



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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KIM GUADAGNO
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BOB MARTIN
Commissioner

November 22, 2010

Doris Lin, Esq.
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26 Winchester Drive
Freehold, NJ 07728

Dear Ms. Lin:

I write in response to your November 17, 2010 letter requesting a stay of the 2010 New Jersey black bear hunt, which is scheduled to begin December 6, 2010. I have reviewed your request, and I find that it does not provide any basis to stay the hunt, nor does it raise any legitimate questions about the inclusion of a black bear hunt in the State's Comprehensive Black Bear Management Policy (CBBMP). Thus, I deny your request for a stay of the 2010 New Jersey black bear hunt.

Your stay request is based primarily on information submitted to me at our October 4, 2010 meeting. Following that meeting, I and my staff reviewed the issues identified and the information provided. I note that nearly all of these matters were previously raised with the Department, and they are thoroughly addressed in the CBBMP itself, as well as in the adoption document published in the New Jersey Register on November 15, 2010. The only specific information not previously addressed by the Department is the report by Professor Tavss alleging that the Department's black bear complaint data are inflated and inaccurate. Thus, following the October 4th meeting, I directed the Department's Office of Audit to investigate these allegations and to conduct an internal review of the Department's procedures for the collection and reporting of bear complaint data. I have reviewed the results of this review, and I am convinced that the Department's black bear incident report data is accurate and that the information obtained by reports from New Jersey citizens provides a valuable resource that contributes to the Department's black bear management efforts.

The Department's review of its black bear incident data focused on the allegations that the Department's data are inflated by widespread double- or triple-counting of incidents reported to different areas within the Department and to local police departments. As part of this review, the Department reviewed all reports that showed multiple incidents being recorded for the same address on the same day. The Department's review of these records concludes that the vast majority of such reports are accurately recorded as separate incidents. As one such example, the Department's records contain two incident reports from a resident of Branchville, Sussex County on July 7, 2008. The two incident reports demonstrate that this is not an instance of improper double counting of the same incident, but reflects the proper counting of two separate incidents. In the first incident, the homeowner reported a sow and four cubs on the property and, in the second incident, a single bear rummaging through garbage. After identifying these and other reports that represent potential double-counting of same-day/same-location incidents, the Department concluded that such double-counting may affect only a fraction of reported incidents. Specifically, potential double-counting may have occurred in only 24 out of 2,844 recorded

incidents (or .83%) in 2008, and only 13 out of 3,005 recorded incidents (or .43%) in 2009, resulting primarily from duplication of incidents reported both to the Department and to local police departments.

Professor Tavss also questions the accuracy of the Department's bear complaint data because of the significant increase in reported incidents in 2008 and 2009. It is important to point out that, beginning in 2008, the Department changed its procedures for handling incoming black bear incident calls. Prior to 2008, incoming calls were handled primarily by the Division of Fish and Wildlife's (DFW) Wildlife Control Unit. Since mid-2008, the Department has sought to re-direct such incoming calls to its Department-wide Emergency Response Communications Center (ERCC). The ERCC is fully staffed by Department personnel and is the primary contact point for citizens to report all environmental incidents affecting New Jersey, ranging from solid waste violations and air pollution emergencies to incidents in State parks and on State lands. The transfer of bear-incident reporting to the ERCC was done to ensure the efficient collection and accurate documentation of this data, and to increase Department responsiveness to incidents reported by New Jersey citizens.

The Department's transition to the ERCC as the primary contact for reporting black bear incidents is reflected in the Department's collection of black bear incident reports. In 2008, the Department recorded 2,844 bear incident reports – 2,058 (or 72%) of which were received by DFW's Wildlife Control Unit, while 786 (28%) of which were received by DEP's ERCC. By comparison, in 2009, the Department recorded 3,005 recorded bear incident reports, and 2,303 (or 77%) were recorded by DEP's ERCC, while 702 (or 23%) were recorded by DFW's Wildlife Control Unit. I also note that the Department's continuing efforts to increase its responsiveness to citizens seeking to report black bear incidents has occurred in concert with DFW's outreach to municipal police departments to improve local response to and reporting of black bear incidents. And, in 2008 and 2009, municipal police departments reported substantially more black bear incidents to the Department than in prior years.

I believe it is appropriate to address one other issue raised by Professor Tavss – that is, the difference between the total "Bear Calls Received" identified in Table 1 of the CBBMP and the number of "Bear Complaint Calls" identified as "Division Reports" in Figure 2. The difference between these numbers does not support Professor Tavss's contention that the Department's numbers are inaccurate or inconsistent. Rather, the difference arises because the number of "Division Reports" in Figure 2 was generated by totaling Category I and II bear incidents and bird feeding and urban bear complaints from Category III incidents. Other Category III non-complaint calls (sightings, reports of dead bears, etc.) are not included in this figure.

Thus, Professor Tavss's allegations challenging the accuracy of the Department's black bear incident data are unfounded and, quite simply, wrong. Certainly, some of the increase in reported black bear incidents may reflect that the Department's multi-faceted approach to black bear management has produced more and better information that the State now has available to make black bear management decisions. This is fully consistent with the Department's multi-faceted approach to bear management, which, as the CBBMP explains, is not new, but has been ongoing for decades. Over this period, the Department has devoted extraordinary time and resources to education, research, and other initiatives far beyond those of most other states. As a result of these efforts, New Jersey's bear population has been exhaustively studied, and a wealth of information has been obtained to inform the Department's decisions on black bear management.

Among this information is the bear complaint incident data collected by the Department, which show black bear incidents in New Jersey at historically high levels after several years of relatively lower levels in the years following the 2003 and 2005 hunts. I recognize that bear complaints may vary year to year due to environmental and other conditions, yet the current level of bear incidents is additional, powerful evidence of the unassailable fact that New Jersey's black bear population is substantial,

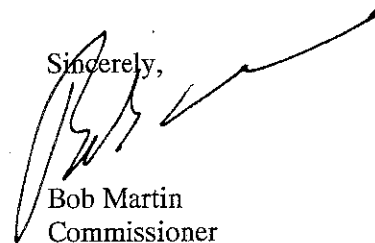
increasing, and expanding. Thus, there can be no reasonable doubt that the State's black bear population can sustain a hunt – thus allowing the Fish and Game Council to fulfill its statutory duties concerning management of State game animals – or that the CBBMP properly includes a black bear hunt to allow better and more sustainable management of the State's black bear population.

Your letter also makes general reference to violations of the Administrative Procedure Act in the adoption of the CBBMP. As you are aware, the Department received over 9,000 comments on the CBBMP, and the focus of the comments, as has been the case with the black bear management debate over the last decade, is on the disagreement over whether to include a black bear hunt in the State's black bear management efforts. These issues concerning hunting, as well as the use of non-lethal management techniques, are thoroughly addressed in both the CBBMP and the adoption document, and I am confident that the CBBMP was properly adopted.

In addition, I have spoken with Acting Council Chairwoman Jeannette Vreeland about the stay request and this letter. She concurs in my decision, although she also explained that a vote of the full Council is needed for any formal Council action, so a special telephonic meeting of the Council will be scheduled for that purpose. I thank Chairwoman Vreeland, the members of the Council, Department staff, and the many other State and local personnel who have contributed to the State's black bear management efforts.

In sum, I remain convinced that a regulated black bear hunt is an important and necessary part of the State's comprehensive approach to the management of its black bear population, and I deny your request to stay the black bear hunt scheduled to begin December 6th.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Martin', with a long horizontal stroke extending to the right.

Bob Martin
Commissioner