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DEPARTMENT OF ENVIRONMENTAL PROTECTION
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JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

November 15, 2006

The New Jersey Fish and Game Council
P.O. Box 400
Trenton, New Jersey 08625-0400

Dear Fish and Game Council Members:

Pursuant to my authority and responsibility under N.J.S.A. 13:1B-28, I have thoroughly and carefully reviewed the New Jersey Fish and Game Council's "Comprehensive Black Bear (*Ursus americanus*) Management Policy," dated November 14, 2005 (the Policy). My role in reviewing the Policy has been framed by the New Jersey Supreme Court's decision in U.S. Sportsmen's Alliance Foundation v. NJDEP, 182 N.J. 461 (2005). In that case, the Supreme Court was faced with reconciling conflicting views of the authority possessed by the Fish and Game Council (the Council) to establish comprehensive policies for wildlife management and the authority of the DEP Commissioner to approve those policies as consistent with a "unitary approach to conservation[.]" as well as the Commissioner's obligation "to oversee the use of the agency's financial resources." Id. at 473. In the end, the Supreme Court very clearly held that the DEP Commissioner's approval authority over the comprehensive policies of the Council is inescapable "because the entire statutory scheme [in N.J.S.A. 13:1B-28] was intended to create a unified approach to conservation and environmental protection under the authority of the Commissioner." Id. at 476.

Against this backdrop, I have reviewed the Policy to ensure that it is consistent with my overarching and transcending views on environmental protection and conservation initiatives, particularly as they pertain to black bear management in the State. As part of my review I have focused my analysis on (1) the comprehensiveness of the Policy; (2) the effectiveness of its implementation; and (3) the effect of last year's hunt on bear intrusions, consistent with Governor Jon S. Corzine's letter of October 30, 2006. The Policy is divided into seven areas: (A) Education; (B) Control of Human-Derived Food; (C) Research; (D) Bear Control; (E) Depredation Permits; (F) Habitat Protection; and (G) Bear Population Management. In the Policy, the Council stated that effective bear management includes a range of tools, and did not rely predominantly on a regulated bear hunt as the exclusive management strategy. (Policy at p.

7). The Council also placed greater emphasis on non-lethal control strategies than it had done in previous black bear management plans. Ibid.

Comprehensiveness of Policy

While there are certain areas of the Policy with which I disagree, and would like to work with the Council to address, I believe that the Council adopted a generally comprehensive approach to managing the black bear population in the State. However, as I reviewed the Policy, I noted several areas in which I either disagreed with the Council's recommendations, or felt that the Council did not go far enough. I also noted areas where the Policy was not consistent with my overarching policy for environmental protection, particularly as it pertains to the management of black bears.

First, my policy with respect to management of black bears is that, given the information currently available to me, I believe at this time that non-lethal methods of management, such as education, garbage management, research and training, should be undertaken and the effectiveness of implementing such methods analyzed, prior to conducting another bear hunt. This is a further reason why I believe the Policy is not sufficiently comprehensive. Undertaking these non-lethal methods and analyzing the effects thereof, and considering any additional relevant information which may be presented to me will allow me to determine whether there should be a black bear hunting season in the future.

Second, with respect to ensuring that bears are not attracted to garbage in residential areas, which is addressed in Section III. B. of the Policy (Control of Human-Derived Food), I believe that the Council should have recommended that communities in "bear country" work with waste management companies to ensure that bear-proof garbage cans are made available and are actually used. Studies have shown that bears are resourceful animals, and take advantage of "unnatural" food sources created by humans through improper garbage containment and disposal. (Fraker, October 2006, p. 6-7). Improperly contained garbage is attractive to bears, and makes them more frequent visitors to easily attainable food. The Department recently made a grant available to a municipality to convert to a bear-resistant garbage system, but the money was not spent, in part, because the waste haulers claimed that the conversion to bear-proof cans would significantly increase the workload to their employees. Additionally, the municipality has not been successful in bidding and awarding contracts to purchase the new containers. Although the Policy contains numerous recommendations on how to manage human-related food sources and garbage, I do not believe that it is sufficiently comprehensive in addressing the need to work with the waste hauling industry.

Third, under Section III. D. of the Policy (Bear Control), the Council recommended that the Division of Fish and Wildlife (the Division) should not train additional local officers on bear response techniques if the municipalities do not file annual reports on their bear response activities. These reports are used by the Division to determine the number of bear incidents in the State, since many calls do not go to the Division. They are also used to allocate resources and efforts in certain municipalities. (Policy at p. 16). While I agree with the Council that we need to encourage municipalities to file these reports, the solution does not lie in withholding training to officers, who should be on the front line of bear response. It is of utmost importance to have local officers available to respond quickly, especially to Category I bear incidents, in order to protect public health and safety. If training of local officers is withheld, as

recommended by this section of the Policy, there may not be enough officers available to respond to bear calls, thus making this aspect of the Policy insufficiently comprehensive.

Implementation of Policy

As part of the review requested by the Governor, I examined how the Policy is currently being implemented. As stated above, the Policy consists of seven distinct programmatic areas, which together comprise the comprehensive approach to bear management in New Jersey. As stated in the Policy, the Council selected "a suite of management tools," and explicitly recognized that hunting is not "an exclusive, or even predominant, element of New Jersey's management strategy." (Policy at pp. 7-8). After my review, I must conclude that significant gaps in implementation of several important recommendations in the Policy, as discussed below, undermine the Policy's overall effectiveness and comprehensiveness, and therefore, as set forth above, make the Policy inconsistent with my overall views on appropriate black bear management.

During my review, I focused largely on how the non-lethal elements of the Policy are being implemented. I will highlight several points below, keeping in mind that any failure to implement is likely due to fiscal and resource constraints.

A. Education.

The Council made several recommendations with the goal of continuing to educate residents and visitors on how to coexist with black bears. Specifically, the Council recommended that: (1) a full-time staff person should be devoted to bear education; (2) educational materials, including public service announcements, should be purchased and distributed to the public; (3) educational materials should be developed in Spanish; and (4) the Treasury should restore funds to cover the cost of bear education.

Based on my review, none of these recommendations has been implemented. In the current fiscal year, only one staff person devotes part of her time to bear education. The production and distribution of educational materials have sharply declined, due to a lack of funding. Currently, most literature supplies are depleted, and paid newspaper advertisements have not been purchased since FY02. In addition, no multi-language educational materials have been produced, and the Treasury has not provided any additional resources to pay for bear education since FY02.

B. Control of Human-Derived Food.

The Council recommended that the Legislature enact legislation that would: (1) require public and private campgrounds in bear habitat to install bear-resistant dumpsters; (2) require closed communities to make a bear-resistant dumpster facility available to its residents; and (3) amend the no bear feeding legislation to define better the difference between intentional and unintentional feeding. The Council also recommended that the Treasury should provide funds for a grant program to help the public and private sectors implement conversion to bear-resistant garbage systems.

Again, none of these recommendations on proper food and garbage management has been implemented. If proper food and garbage management, as recommended by the Council, were

implemented through legislation and sufficient funding, then I believe that the number of human/bear interactions would decline.

C. Research

The Council also made several recommendations, which support the Division's ongoing efforts to conduct research into the biology and behavior of black bears. Specifically, the Council recommended that: (1) the Division continue trapping and tagging studies and analyze New Jersey's database on the black bear population; (2) the Division continue its use of statistical analysis to obtain the most accurate population estimates; (3) the Division continue to develop the simulation model of the black bear population in the Kittatinny and Bearfort regions to evaluate the effects of recruitment and mortality factors; and (4) the General Treasury should restore funds for continued bear research efforts.

While the Council appropriately recognized the importance of research, and recommended that continued research by the Division needs to be undertaken, the General Treasury has not funded an adequate number of positions to do all of the needed work. In FY01 and FY02, the Division received an appropriation from the Treasury of \$1.7 million that allowed the Division to hire two full-time biologists, seven bear technicians, and one police training officer. Since FY03, because of reduced funding, the number of personnel devoted to black bear management has been reduced to one full-time biologist, two full-time wildlife technicians, one part-time biologist and one part-time police training officer. This is simply not enough personnel to do this necessary work, which would lead to a better understanding of the State's black bear population and would help to develop more effective bear management.

D. Bear Control

Among other things related to Bear Control, the Council recommended that the Division continue to develop aversive conditioning techniques for Category II nuisance bears. The Council further recommended that the General Treasury should restore funding for Division staff to conduct this type of bear training.

While there is debate on how nuisance black bears respond to aversive conditioning, such as rubber bullets or rubber buckshots, or cracker shells (pyrotechnic and noise making devices), wildlife professionals in other states continue to investigate the effectiveness of this non-lethal method to discourage unwanted behaviors in nuisance bears. While the Division is doing the best it can in this area with existing limited resources, I believe that more work needs to be done on aversive conditioning. This was the recommendation of the Council, which is not being adequately implemented, due to a lack of resources to fund additional wildlife technicians to do this work.

Effect of 2005 Hunt on 2006 Intrusions

Finally, as requested by the Governor, I reviewed the data on the effect of the 2005 hunt on the numerous types of black bear incidents recorded by the Division in 2006. The data reviewed is contained in three charts, entitled "Number of Black Bear Complaints 1999-2005," and "Number of Black Bear Complaints 2001-2006," which are attached to this letter. The data in the 2001-2006 chart is current through October 26, 2006.

After studying this data, I note that there are numerous factors that can affect the number of nuisance black bear complaints received. Educational outreach can affect the number of complaints. Better garbage and food management may also affect the number of nuisance calls. Nuisance complaints may also vary in the short-term due to weather conditions such as drought or rain, which may affect the availability of natural food sources. Likewise, a regulated hunt may have an effect on nuisance calls received. Nevertheless, because of all of the factors at play, it is difficult for me to conclude definitively that the decreased number of nuisance calls in 2006 is attributable solely to the 2005 hunt.

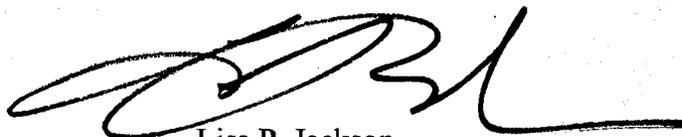
When looking at the attached chart for 2006, it is clear that there was a decrease in some types of incidents, while there was an increase in other types of calls, including actual home entries. Indeed, the data contained in the chart illustrates a lack of predictability in the increases and decreases in incidents from year to year. In my opinion, a correlation between the effectiveness of the hunt and the number of complaints received simply cannot be drawn from this data.

Conclusion

Based on the above analysis, it is clear to me that certain important recommendations contained in the Policy are not being implemented, primarily due to fiscal and resource constraints. I believe that education of the public and proper control of human-derived food, as well as research and training, are integral parts of the comprehensive strategy adopted by the Council and approved by my predecessor. Yet, these areas are either significantly neglected by a lack of personnel or are underfunded. Without adequate implementation of these non-lethal tools, the Policy does not represent a comprehensive approach to black bear management. Further, without adequate implementation and analysis of the effectiveness of these non-lethal tools prior to the occurrence of another bear hunt, the Policy is not consistent with my overall conservation and environmental protection goals related to black bear management, which is that non-lethal methods should be implemented and analyzed before allowing a hunt to proceed. I, therefore, cannot support the Policy, and must withdraw the approval that was given by former Commissioner Campbell.

In withdrawing the approval of the Policy, I note that Governor Corzine is committed to providing funding to the Department to adequately implement the non-lethal tools described above. While these non-lethal elements are being funded, implemented, and analyzed, I will work with the Council in developing a comprehensive black bear management policy which keeps in mind our common goals of protecting public safety and properly managing black bears in New Jersey, and which is consistent with my overall environment policies as they pertain to the management of black bears.

Sincerely,

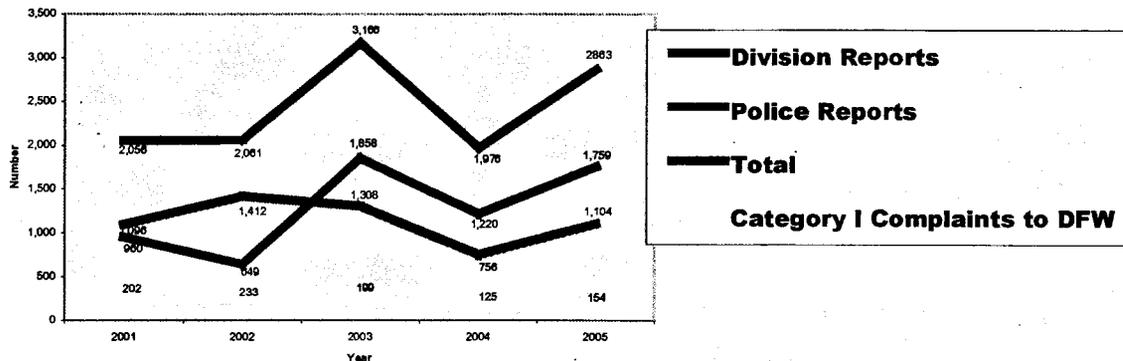
A handwritten signature in black ink, appearing to read 'Lisa P. Jackson', written in a cursive style.

Lisa P. Jackson
Commissioner

IMPACTS OF 2003 AND 2005 HUNT ON BEAR INTRUSIONS

**Number of Black Bear Complaints 1999-2005
Reported to DFW Wildlife Control Unit
From January 1 to December 31
(Only calls received by DFW are represented in this table)**

INCIDENT TYPE	1999	2000	2001	2002	2003	2004	2005
NUISANCE	468	483	357	525	357	229	387
GARBAGE	496	290	269	379	503	282	358
BIRDFEEDER	274	202	137	137	89	59	87
PROTECTED HIVE	4	7	0	2	3	5	2
UNPROTECTED HIVE	19	16	13	24	9	5	9
LIVESTOCK KILL	25	22	36	27	17	24	24
RABBIT KILL	28	38	57	34	38	27	15
UNPROVOKED DOG ATTACK	12	17	6	15	11	5	8
PROVOKED DOG ATTACK	***	***	***	***	22	4	4
HOME ENTRY	29	29	29	55	53	24	29
AGGRESSIVE	34	51	37	28	19	7	21
CAMPSITE / PARK	28	22	5	10	1	3	0
URBAN REMOVAL	10	7	12	19	11	12	38
PROPERTY DAMAGE	232	191	123	111	132	44	83
HUMAN ATTACK	*	*	1	1	2	1	1
ATTEMPTED HOME ENTRY	*	*	5	25	23	10	23
AGRICULTURAL DAMAGE	*	*	5	9	5	10	8
TENT ENTRY	*	*	2	5	4	2	3
VEHICLE ENTRY	*	*	2	6	9	3	4
Total	1,659	1,375	1,096	1,412	1,308	756	1,104



Number of Black Bear Complaints 2001-2006

January 1 to October 26

Reported to DFW Wildlife Control Unit

Only calls received by DFW are represented in this table

INCIDENT TYPE	2001	2002	2003	2004	2005	2006
NUISANCE	193	463	335	214	364	288
GARBAGE	272	348	455	246	340	320
BIRDFEEDER	124	128	88	52	77	86
PROTECTED HIVE	0	1	3	2	0	6
UNPROTECTED HIVE	11	19	8	3	7	13
LIVESTOCK KILL	24	28	15	24	19	16
RABBIT KILL	48	32	34	24	11	8
UNPROVOKED DOG ATTACK	7	10	10	5	8	3
PROVOKED DOG ATTACK	*	11	21	4	1	3
HOME ENTRY	27	54	52	24	28	44
AGGRESSIVE	36	27	18	6	20	13
CAMPSITE / PARK	4	10	1	3	0	2
URBAN REMOVAL	13	19	11	12	33	15
PROPERTY DAMAGE	106	109	120	37	71	54
HUMAN ATTACK	0	2	2	0	1	1
ATTEMPTED HOME ENTRY	4	25	21	8	20	19
AGRICULTURAL DAMAGE	5	9	5	10	6	8
TENT ENTRY	2	5	4	2	3	0
VEHICLE ENTRY	2	6	9	3	3	2
Total	878	1306	1212	679	1012	901

* = new category in 2002