



November 29, 2019

Sunset Advisory Commission
Attention: TAHC
P.O. Box 130666
Austin, Texas 78711

Via Email: sunset@sunset.texas.gov

Sunset Advisory Commission:

Please let this letter serve as public input on behalf of the Texas Deer Association (TDA) regarding the Commission's evaluation of the Texas Animal Health Commission (TAHC). The Texas Deer Association strongly believes that improvements to the agency's operations and services would greatly increase the agency's efficiency and effectiveness pertaining to white-tailed deer in captive facilities.

The Texas Deer Association's main objective in the Sunset process is to streamline disease management and response to disease outbreak of captive cervids under the complete jurisdiction of TAHC, thereby resolving the duplication of efforts between TAHC and the Texas Parks and Wildlife Department (TPWD). We believe that TAHC more appropriately and efficiently manages white-tailed deer held in a captive breeding facility and is the more suitable regulatory authority to respond to diseases that impact these animals.

Currently, TAHC and TPWD **both regulate** disease management in captive white-tailed deer. For example, both state agencies attempt to manage Chronic Wasting Disease (CWD). CWD impacts all cervids in the exact same manner; therefore, different authorities should not govern the different species of cervids. TAHC has a more thoughtful, easier to understand, and fair system of surveillance and management of CWD. On the other hand, Texas Parks and Wildlife has a more complicated, cumbersome, and extremely unfair system for surveillance and monitoring of Chronic Wasting Disease.

TAHC should be the sole the regulatory authority involving animal diseases. Direct quotes from the agency's August 2019 Self Evaluation Report:

- "TAHC is the agency directly in charge of many program activities such as tuberculosis and brucellosis eradication, equine infectious anemia, TSEs (CWD, BSE, scrapie), pseudorabies and various poultry diseases."

- “Because CWD has been found in native cervids in Texas, and because CWD threatens the health of susceptible exotic livestock, management of CWD in native cervids falls under the statutory authority of TAHC.”
- “TAHC has veterinarians and veterinary epidemiologists and the knowledge and experience to customize herd plans that effectively mitigate disease. Disease management best fits the mission and expertise of the TAHC.”

TAHC is uniquely equipped to manage, surveil, and respond to all diseases that affect captive white-tailed deer, not just CWD - including fever tick, anthrax, tuberculosis, brucellosis, etc. It is our belief that the Texas Animal Health Commission should have exclusive rulemaking authority over disease management in deer breeding facilities in Texas.

The comments henceforth are arranged in the following sections:

Part I – TAHC Programs

Part II – LBB Report

Part III – Potential Obstacles for Implementation

Part IV – Conclusion

PART I – TAHC Programs

Two major components of TAHC’s mission are (1) “protect the animal industry from, and/or mitigate the effects of domestic foreign and emerging diseases” and (2) “promote and ensure animal health and productivity.” Programs that ensure the agency’s ability to carry out those missions are the Cervid Health, Animal Disease Traceability, Field Operations, Emergency Management, Authorized Personnel Program, Diagnostic Lab and Central Administration. These programs, along with the epidemiological expertise at TAHC, provide for all the necessary resources to adequately administer disease management among cervids. The following is a very brief overview of these programs and departments.

Cervid Health Program

The objective of the Cervid Health Program is to further CWD surveillance in native deer and exotic CWD-susceptible species in order to provide early disease detection and to reduce the risk of introduction and spread of CWD. The program consists of six components including administering and management of the herd certification program, procedures conducted in response to suspicious, trace, and positive herds, entry requirements, surveillance and movement requirements for exotic CWD susceptible species, development and management of CWD movement restriction zones, and administering and management to certify CWD tissue collectors and certified CWD veterinarian training program.

The Cervid Health Program provides effective control over all aspects of CWD. No other state agency can better protect captive wildlife and livestock disease prevention than TAHC.

Animal Disease Traceability

Animal Disease Traceability (ADT), knowing where and when diseased and at-risk animals are or have been, is important to ensuring a rapid response when animal disease events take place. Although ADT does not prevent disease, an efficient and accurate traceability system reduces the number of animals and response time involved in a disease investigation. This program incorporates the latest technology available for animal identification, and field personnel are regularly using the latest identification devices. The program also utilizes records maintenance staff to electronically store data associated with animal identification.

ADT is a sophisticated program that sets TAHC apart from other state regulatory authorities when it comes to disease management. Following new identification laws passed in the 86th Texas Legislature, Texas now has the most robust identification program in the country for captive white-tailed deer.

Field Operations

The field staff are comprised of animal health inspectors, field veterinarians, epidemiologists, and regional directors. The Assistant Executive Director (AED) for Animal Health Programs is responsible for field operations. The AED supervises six regional directors, who are veterinarians. The directors are responsible for both administrative and field activities within their regions. Each region has one or two field veterinarians who assist the regional director with the veterinary components of the program activities in the field. Each region also has one or two supervising inspectors who supervise the livestock inspectors. TAHC inspectors assist veterinarians with testing activities and completing inspections. Each region is supported by an epidemiologist.

Veterinarians are routinely involved in diagnostic and epidemiological activities prior to a definitive diagnosis, including interpretation of lab results and determination of which animals are at risk for spreading disease. The State Epidemiologist and field veterinarian epidemiologists provide epidemiology consultation and oversight to region operations as needed to support the various state and federal disease eradication programs and to support other TAHC disease management programs. Epidemiology responsibilities included, but are not limited to:

- Providing oversight and consulting support related to diagnostic and epidemiological activities prior to definitive diagnosis;
- Interpreting lab results and determining which animals are at risk for spreading disease;

- Coordinating and performing risk analysis in collaboration with field staff, other TAHC staff, USDA, and other entities to evaluate and analyze safeguards to mitigate disease risks to an acceptable level that supports the Texas livestock, poultry, and exotic animal trade;
- Advising agency staff, Commissioners, and industry leadership on emerging and re-emerging livestock disease issues, including recommendations regarding implementation of disease control and eradication methods;
- Providing assistance to field personnel and educational and training experiences to professional, producer, student, and special interest audiences;
- Providing consultation to field veterinarians and area directors regarding program herd procedures and the interpretation of standards and guidelines for classification of test results;
- Identifying and providing recommendations on areas of deficiencies in surveillance, diagnostic, control, eradication, or prevention activities;
- Providing oversight and management of agency CWD activities and serving as liaison with other state and federal agencies with respect to CWD.

The Texas Deer Association is confident that the filed operations division at TAHC has the most appropriate staff to handle all aspects of disease management in captive cervids. Field operations should be science-based and handled by professional epidemiologists or veterinarians. Policymaking and disease management techniques should not be politically motivated. Actual veterinarians and epidemiologists should oversee disease management in all captive animals in Texas. Field staff at other state agencies pale in comparison to the science expertise housed at TAHC.

Emergency Management

TAHC is the state agency responsible for preparing for and responding to emergency situations involving animals. The Emergency Management division ensures the state is prepared for any animal health crisis, including a disease outbreak, a natural disaster, or a man-made disaster.

TAHC is the **lead** state agency responsible for the response to animal disease outbreaks/infestation in Texas. The agency is also tasked as the lead agency for the coordination of animal issues in natural disasters. In both disease outbreaks/infestations and natural disasters, the Emergency Management Department provides subject matter expertise in emergency management principles, which includes planning, communication, coordination with stakeholders and partners, and the organization of a structured response.

As stated in the TAHC Self-Evaluation Report, throughout the 2015 outbreak of CWD in Medina County, “TAHC **led** the response by developing herd plans, initiating traces, and coordinating all disease response activities.” However, even though TAHC led the response, TPWD still issued their own emergency rules that contradicted the TAHC rulemaking for CWD-susceptible species. Both agencies adopted emergency rules in 2015 – again evidencing duplicative rules regarding animal diseases.

When disease outbreaks take place, the Texas Deer Association strongly believes that TAHC is already the supreme authority on all animal diseases. TPWD attempts to co-regulate captive cervids in this situation are inappropriate, duplicative and a drain on the state's resources.

Authorized Personnel Program

The Texas Authorized Personnel Program (TAPP) educates and certifies all Texas veterinarians who wish to engage in an activity that is part of a state or federal disease control or eradication program. TAHC oversees training and certification of lay people or veterinarians that desire to collect approved tissues for CWD testing. This process is housed within TAHC and allows for streamlines that could be better utilized by giving primacy to one state agency.

The Texas Veterinary Medical Diagnostic Laboratory

TAHC's state-federal laboratory provides prompt test result reporting and consistent quality of results. The existence of the diagnostic lab ensures that the agency can efficiently and economically perform laboratory assays with relatively short turnaround times, which is essential to disease diagnosis. TAHC has the capability and capacity to meet diagnostic needs during animal disease outbreaks.

Central Administration / Legal & Compliance Division

The Executive Director/State Veterinarian coordinates animal health programs with industry, the state legislature, other branches of state government, USDA, other branches of the federal government, and Mexico.

Through the Legal & Compliance Division, inspectors have the ability to file a Compliance Action Request. TDA is not interested in seeing TAHC assume the role of investigating and enforcement actions involved in wildlife crimes. TPWD should continue to handle wildlife transgressions; however, TAHC should oversee all disease compliance issues associated with captive cervids.

The Texas Deer Association urges the Sunset Commission to conclude that TAHC has the programs and resources in place to effectively and efficiently regulate disease management in captive white-tailed deer. We ask that the Commission recommend to the Legislature that all disease management authority be homogenized under TAHC authority.

PART II - LBB Report

The April 2019 Legislative Budget Board issued a report to the Legislature over CWD regulations at both TAHC and TPWD. TDA strongly disagrees with many of the conclusions made by the report, but some of the findings are helpful in painting an accurate picture of the duplicative efforts of both state agencies.

According to the LBB report, it is very clear that CWD management responsibilities are primarily under the supervision of TAHC. TWPD merely monitors disease in cervids and other wildlife populations by investigating reports of sick animals and mortalities, as well as testing roadkill, deer exhibiting clinical symptoms of disease, and hunter-harvested deer throughout the state. The report's list of responsibilities for TAHC is far more important and impactful:

- surveillance, which consists of varying levels of disease testing to direct presence of disease, assess its spatial distribution and prevalence, and monitor changes in prevalence and direction of spread contraction
- reporting
- setting testing and record-keeping requirements
- epidemiological investigations to determine the disease source and exposure
- issuing movement restrictions such as hold orders and quarantines
- developing herd plans
- conducting records and premises inspections
- assisting the USDA to gather data for potential federal indemnification of effective herds or animals
- proposing and establishing Texas entry requirements and disease risk zones
- enforcing all TAHC cervid regulations
- sets entry requirements for nonnative cervids
- administers Texas' voluntary native and nonnative herd certification programs for CWD, tuberculosis, and brucellosis and the Certified CWD Postmortem Sample Collector Authorized Personnel Program, which trains nonveterinarians to collect and submit samples for official post-mortem CWD testing in Texas

Statute requires TAHC to assume responsibility for disease control efforts if a conflict of authority exists. The Texas Deer Association firmly believes that disease management should be entirely overseen by TAHC, and that these duplicative efforts merely cost the state money, complicate the myriad of regulations associated with captive cervids and is prejudicial against those in the deer breeder community.

Part III – Potential Obstacles for Implementation

TDA is well aware that there are potential concerns surrounding this transition. The main issues are funding, full-time equivalent (FTE) state employees, and the management of the Texas Wildlife Information Management Services (TWIMS).

Funding & FTEs

TDA's proposal to move all disease regulations of captive cervids will require an increase in funding to TAHC. Equally, funding of these same regulatory strategies at TPWD should be reduced completely. Therefore, there should be no increased funding burden to the state's

budget. In fact, since clear and distinct duplications of authority currently exist, the assumption of regulatory burden would be lessened on the state’s fiscal budget process and regulatory framework if TAHC were granted sole authority over disease management in captive white-tailed deer. TAHC has proven to the Legislature that they can be conservative stewards of their funding. The Texas Deer Association believes that will be the case with this transition, and more importantly, that this transition will lead to a significant cost savings to the state.

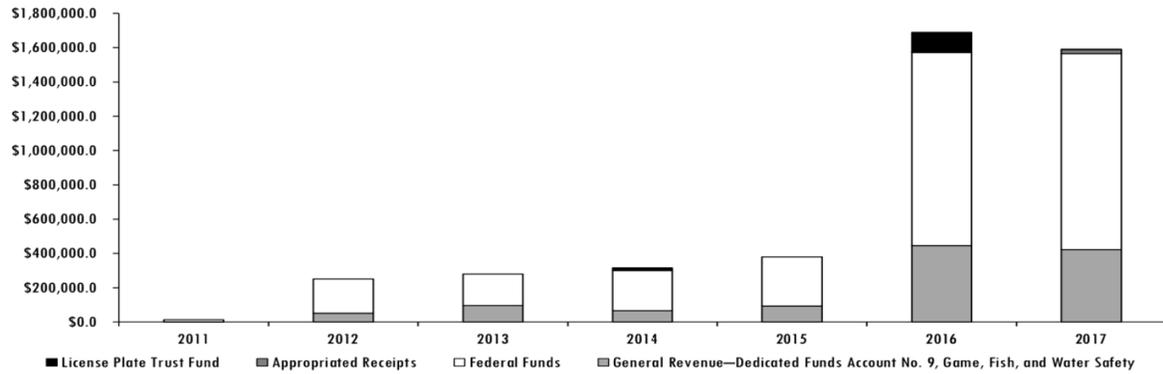
According to Texas Parks and Wildlife’s 2019 Self Evaluation Report, “Department expenditures associated with the management and administration of permitted deer breeding facilities has averaged approximately \$360,000 per year in the last five years.” Even though TAHC should be able to more efficiently administer the programs functions, this is not an overly complicated amount of funding to transition to TAHC.

Table 2. Wildlife and Law Enforcement Expenditures in Administering Deer Breeding Permits

| | AY14 | AY15 | AY16 | AY17 | AY18 |
|--------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Salary – LE | \$180,234.73 | \$177,076.02 | \$188,158.04 | \$69,358.88 | \$132,493.20 |
| Salary – WL | \$195,399.81 | \$172,655.21 | \$226,604.56 | \$229,344.74 | \$194,177.01 |
| Salary – Total | \$375,634.54 | \$349,731.23 | \$414,762.60 | \$298,703.62 | \$326,670.21 |
| Operating – LE | \$428.93 | \$84.50 | \$2,759.66 | \$288.53 | \$114.18 |
| Operating – WL | \$6,268.17 | \$8,290.02 | \$3,309.02 | \$2,793.00 | \$8,182.91 |
| Operating - Total | \$6,697.10 | \$8,374.52 | \$6,068.68 | \$3,081.53 | \$8,297.09 |
| Grand Total | \$382,331.64 | \$358,105.75 | \$420,831.28 | \$301,785.15 | \$334,967.30 |

TPWD claims that from 2011 to 2017, their agency has spent \$4.5 million on CWD-related expenditures. The chart below shows that the majority of these expenditures are financed by federal funds. In order to successfully implement this transition, all federal funding for disease management of captive cervids, especially those used to manage CWD, should transfer from TPWD to TAHC. Furthermore, the breeder permit fees should be paid to TAHC, and no longer to TPWD. TDA believes that TAHC should be allowed to charge fees to pay for the regulatory activities it performs. If the duplicative efforts between TAHC and TPWD are resolved and disease management of captive cervids becomes entirely managed by TAHC, then corresponding fees from that industry is a solution to increased funding concerns. The Texas Deer Association is not attempting to saddle TAHC with an unfunded mandate.

FIGURE 3
TEXAS PARKS AND WILDLIFE DEPARTMENT CHRONIC WASTING DISEASE-RELATED EXPENDITURES
FISCAL YEARS 2011 TO 2017



SOURCE: Texas Parks and Wildlife Department.

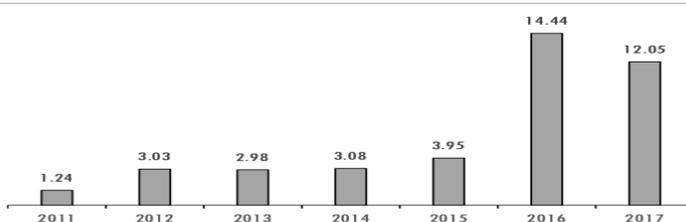
Table 1. TPWD’s Costs to Manage CWD

| CWD Expenditures | FY 14 | FY 15 | FY 16 | FY 17 | FY 18 |
|------------------------|---------------------|---------------------|-----------------------|-----------------------|-----------------------|
| Salary & Fringe | \$133,001.15 | \$236,406.51 | \$1,040,054.87 | \$948,705.84 | \$917,463.86 |
| Operating Expenditures | \$75,784.16 | \$30,147.16 | \$512,269.57 | \$624,636.10 | \$531,514.59 |
| Total | \$208,785.31 | \$266,553.67 | \$1,552,324.44 | \$1,573,341.94 | \$1,448,978.45 |

The Texas Deer Association also supports TAHC’s sunset request of a contingency fund. Disease outbreak can rarely be anticipated in advance. If TAHC believes that a \$1,000,000 contingency fund would alleviate potential disease management issues, then TDA supports that request.

This transition of full authority will require increased FTEs at TAHC; however, we believe that any increases at TAHC can be offset by a reduction in FTEs at TPWD. Thus, there will be no negative impact on the state budget. In fact, there should be a cost savings to the state through the elimination of duplicative efforts and FTEs. The figure below shows the FTEs that TPWD attributed to CWD-related tasks for fiscal years 2011 to 2017. If these numbers are accurate, there would need to be at most 15 additional FTEs appropriated to TAHC, offset by the same amount reduced at TPWD.

FIGURE 4
TEXAS PARKS AND WILDLIFE DEPARTMENT FULL-TIME-EQUIVALENT POSITIONS RELATED TO CHRONIC WASTING DISEASE
FISCAL YEARS 2011 TO 2017



NOTE: Texas Parks and Wildlife staff hours shown are attributed to chronic wasting disease-related tasks in terms of full-time-equivalent positions.

SOURCE: Texas Parks and Wildlife Department.

Management of the Texas Wildlife Information Management Services (TWIMS)

One issue discussed in the Texas Animal Health Commission Self Evaluation Report was the management of Texas Wildlife Information Management Services (TWIMS). TAHC has expressed concern that the agency does not have the resources to manage the entire online system developed by TPWD to store herd inventory data and track individual deer movement permits for the approximately 1300 enrolled breeder deer operations and additional release sites. Current practice is for both TAHC and TPWD to utilize the system. TPWD should continue to remain the administrator of the TWIMS online system due to their oversight of deer that are released to a registered release site.

The Texas Deer Association strongly advises that both agencies have access and management roles in the TWIMS online system. The TWIMS system is the gold-standard for animal traceability of cervids in the United States. TAHC should be allowed to access and administer the identification and movement requirements of captive white-tailed deer in breeding facilities. Correspondingly, TPWD should also have access and traceability measures within TWIMS to ensure adequate oversight of deer that are released into registered release sites. It is imperative for both agencies to track animal identification and movement. There should be no change in funding or management roles pertaining to TWIMS.

PART IV - Conclusion

The issue of captive deer management has been heavily politicized for many years. Science should be the determining factor in this discussion, not politics. The Texas Deer Association believes that TAHC has rules that are fair, simple, and consistent with science. Conversely, TDA believes TPWD has rules that are complicated, overbearing, political in nature, and not equitable for all Texans. The State of Texas cannot wait for the next crisis to solve the issue of duplicative oversight of captive white-tailed deer.

The TAHC Self Evaluation Report states that “to do anything more than disease management would be burdensome and inappropriate.” TDA is not suggesting adding programs or control, but merely housing all disease management regulations under one regulatory authority. Our organization acknowledges that anything more than this would be burdensome and inappropriate.

Furthermore, it is the opinion of the Texas Deer Association that regulations pertaining to white-tailed deer once they are released to a registered release site should be under the control of the Texas Parks and Wildlife Department. Additionally, in our effort to homogenize disease management under TAHC, the Texas Deer Association is not attempting to transfer ownership rights of white-tailed deer in any way.

As evidenced in this public comment, TAHC is uniquely equipped to manage, surveil, and respond to all diseases that affect captive white-tailed deer, not just CWD - including fever tick, anthrax, tuberculosis, brucellosis, etc. It is our belief that the Texas Animal Health

Commission should have exclusive rulemaking authority over disease management in deer breeding facilities in Texas.

Respectfully,

A handwritten signature in black ink that reads "Patrick Tarlton". The signature is written in a cursive, flowing style.

Patrick Tarlton
Executive Director, Texas Deer Association