U.S. Fish and Wildlife Service: *“I’d be willing to consider that a falconer who brings in a bird under a CITES “pet passport” (50 CFR 21.21(d)) should not need the “visitor” falconry permit.”*

Subsection (8) allows for a visitor to the United States to practice falconry in North Dakota the same as any other nonresident. A raptor may be imported to the United States in compliance with proper importation rules. While these rules may seem stringent, they are needed to ensure unwanted diseases are not introduced in the United States and North Dakota. The Department believes the existing is a sufficient avenue for visitors to practice falconry in North Dakota. Providing an alternative option of allowing a visitor to practice falconry in the United States and North Dakota (as suggested) would entail Department staff to administer a falconry test and facility inspection to the individual. This would require substantial staff time and resources.

WEC Comment #2

“Under 30-02-02-4, paragraph 6, in this paragraph there is no need to report to the USFWS Regional Law Enforcement Office. The USFWS has no requirement of this, and in my conversation with the USFWS, they feel this is just additional paperwork, and is not needed. Twenty four hours is a unreasonable time period, especially with weekends and holidays, and this should be changed to within five days. Any Falconer that loses or has a bird stolen, I am sure would contact the USFWS immediately, in case the USFWS is notified that the bird has been found. However, I do not feel this should be a Regulation.”

NDGFD Consideration:

This is a recommendation of the NDGFD chief game warden. Department staff time will be reduced if missing or lost raptors are reported as soon as possible. This is a proactive measure to eliminate confusion when unreported missing or lost falconry raptors are found by the public and

reported to the Department or USFWS. Also, as raptors require daily care and feeding, there should be no burden to report raptors that are stolen, missing or lost within 24 hours. Keep language as is.

WEC Comment #3

“Under 30-02-02-09, it is still my opinion that non-Resident Raptor take should have no limitations on the number of permits given out. You have a non-Resident Permit Fee of \$500.00 which would cover all costs by the NDGF Department and I seriously doubt there would ever be more than four or five non-Resident Permits issued per year. I have no problem with a non-Resident total take to be a single raptor.”

NDGFD Consideration:

The Department believes resident falconers should be given preference over non-residents. Regardless of the cost the permit, increasing the number and frequency of nonresident permits would increase the workload of already limited staff. The language shall remain as written in the proposed rule.

WEC Comment #4

“In 30-02-02-01 Definition 11, your definition of a Raptor is incorrect, and should be just listed as “Raptor” means a migratory bird of the family Accipitridae, excluding Bald and Golden Eagles.”

NDGFD Consideration:

“Raptor” is defined in the Chapter 20.1-14 of the Century Code and this exact definition must be used in the rules. A change in the definition would require a change to the Century Code.

Comments on Proposed Rule Change Regarding Falconry and NDGFD Considerations

Dana L. Harrington (DLH)

15921 4th St NE

Cummings, ND 58223

DLH Comment #1

“I respectfully request the the kestrel be included in the list of raptors allowed for falconry in North Dakota when the new regulations are reviewed. I suggest that the kestrel be allowed for Master class falconers only. The kestrel has been successfully used in falconry for many kinds of prey up to and including starlings.”

NDGFD Consideration:

The proposed regulations allow all classes of falconers to possess a kestrel. The Department is only allowing Apprentice licensees to capture a kestrel from the wild in North Dakota. The Department believes that kestrels serve as a good training raptor for Apprentice falconers. As falconers progress in their skill level most have no need for kestrels, which are severely limited in their ability to hunt game (which is the intent of falconry). The Department is skeptical why Master and General level falconers would want a raptor that is not capable of taking game. Master and General class licensees may still obtain wild kestrels from other falconers or capture one from the wild in other states.

Comments on Proposed Rule Change Regarding Falconry and NDGFD Considerations

Kelly M. Hogan (KMH)

12400 198th Ave NW

Foxholm , ND 58718

KMH Comment # 1: 30-02-02-02 License Requirements

“This reviewer notes that this section has become a Criminal Offense rather than Noncriminal. Please consider revising this section to reflect which offenses are criminal in nature and which non-criminal.

Justification:

As written, a non-resident falconer who forgets to register online could be charged a Class B Misdemeanor (similar to DUI). I do believe the Department should have criminal penalties in this section (i.e., someone without a license) but this may be excessive for all offenses.”

NDGFD Consideration:

It is a criminal offense to hunt, catch, take, trap or kill any small game or big game animal unless that person first obtains a license. Similar to virtually all other licensed activities, it should also be a criminal offense to practice falconry without a falconry license. Subsections (1) and (2) have no penalty assigned and will be charged under the appropriate criminal statute which is consistent with all other activities which require a license (e.g. fishing without a license, bait vending without a license, hunting without a license). The Department concurs that subsections (3), (4) and (5) should not be a criminal offense and language will be changed accordingly.

KMH Comment # 2: 30-02-02-04 License Conditions

“Subsection (6). Proposed regulations currently state, in part “*If a raptor is stolen, missing or lost... Need to report to Department and FWS within 24 hrs*”. Federal regulations at 50 CFR 21.29 only require notification if Stolen. This seems to conflict with reporting requirements of 5 days for 3-186a’s? Please consider revising to be consistent with scope of Federal Regulations.”

NDGFD Consideration:

Department staff time will be reduced if missing or lost raptors are reported as soon as possible. This is a proactive measure to eliminate confusion when unreported missing or lost falconry raptors are found by the public and reported to the Department or FWS. Also, as raptors require daily care and feeding, there should be no burden to report raptors that are stolen, missing or lost within 24 hours. Keep language as is.

KMH Comment # 3: 30-02-02-05 Classes of licenses.

“Subsection (2). General Class.

At (d) the proposed regulations currently state, in part “...*may not possess more than two raptors at any time and may not obtain more than one raptor for a replacement bird during any calendar year.*” Please consider revising this to state two wild-caught raptors.

Justification: At the Public Hearing on June 29th it appears this may be a typo and not an intended change. I would suggest adding the words "wild-caught" to clarify this involves the take of birds from the wild. Acquiring birds from a captive-breeder should not require this restriction."

NDGFD Consideration:

The regulation shall be as it was in the 2000 version: "*A General licensee...may not obtain more than two raptors for replacement birds...*" The language in the proposed regulations will allow for two replacement birds for General class licensees.

KMH Comment # 4: 30-02-02-05 Classes of licenses.

"Subsection (3). Master Class

At (b) the proposed regulations currently state, in part "*A Master licensee may not possess more than three raptors at any time and may not obtain more than two raptors for replacement birds.....*" Please consider revising this to state two wild-caught raptors.

Justification: I would suggest adding the words "wild-caught" to clarify this involves the take of birds from the wild. Acquiring birds from a captive-breeder should not require this restriction."

NDGFD Consideration:

The Department believes allowing for two replacement raptors per year, regardless if wild or captive-bred, is sufficient to satisfy most falconers.

KMH Comment # 5: 30-02-02-08 Marking

"Subsection (2) of the proposed regulations state "*A raptor bred in captivity must be banded with a numbered seamless metal band.*" Please revise to state that "*A raptor bred in captivity must be banded with either a numbered seamless metal band or a non-reusable yellow band. Captive-bred raptors banded with a yellow band may not be sold."*

Justification: Captive-bred birds are banded with two types of bands. In cases where the raptor cannot be banded before 12 days of age the seamless bands will not fit in many cases. When this situation arises the breeder will use a non-reusable yellow band. This is a worse case scenario for breeders because these birds cannot be sold."

NDGFD Consideration:

Checking on this with FWS...

KMH Comment # 6: 30-02-02-09 Restrictions for taking of raptors from the wild.

"Subsection (1) of the proposed regulations currently state, in part "*...must submit a written request to the Department indicating the species intended to be taken. The license must obtain permission in writing from the Department....*" Please consider revising this section to clarify what the Department means by "permission". If the Department's intent is to require a separate capture permit to take raptors from the wild please specify conditions for that permit.

Justification: General terms like “permission” are vague and difficult to interpret. I suggest the Department consider reviewing similar permits issued in Wyoming which provide the necessary information prior to capture but are easy (and inexpensive) for the Department to administer.”

NDGFD Consideration:

The Department concurs and will change the language from “permission” to “permit.”

KMH Comment # 7: 30-02-02-09 Restrictions for taking of raptors from the wild.

“Subsection (1) of the proposed regulations currently state, in part “...*the Department has the authority to deny take of a raptor species, or reduce total annual take.*” Please delete this sentence.

Justification: Clearly the Department has the authority to regulate wildlife in ND for the public benefit. However this section has been applied in an arbitrary and capacious manner in recent years to prohibit trapping by two of three classes of falconers just because the Department was considering revising its regulations “in the future”. This appears to violate the spirit of the Administrative Practices Act by removing public comment and legislative branch oversight on significant rule changes.”

NDGFD Consideration:

The sentence will be removed.

KMH Comment # 8: 30-02-02-09 Restrictions for taking of raptors from the wild.

“Subsection 1(c) of the proposed regulations currently state, in part “*General ...one wild raptor...*” “ Revise to state “two wild raptors” See above comment # 3.”

NDGFD Consideration:

The Department concurs and the language will be revised to allow for two wild raptors for General class licensees.

KMH Comment # 9: 30-02-02-09 Restrictions for taking of raptors from the wild.

“Subsection 1(e) of the proposed regulations currently state, in part “*Take will be issued on a first come, first serve basis...*” Please revise to state, in part “Take of eyas raptors will be issued on a first come, first serve basis....”

Justification: As discussed in more detail below, take of raptors (within the 2 birds/falconer/yr limit, restriction on juveniles only, and highly conservative threshold limits to evaluate take nationally) does not require a quota system. This reviewer realizes the Department may have concerns about local breeding populations of some species. If a quota system is to be implemented it should target those concerns.”

NDGFD Consideration:

The language shall remain as is.

KMH Comment # 10: 30-02-02-09 Restrictions for taking of raptors from the wild.

“Subsection (2) of the proposed regulations provides a list of species of raptors permitted for use in falconry in North Dakota. I suggest removing this list and adding a general statement that any *“legal raptor, excluding (list species)..may be used for falconry”* be added instead.

Justification: After the Public Hearing on June 29 it appears this list has no foundation in biological science but rather types of birds used in the past and/or a limited number of falconers' opinions of what is good and bad birds for falconry. Choice of raptors for falconry tends to be self-limiting based on terrain, available game, etc. That said, some falconers are willing to try new ways of hunting using a variety of raptors species and without a valid reason based on sound biological science this reviewer has a hard time denying folks that opportunity as long as the birds are actively hunted, which is a new requirement in the falconry regulations.”

NDGFD Consideration:

This subsection is a list of species which the Department will allow to be taken from the wild in North Dakota. The list includes all but two hawks/falcons native to North Dakota. The eight species on the list provide ample opportunity for falconers and comprise the most popular species taken for falconry. Nothing in this section, nor elsewhere in the regulations, prohibits a falconer from obtaining other wild raptors species of choice from other states (e.g. Harris's hawk). Falconers must still comply with what raptors species their license class allows them to possess (see 30-02-02-02-05 Classes of licenses).

KMH Comment # 11: 30-02-02-09 Restrictions for taking of raptors from the wild.

“Subsection (3) of the proposed regulations provides, in part “Total wild take....shall not exceed.” Please revise to state “Total wild take of eyas raptors....shall not exceed.”

Justification: A quota system for take of migratory raptors in North Dakota is not consistent with the available biological data and adds significantly to the administrative costs of this program with no apparent justification. Take levels for migratory raptors are designed to be highly conservative and require falconers to take only juveniles and only 2 birds/year. In addition, a scientifically based framework has been developed to examine take Nation-wide to document threshold levels at which further regulation may be necessary. Further regulations at the State-level to manage take of migratory raptors seems needless. For example, would ND set hunting limits on ducks, morning doves, etc., based on the number of birds which breed in ND? I do realize the State may have localized concerns regarding breeding populations of some raptors and further restrictions may be appropriate regarding take of eyas raptors. However I would ask that the Department consider the fact that many areas with breeding populations of raptors which are a concern for the Department occur on lands with regulations in place to prohibit take (i.e., NPS managed lands) and cited sources of raptor population data in the State's Wildlife Action Plan do not support further regulation at the State level.”

NDGFD Consideration:

The Department concurs that available information has shown the take of raptors for falconry will have no discernible effect on nesting populations. Subsection (3) will be deleted from the proposed regulations. The Department retains authority to deny take of a raptor species, or reduce total annual take, if the population declines or evaluation of the data available for any

species show that take has reached the level of concern indicating that take of the species should be limited.

KMH Comment # 12: 30-02-02-16 Other restrictions and provisions.

“Subsections (4) and (5). Please review these two subsections. At (5) it states you can make movies, etc., but (4) does not allow educational programs.”

NDGFD Consideration:

The Department will not allow a wild raptor to be used in education programs in order to limit the raptor’s exposure to humans. Wild raptors are most often released back to the wild after a falconer has used it in falconry. Raptors taken from the wild are always considered to be “wild” and care should be taken to minimize their opportunity to acclimate to humans. Subsection (5) will be revised to not allow use of wild raptors in photography and filming but captive-bred will be allowed.

KMH Oral Comment

Does the Conservation Division manage take of any other species.

NDGF Consideration:

Black-tailed prairie dog.

KMH Oral Comment

What document is being referred to in 30-02-02-01 (9), “Birds of North Dakota Field Checklist.”

NDGF Consideration:

Faanes, C.A., and R.E. Stewart, 1982. Revised Checklist of North Dakota Birds; The Prairie Naturalist, Vol. 14(3):81-92.

Subsequent changes published by the North Dakota Birding Society’s Bird Records Committee are also acknowledged.

KMH Oral Comment

Questioned legality of 30-02-02-07 (2)(c)

NDGF Consideration:

This is a Fish and Wildlife Service regulation. The Department cannot change it.

KMH Oral Comment

Questioned why a bird may not be obtained from a rehabilitator.

NDGF Consideration:

The Department has disease concerns with animals in rehabilitation programs and the Department is in the process of developing separate rehabilitation regulations.

KMH Oral Comment

Has a master falconer ever asked for a white-tailed eagle or Stellar's sea-eagle.

NDGF Consideration:

No.

Kelly M. Hogan
12400 198th Ave. NW.,
Foxholm, ND 58718

July 11, 2010

Terry Steinwand, Director
North Dakota Game and Fish Department
100 N. Expressway
Bismarck, ND 58501-5095

Re: Comments on proposed rule change regarding Falconry and Open Records Requests.

Dear Director Steinwand

My name is Kelly Hogan and I have been a practicing falconry for 33 years; after having learning the sport from my father who was a U.S. Air Force Academy falconer in the late 50's. Throughout my professional career I have had the opportunity to conduct scientific research on a number of raptor species ranging from Peregrine and Prairie Falcons, Harris' Hawks, Gray Hawks and Short-eared Owls in Texas to Bat Falcons in Honduras. As this brief introduction illustrates I have a life-long passion for raptors and falconry and sincerely appreciate the opportunity to participate in the public hearing held on June 29th and to provide my personal comments, below, on the proposed changes to the ND Falconry Regulations.

KMH Comment # 1: 30-02-02-02 License Requirements

This reviewer notes that this section has become a Criminal Offense rather than Noncriminal. Please consider revising this section to reflect which offenses are criminal in nature and which non-criminal.

Justification:

As written, a non-resident falconer who forgets to register online could be charged a Class B Misdemeanor (similar to DUI). I do believe the Department should have criminal penalties in this section (i.e., someone without a license) but this may be excessive for all offenses.

KMH Comment # 2: 30-02-02-04 License Conditions

Subsection (6). Proposed regulations currently state, in part "*If a raptor is stolen, missing or lost... Need to report to Department and FWS within 24 hrs*". Federal regulations at 50 CFR 21.29 only require notification if Stolen. This seems to conflict with reporting requirements of 5 days for 3-186a's? Please consider revising to be consistent with scope of Federal Regulations.

KMH Comment # 3: 30-02-02-05 Classes of licenses.

Subsection (2). General Class.

At (d) the proposed regulations currently state, in part “...*may not possess more than two raptors at any time and may not obtain more than one raptor for a replacement bird during any calendar year.*” Please consider revising this to state two wild-caught raptors.

Justification: At the Public Hearing on June 29th it appears this may be a typo and not an intended change. I would suggest adding the words “wild-caught” to clarify this involves the take of birds from the wild. Acquiring birds from a captive-breeder should not require this restriction.

KMH Comment # 4: 30-02-02-05 Classes of licenses.

Subsection (3). Master Class

At (b) the proposed regulations currently state, in part “*A Master licensee may not possess more than three raptors at any time and may not obtain more than two raptors for replacement birds.....*” Please consider revising this to state two wild-caught raptors.

Justification: I would suggest adding the words “wild-caught” to clarify this involves the take of birds from the wild. Acquiring birds from a captive-breeder should not require this restriction.

KMH Comment # 5: 30-02-02-08 Marking

Subsection (2) of the proposed regulations state “*A raptor bred in captivity must be banded with a numbered seamless metal band.*” Please revise to state that “*A raptor bred in captivity must be banded with either a numbered seamless metal band or a non-reusable yellow band. Captive-bred raptors banded with a yellow band may not be sold.*”

Justification: Captive-bred birds are banded with two types of bands. In cases where the raptor cannot be banded before 12 days of age the seamless bands will not fit in many cases. When this situation arises the breeder will use a non-reusable yellow band. This is a worse case scenario for breeders because these birds cannot be sold.

KMH Comment # 6: 30-02-02-09 Restrictions for taking of raptors from the wild.

Subsection (1) of the proposed regulations currently state, in part “...*must submit a written request to the Department indicating the species intended to be taken. The license must obtain permission in writing from the Department....*”. Please consider revising this section to clarify what the Department means by “permission”. If the Department’s intent is to require a separate capture permit to take raptors from the wild please specify conditions for that permit.

Justification: General terms like “permission” are vague and difficult to interpret. I suggest the Department consider reviewing similar permits issued in Wyoming which provide the necessary information prior to capture but are easy (and inexpensive) for the Department to administer.

KMH Comment # 7: 30-02-02-09 Restrictions for taking of raptors from the wild.

Subsection (1) of the proposed regulations currently state, in part “...*the Department has the authority to deny take of a raptor species, or reduce total annual take.*” Please delete this sentence.

Justification: Clearly the Department has the authority to regulate wildlife in ND for the public benefit. However this section has been applied in an arbitrary and capacious manner in recent years to prohibit trapping by two of three classes of falconers just because the Department was considering revising its regulations “in the future”. This appears to violate the spirit of the Administrative Practices Act by removing public comment and legislative branch oversight on significant rule changes.

KMH Comment # 8: 30-02-02-09 Restrictions for taking of raptors from the wild.

Subsection 1(c) of the proposed regulations currently state, in part “*General ...one wild raptor...*” Revise to state “two wild raptors” See above comment # 3.

KMH Comment # 9: 30-02-02-09 Restrictions for taking of raptors from the wild.

Subsection 1(e) of the proposed regulations currently state, in part “*Take will be issued on a first come, first serve basis...*” Please revise to state, in part “*Take of eyas raptors will be issued on a first come, first serve basis....*”

Justification: As discussed in more detail below, take of raptors (within the 2 birds/falconer/yr limit, restriction on juveniles only, and highly conservative threshold limits to evaluate take nationally) does not require a quota system. This reviewer realizes the Department may have concerns about local breeding populations of some species. If a quota system is to be implemented it should target those concerns.

KMH Comment # 10: 30-02-02-09 Restrictions for taking of raptors from the wild.

Subsection (2) of the proposed regulations provides a list of species of raptors permitted for use in falconry in North Dakota. I suggest removing this list and adding a general statement that any “*legal raptor, excluding (list species)..may be used for falconry*” be added instead.

Justification: After the Public Hearing on June 29 it appears this list has no foundation in biological science but rather types of birds used in the past and/or a limited number of falconers’ opinions of what is good and bad birds for falconry. Choice of raptors for falconry tends to be self-limiting based on terrain, available game, etc. That said, some

falconers are willing to try new ways of hunting using a variety of raptors species and without a valid reason based on sound biological science this reviewer has a hard time denying folks that opportunity as long as the birds are actively hunted, which is a new requirement in the falconry regulations.

KMH Comment # 11: 30-02-02-09 Restrictions for taking of raptors from the wild.

Subsection (3) of the proposed regulations provides, in part “Total wild take....shall not exceed.” Please revise to state “Total wild take of eyas raptors....shall not exceed.”

Justification: A quota system for take of migratory raptors in North Dakota is not consistent with the available biological data and adds significantly to the administrative costs of this program with no apparent justification. Take levels for migratory raptors are designed to be highly conservative and require falconers to take only juveniles and only 2 birds/year. In addition, a scientifically based framework has been developed to examine take Nation-wide to document threshold levels at which further regulation may be necessary. Further regulations at the State-level to manage take of migratory raptors seems needless. For example, would ND set hunting limits on ducks, morning doves, etc., based on the number of birds which breed in ND? I do realize the State may have localized concerns regarding breeding populations of some raptors and further restrictions may be appropriate regarding take of eyas raptors. However I would ask that the Department consider the fact that many areas with breeding populations of raptors which are a concern for the Department occur on lands with regulations in place to prohibit take (i.e., NPS managed lands) and cited sources of raptor population data in the State’s Wildlife Action Plan do not support further regulation at the State level.

KMH Comment # 12: 30-02-02-16 Other restrictions and provisions.

Subsections (4) and (5). Please review these two subsections. At (5) it states you can make movies, etc., but (4) does not allow educational programs.

In closing, I sincerely appreciate this opportunity to comment and participate in the rule making process. If I can provide any clarification or additional support for my comments please feel free to contact me at (701) 468-5996. I would also like to request, under the ND Open Records Act, a copy of the audio recording (or transcript) of the comments provided at the public hearing held on June 29th, 2010 as well as a copy of your written response to all the comments received on these regulations.

Sincerely,
s/s *Kelly M Hogan*
Kelly M. Hogan, Ph.D.

24 May 2010

Dana L. Harrington
15921 4th St NE
Cummings ND 58223

Sandy Johnson
State of North Dakota Game and Fish Dept.
100 N. Bismarck Expressway
Bismarck ND 58501-5095

I respectfully request the the kestrel be included in the list of raptors allowed for falconry in North Dakota when the new regulations are reviewed. I suggest that the kestrel be allowed for Master class falconers only. The kestrel has been successfully used in falconry for many kinds of prey up to and including starlings.

Sincerely,

Dana L. Harrington

Dana L. Harrington

Johnson, Sandra K.

From: (null) (null) [cornatze@btinet.net]
Sent: Wednesday, July 07, 2010 11:01 PM
To: Johnson, Sandra K.
Cc: doccornatzer@qwestoffice.net
Subject: Re: Falconry regulations

Sandy Johnson
Nongame Biologist
North Dakota Game and Fish Department
100 N. Bismarck Expwy.
Bismarck, ND 58501-5095
Phone: 701-328-6382 Fax: 701-328-6352

7 July, 2010

Dear Ms. Johnson:

This letter is my formal request of changes to the proposed North Dakota Falconry regulations that you have been working on the past two years. First I would like to thank you for all the work you have put into this matter. Overall these are regulations that can be lived with by the falconers of North Dakota. As you know with our several past personal meetings there are some things that I still feel should be changed. My personal feeling is that less regulation is needed by the state as the USFW has agreed by their significant less stringent regulations. We falconers would be most happy with the state of ND just accepting a federal regulations as is, as our neighboring states of SD and Montana have. I realize that the NDGF is not going to do this so I will list the changes I feel must be made in your current regulations.

- 1) License conditions: 30-02-02-04 I believe the Missing should be deleted in in the sentence if a raptor is stolen, missing , or lost license must be reported to the dept and USFWS within 24rs
- 2) Classes of Licenses 30-02-02-05 General falconer should be allowed two replacement raptors in a calendar year.
- 3) Restrictions of taking Raptors from the Wild 30-02-02-09 I as the other falconers in the state feel the NDGF must have to document why they can deny take or reduce total take as in any other hunting situation. The Dept has in place methods to close seasons on game species and these should be used instead of the blanket statement in the Falconry regulations. I feel that closure or non allowing take without a formal department closure could lead to litigation on capricious judgment calls.
- 4) It is my opinion that the total number of take of different species should be 5% of nestling population of nesting raptor species in the state of ND. This has been proven to be non- detrimental to populations. On passage birds that come thru North Dakota from Canada or other states IMO there should be no Limit on take of any of the species listed. We know even on sensitive species such as Prairie falcons that there are thousands of these birds in North Dakota in the fall. My major comparison of other species managed by the NDGF would be the Cougar or Mountain lion There is a limited take in the Badlands but the remainder of the state is open as many lions as possible shot. Here is a species that many would love to see the wild but the dept is allowing all to be shot. I personally feel the limit should be eyass take only with a limit of 50 coopers hawks, 50 sharpshinned hawks, 100 Redtail hawks, 100 Kestrels, 6 merlins, 6 prairie falcons as eyass take. There should be no limit on number of passage raptor take. I have given you raptor populations studies that would go along with these recommendations.

- 5) I personally feel that Non-resident passage raptor take should also be increased to 10% of allowed resident take. With 14 falconers being allowed to take 30+ raptors a year and residents should be increased to 3 permits/ year. This is what is allowed with big game hunting and was where the one bird everyother year came from 10 years ago when there were only 3 falconers in the state. The cost of a non-resident permit is equivalent to a biggame tag and would pay for the paperwork etc.
- 6) General falconers should be allowed two wild raptors/year as previous in our regulations.
- 7) Other restrictions and provisions 30-02-02-16 I believe that General or Master falconers should be allowed to conduct educational activities with live raptors as long as there is no money or financial considerations.
- 8) Also under this provision is the section on visitors to the United states, this should be rewritten like the federal regulations allowing the visitors to obtain a north Dakota falconry license after passing the examination and facilities inspection with the cost of the license the same or slightly higher than residents.
- 9) Penalties 30-02-02-17 All of these rules if violated should be considered a noncriminal offense. I believe you have only the first Section licensing listed as a Criminal offense. This is way to extreme to consider forgetting to renew a license or a nonresident forgetting to go online to be charged the same as someone that has committed a DUI or Criminal offense of such. I believe that would make the Newspapers.....The violations should all be non-criminal with appropriate fines.

Sincerely Yours,

William E. Cornatzer, M.D.
190 Restfull Dr.
Smarck, ND 58503

Johnson, Sandra K.

From: AJ Warm [raptorrogue@ndsupernet.com]
Sent: Friday, July 09, 2010 7:10 PM
To: Johnson, Sandra K.

Dear Ms. Johnson:

This letter is my request of changes to the proposed North Dakota Falconry regulations that you have been working on the past two years. First I would like to thank you for all the work you have put into this matter. Although, overall these are regulations that can be lived with by me and my fellow falconers of North Dakota, I still believe some things should be changed. I feel that less regulation is needed by the state as the USFW has agreed by their significant less stringent regulations. Me and the other falconers, I believe would be quite happy if the state of ND just accepting the federal regulations as is, as our neighboring states of SD and Montana have. I realize that the NDGF is not going to do this so I will list the changes I feel must be made in your current regulations.

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as someone that has committed a DUI or Criminal offense of such. I believe that would make the Newspapers.....The violations should all be non-criminal with appropriate fines

)

Admin. Rules Hearing
6/29/2010

Greg Link Notes

PLOTS

No comments

Falconry

Hogson -

- Asked about Admin Rules process in general
- Asked about definition of of falconry
- Asked if Conservo = Common. Did managers and other "take" species
- Asked about penalty
- Comment re: stolen birds
- Commented re: class - change from 2 birds to 1 bird
-
- 2E - How many requests has the Dept. had for WT eagles = seagulls (typos)
- Asked about non-consensual admin. inspection
- marking raptors - seamless_{metal} vs yellow band
- Restriction on taking raptors from wild
- Permit vs license
- administ. expense for tracking
- how was list developed
- how were quotas derived
- relationship w/ Central Flyway
- was does "recommended taking" mean

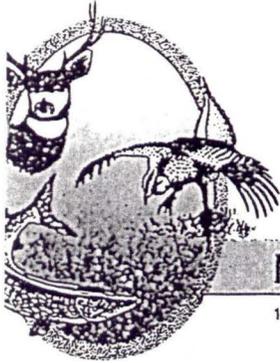
- biologically - viable recommended taken vs max. sustainable yield
- how was max recommended harvest rate was derived
- american kestrels for apprentice falconers... wh
- wildlife rehabilitators
- definition of harmless wild bird
- re: demonstrations... limit to ^{non-}commercial gain

Jeremy Green

- re: sponsor ... would like to see it put back in
- ambiguous why "take" needed to be limited
- educational programs limited
- conservative nature of numbers allowed

Tabitha Berquine

- regulations on the take (sec 9.3) where do these #s come from - non-inclusive esp Red-tails
- sec 16 re: educ. programs (compensation for mileage)
- not being able to use a Kestrel



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA

After Admin Rules Hearing,
we incorporated changes
into the regs and
allowed those who provided
Comments to see
revisions. Only 1 falconer had
additional comments, which
we incorporated.
Sept. 2011

September 23, 2011

William Cornatzer
400 Restful Drive
Bismarck, ND 58503

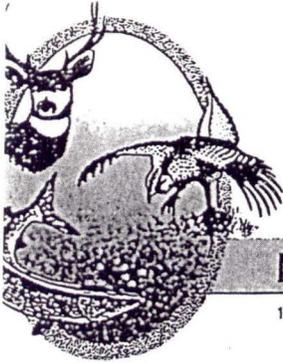
Dear Mr. Cornatzer:

The North Dakota Game and Fish Department (Department) held a public meeting in June 2010 to obtain public input regarding the proposed changes to the North Dakota Administrative Code relating to falconry. In response to the written and/or verbal comments we received, the Department modified the draft falconry regulations. Enclosed is a copy of the revisions. You are receiving a copy because you provided comments during the comment period.

The Department will be moving forward with the next steps in finalizing the regulations and submitting them to the U.S. Fish and Wildlife Service for approval in 2012. If you have additional questions pertaining to the enclosed revisions, please submit them in writing to this office by COB on October 17, 2011.

Sincerely,

Greg Link
Chief, Conservation & Communications Division



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

September 23, 2011

Tabitha Berglund
PO Box 1574
Dickinson, ND 58602

Dear Ms. Berglund:

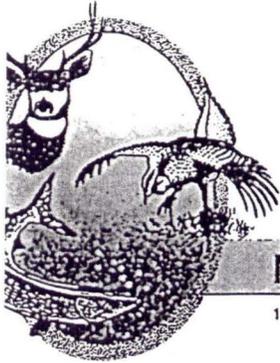
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Sincerely,

A handwritten signature in black ink, appearing to read "Greg Link". The signature is stylized and cursive.

Greg Link
Chief, Conservation & Communications Division



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

September 23, 2011

Kelly Hogan
124900 198th Avenue NE
Foxholm, ND 58718

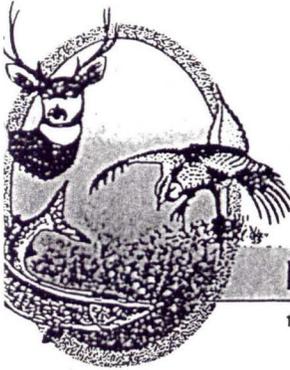
Dear Mr. Hogan:

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Sincerely,

Greg Link
Chief, Conservation & Communications Division



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

September 23, 2011

A.J. Warm
10468 Hwy 10
Dickinson, ND 58601

Dear Mr. Warm:

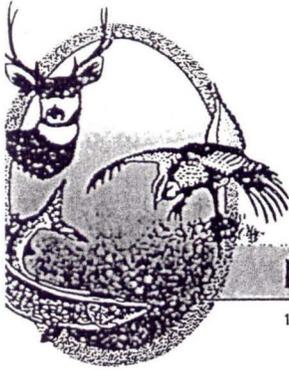
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Sincerely,

A handwritten signature in black ink, appearing to read "Greg Lirk".

Greg Lirk
Chief, Conservation & Communications Division



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

September 23, 2011

Dana Harrington
15921 4th St NE
Cummings, ND 58223

Dear Mr. Harrington:

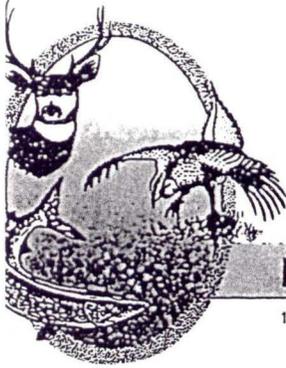
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Sincerely,

A handwritten signature in black ink, appearing to read "Greg Link". The signature is stylized and cursive.

Greg Link
Chief, Conservation & Communications Division



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

September 23, 2011

Jeremy Guinn
4700 37th Ave NW
Mandan, ND 58554

Dear Mr. Guinn:

The North Dakota Game and Fish Department (Department) held a public meeting in June 2010 to obtain public input regarding the proposed changes to the North Dakota Administrative Code relating to falconry. In response to the written and/or verbal comments we received, the Department modified the draft falconry regulations. Enclosed is a copy of the revisions. You are receiving a copy because you provided comments during the comment period.

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Sincerely,

A handwritten signature in black ink, appearing to read "Greg Link". The signature is stylized and cursive.

Greg Link
Chief, Conservation & Communications Division



William E. Cornatzer, Jr., M.D., P.C.

Dermatologist

October 6, 2011

Greg Link
Chief, Conservation & Communications Division
North Dakota Game and Fish Department
100 North Bismarck Expressway
Bismarck, ND 58501-5095

Dear Mr. Link:

Thank you for forwarding the copy of the draft Falconry Regulations. There are still several revisions that should be made.

1. As I had commented in the public meeting of 2010, under 30-02-02-16, paragraph 8, there needs to be wording that allows visitors to be able to get a Falconry license in North Dakota. This would include having facilities with inspection, and taking the North Dakota Falconry examination and receiving a passing grade. I would suggest a reasonable cost for this, perhaps the same as what a Resident North Dakota Falconer would pay.
2. Under 30-02-02-4, paragraph 6, in this paragraph there is no need to report to the USFWS Regional Law Enforcement Office. The USFWS has no requirement of this, and in my conversation with the USFWS, they feel this is just additional paperwork, and is not needed. Twenty four hours is a unreasonable time period, especially with weekends and holidays, and this should be changed to within five days. Any Falconer that loses or has a bird stolen, I am sure would contact the USFWS immediately, in case the USFWS is notified that the bird has been found. However, I do not feel this should to be a Regulation.
3. Under 30-02-02-09, it is still my opinion that non-Resident Raptor take should have no limitations on the number of permits given out. You have a non-Resident Permit Fee of \$500.00 which would cover all costs by the NDGF Department and I seriously doubt there would ever be more than four or five non-Resident Permits issued per year. I have no problem with a non-Resident total take to be a single Raptor.
4. In 30-02-02-01 Definitions 11, your definition of a Raptor is incorrect, and should be just listed as "Raptor" means a migratory bird of the family Accipitridae, excluding Bald and Golden Eagles.

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It is my opinion of North Dakota Falconers that we have wanted these Regulations to follow the USFWS Regulations only. North Dakota with its conservative Republican philosophy concurs with this. This means less regulation, not more.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'W. Cornatzer', written in a cursive style.

William E. Cornatzer, M.D.

WEC/dhc