
Kill Permit Study Report:
VDGIF and Stakeholder Advisory Committee
Conclusions

A Report for

Delegate Harvey B. Morgan, Chairman
House Agriculture, Chesapeake, and Natural Resources Committee



Virginia Department of Game and Inland Fisheries

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EXECUTIVE REVIEW

INTRODUCTION

During the last 15 years (1996–2010), approximately 35,648 kill permits have been issued by the Virginia Department of Game & Inland Fisheries (DGIF) for 23 different species. Deer kill permits represent the large majority of all permits issued (86%). During the last 3 years, an annual average of 3,004 kill permits has been issued to kill an average of 13,804 deer each year. However, almost half (44%) of the permits issued resulted in no deer being killed. At the other extreme, 10% of the kill permittees killed more than 10 deer. On a statewide basis the number of total deer killed on kill permits represents 6% of the hunter harvest. The largest numbers of deer kill permits have been issued for soybeans (20%), shrubs (19%), tree damage (14%), gardens (12%), and corn (12%).

During the last 3 years, an annual average of 170 kill permits has been issued to kill an average of 104 bears each year. Nearly half of the bear kill permits have been issued for corn (48.3%), with livestock (17.1%) and orchards (13.4%) as the next most common agricultural kill permit.

As the agency responsible for issuing kill permits for deer, bear, and other types of wildlife damage, the Virginia Department of Game and Inland Fisheries was given several charges by the Chairman of the House Agriculture, Chesapeake, and Natural Resources Committee to address concerns about the kill permit system and a tabled Senate bill (SB 868 from the 2011 session of the General Assembly) that targeted these concerns. The House Committee Chairman's direction also requested that a panel of stakeholders be formed to help address these charges. The specific questions posed by the Chairman included:

1. Is the issuance of kill permits done efficiently?
2. What steps can be taken to authorize permits in a more timely manner?
3. Does the bill place significant stress on the various herds affected by this measure?
4. If so, to what extent should biological considerations be a factor in the issuance of kill permits?
5. To what extent will this measure result in abuse of current hunting laws?
6. What provisions can be put in place effectively to prevent abuse of the kill permit system?
7. Other issues that may be affected by this bill?

In addition to the House Committee charges, VDGIF established broader objectives to proactively address any other existing kill permit issues in collaboration with the stakeholder panel. Some objectives specifically addressed questions posed by the House Agriculture, Chesapeake, and Natural Resources Committee (*House Committee charge*) while other objectives focused on a more comprehensive look at the current kill permit system. Related to the (A) current kill permit system (per §29.1-529) and (B) proposed changes to the kill permit system (per tabled SB 868), the specific committee objectives were:

- A. Existing Kill Permit System (per §29.1-529):
1. To identify issues and problems with the current kill permit system.
 - a. Among the issues identified will be to determine if the issuance of kill permits is done efficiently (*House Committee charge*) and according to law.
 2. To propose solutions to these issues and problems.
 - a. Solutions that can be accomplished within the framework of §29.1-529.
 - i. Among the solutions proposed will be to identify steps that can be taken to authorize permits in a more timely manner? (*House Committee charge*)
 - b. Solutions that might require changes to the framework of §29.1-529.
- B. Proposed Changes to the Kill Permit System (per tabled SB 868):
1. To determine if SB 868 would place significant stress on the various herds affected by this measure? (*House Committee charge*)
 2. If SB 868 places significant stress on herds, to determine the extent that biological considerations should be a factor in the issuance of kill permits? (*House Committee charge*)
 3. To determine the extent that SB 868 will result in abuse of current hunting laws? (*House Committee charge*)
 4. To determine what provisions can be put in place to effectively prevent abuse of the kill permit system under SB 868? (*House Committee charge*)
 5. To identify other issues affected by SB 868? (*House Committee charge*)

METHODOLOGY

Stakeholder Advisory Committee Work

As part of the charge from the Chairman of the House Agriculture, Chesapeake, and Natural Resources Committee, DGIF convened a Stakeholder Advisory Committee (SAC) to help address the Chairman's questions. The DGIF selected a team of professionals from the Institute for Environmental Negotiation (IEN) at the University of Virginia to provide input into process design and to guide the process as neutral facilitators. Based on the full array of interests that have expressed concern with and have been impacted by the kill permit system, DGIF and IEN staff identified a diverse group of potential stakeholders to participate on the SAC. The final Stakeholder Advisory Committee was comprised of 32 members representing six diverse core interests from agriculture, transportation, timber and other vegetation regeneration, sportsmen, neighboring property owners, and residential neighborhoods.

Between June 14, 2011 and September 20, 2011, the SAC convened for five meetings that progressed through several stages, from information gathering to building consensus recommendations for consideration by the DGIF and the General Assembly. The meetings included presentation of technical background information from DGIF staff and

Responsive Management, SAC issue identification, and committee recommendations of strategies to address issues.

Over 30 issues emerged, and the Committee prioritized the three they felt were most important, as well as the three they felt would be most easily addressed. The process then shifted from understanding the issues to brainstorming recommendations to address the priority issues and other remaining concerns.

Background Information

To establish a factual basis for discussions about kill permits and the kill permit process, DGIF staff compiled background information on deer, bear, and elk (e.g., status, management programs, population objectives, damage issues), human population demographics, and land-use patterns. The history of kill permit changes and patterns of kill permit use in Virginia were also summarized for each species. Including information on the house committee charges, background and biological information were presented to the SAC during their meetings.

To provide an objective assessment of kill permit holder satisfaction levels, as well as identify areas where the kill permit system might be improved, a scientific survey was conducted through Responsive Management. A telephone survey of all individual 2010 kill permit holders (n=2,045) with valid phone numbers (n=1,969) was conducted during June, 2011. Completed interviews were obtained from a total of 1,178 kill permit holders (a response rate of 60%). Responsive Management also presented these findings to the SAC for consideration. The 170-page final report contains details about the survey results. The report can be viewed online at: www.responsivemanagement.com/download/reports/VA_Kill_Permit_Survey_Report.pdf

Final Kill Permit Report Preparation

The final kill permit report was compiled by DGIF. Prepared by IEN, the results of the SAC work are found in Parts 3, 4, and 5. Summaries and agendas for all the SAC meetings (Appendix VII) and the committee evaluation of the process (Appendix VIII) were also prepared by IEN. All other Parts and Appendices were prepared by DGIF. The entire report was available for SAC comment and review before their final meeting.

RESULTS - THE HOUSE COMMITTEE CHARGES

The conclusions that address the specific charges from the House Agriculture, Chesapeake, and Natural Resources Committee are found within Part 2 (Background Materials), Part 4 (Issues Identified by the Committee), Part 5 (Committee Recommendations to Address Issues), and Part 6 (Charges Related to SB 868) of the report. The following sections aggregate these results by the specific charge provided by the House Committee Chair.

Is the issuance of kill permits done efficiently?

The overwhelming majority of people who were issued kill permits for deer and/or bear in 2010 were satisfied with their permits. Among kill permit holders, 94% were satisfied (with 74% very satisfied). Some key findings about efficiency include:

- 93% rated the overall experience of obtaining kill permits in 2010 as *excellent* or *good*, with 66% rating it *excellent*.
- 92% rated the amount of time it took for a Department representative to respond to their initial contact as *excellent* or *good*, with 65% rating it *excellent*.
- 91% rated their experience making initial contact with the Department about obtaining a kill permit as *excellent* or *good*, with 63% rating it *excellent*.

The average wait time for a VDGI representative to respond to an initial request for a kill permit in 2010 was 2.78 days, while the average total time between the initial request and the actual issuance of the kill permit was 4.18 days. About half of the individuals surveyed received their kill permit within 2 days or less.

Despite the high efficiency ratings from the survey, the SAC identified several issues related to efficiency in Part 4 of the report. Efficiency-related issues identified by the SAC included:

- Issue #2, meeting farmers' needs in a timely manner
- Issue #3, need to create a more simple, understandable process
- Issue #5, need to streamline the process for issuing multiple permits
- Issue #7, need to improve options for contacting the VDGI
- Issue #28, need to provide resources for effective administration of kill permits

Meeting farmer's need in a timely manner (Issue #2) was one of the most important issues identified by the SAC.

But at the same time, the SAC also recognized the existing efficiencies and what was working:

- Issue #33, need to acknowledge what is working ("don't fix what is not broken")

What steps can be taken to authorize permits in a more timely manner?

Part 5 of the report provides SAC recommendations to improve the kill permit system to address their identified issues. The SAC recommendations addressed the full range of issues, including those related to efficiency and timeliness. The recommendations relative to the efficiency issues (e.g., issue # 2, 3, 5, 7, 28) include the following suggestions:

- Consider a DGIF homepage for reporting and investigating complaints
- Applicants to receive a response from the DGIF as soon as possible; within 48 hours.

- Establish a process such as pre-registration that encourages applicants who have reason to believe significant damage will occur on their property to contact DGIF in advance of the damage.
- Develop a central communications system (i.e., toll-free phone number; website) that allows an applicant to easily and quickly request a kill permit when damage occurs from deer. The System should provide a confirmation of the request to the applicant for appropriate follow-up and appeals process, if needed.
- Permit will be authorized from the time damage is documented for up to the length of the crop growing season
- Subsequent requests for additional animals on a kill permit during the calendar year will be in set increments of animals.
- These animal increments can be expanded at the discretion of the Department on a case-by-case basis in instances of significant crop damage or large acreage.
- Upon the determination of the Department, based upon herd management and safety concerns, the Department may waive the initial inspection.
- The committee requests that the DGIF develop a process that would enable subsequent requests in the same calendar year for additional animals on a kill permit are handled quickly and simply.
- Subsequent requests in the next calendar year for a kill permit may be reissued immediately upon receipt of request and approval of an agency representative, generally following the same conditions as the previous permit.
- The requirement for hunting in a previous season is appropriate for most agricultural operations, but not for all permits. Land that is *able* to be hunted on must be hunted on before a permit can be issued.
- The Department may inspect the property and or damage as deemed necessary.
- Make information easily accessible by creating a centralized online guide to the Kill Permit system, including information about how documentation of damage can be provided and about options for non-lethal approaches to pest animals.

Does the bill place significant stress on the various herds affected by this measure?

SB 868 has the potential for significant (1) large-scale, statewide population impacts for both deer and bears that could affect CCC population objectives and recreational objectives, (2) local population impacts for deer and bears where “local” areas will be larger for bears than for deer, and (3) impacts on elk restoration efforts in southwestern Virginia.

SB 868 could have a large impact on wildlife populations across entire management units by significantly liberalizing the ability of any agriculture operator to kill deer, elk, and bears. The SB 868 liberalization results from automatically authorizing, without restrictions, the killing of deer, elk, or bear for long periods of time (like 12 months or the growing season); removing the commercial requirement for agriculture; and the removal of non-lethal options. Driven by the liberal use of agricultural kill permits, wildlife populations could be suppressed to levels that preclude the attainment of existing public mandates for cultural carrying capacity (CCC) population objectives and recreational use. With the unregulated killing of antlered bucks under SB 868, the age-structure and numbers of antlered bucks would also be impacted

affecting hunter satisfaction and quality deer management objectives of neighboring landowners and hunt clubs.

The CCC objectives in each management unit reflect the wildlife population desires on behalf of all citizens and are specified in the Deer and Bear Management Plans. Even under the current system, kill permits can have a significant impact by adding another 42%, 55%, and 28% to the hunter kill in Alleghany County, Chesapeake, and Virginia Beach, respectively. Other counties (n=11) have kill permit impacts that add another 10-20% to the hunter kill. The significant liberalization of kill permits would certainly increase these county-wide impacts.

Other local population impacts under SB 868 would likely exacerbate existing concerns with kill permits by affecting wildlife populations in the local area, nearby wildlife users (hunters, wildlife watchers), and neighbors. The local influence of SB 868 would have a differential impact among species due to species-specific differences in population dynamics, movements, and population status. Compared to deer, the impact on bear populations would be more significant over a wider area.

Kill permit use for elk under SB 868 also has some unique biological implications. SB 868 does not make any exceptions for an elk restoration management program where liberal use of kill permits could undermine elk restoration and population objectives.

If so, to what extent should biological considerations be a factor in the issuance of kill permits?

The 2001 Black Bear Management Plan (2001-2010), the revisions to the Black Bear Management Plan (in progress), and the Virginia Deer Management Plan (2006-2015) provide significant public guidance about balancing nuisance concerns with other population and recreation objectives. Developed with comprehensive input from the general public and approved by the VDGIF Board of Directors, these Plans clearly indicate that both deer and bear threats to human safety and damage to property should be reasonably managed, but not at the expense of other public objectives for population size (i.e., CCC) and recreation. Any nuisance management approach (e.g., the use of kill permits) that produces an outcome which disregards other public objectives would not be consistent with the over-arching direction provided by the management plans.

To what extent will this measure result in abuse of current hunting laws?

Although it would be difficult to determine how current hunting laws would be abused with SB 868, several other hunting-related impacts might develop. SB 868 would likely create hunting-related issues such as:

- Especially without prior inspections or other controls, necessary hunting season harvests for management purposes would likely shift into kill permit harvests. These kill permit harvests would not be controlled and could exceed levels necessary to meet

other population management objectives. This could result in reductions to hunting seasons.

- With kill permits generally being issued before the deer and bear hunting seasons and with no restrictions on shooting antlered deer, kill permittees would have first shot at trophy animals possibly resulting in lost opportunities for hunters.
- With liberal and uncontrolled use of kill permits by landowners, hunters on associated adjoining properties might be motivated to violate seasons, bag limits, and other hunting regulations to harvest animals before kill permit users significantly impact populations.

What provisions can be put in place effectively to prevent abuse of the kill permit system?

The passage of SB 868 would greatly liberalize the current Code and has the potential to exacerbate already occurring and perceived abuses in the kill permit system. These include the overharvest of local wildlife populations, harvesting of trophies, and lack of actual damage to commercially produced crops.

In order to prevent potential abuses under SB 868, possible solutions include:

- Add language to require damage inspection/confirmation by VDGIF.
- Remove the liberal authorization for 12 months of killing or *the length of the growing season* (amended bill).
- Ensure qualifying criteria for kill permit issuance for agricultural damage to be defined as Commercial.
- Remove reference to § 3.2-300 (*agriculture operation*) and refine the definition.
- Add provisions for non-lethal management options for both bear and elk in agricultural situations.
- Remove bears from the residential option for kill permits.
- Set Agency-wide standards for minimal damage in all damage situations.
- Add antlered restriction to agriculture damage.
- Keep/allow the unique treatment of different species (e.g., deer, bear, elk).
 - Compared to deer damage, bear damage is relatively minimal (less than 0.2% of farmland in Virginia)
 - Bear and deer have enormous differences in biology, population dynamics, management, and life history. Bear populations are far more sensitive to overharvest than deer and do not rebound as rapidly from population reductions.
 - Bear damage can often be addressed by nonlethal means that ultimately would be more effective than lethal control via kill permits.
 - Restoration of elk populations will require nuisance mitigation approaches that need to be different than those used for deer.

Other issues that may be affected by this bill?

Other general issues with SB 868 include:

- The submitted bill would have allowed year-round (12 months or length of growing season), unregulated, and unlimited killing of bear, deer, and elk without confirmation of damage. Implementation of the original bill would violate the publicly created and VDGIF Board-endorsed Deer and Bear Management Plans, the Elk Restoration Plan, and responsible wildlife management in Virginia.
- The restriction against shooting antlered bucks was also removed, which will affect hunter satisfactions and generally have little population impact for damage control.
- Without inspections for damage, it will be easier to kill animals for motives unrelated to damage (e.g., additional hunting opportunities, selling hunts /access to property, harvest of trophy animals like large-antlered deer and big bears).
- SB 868 removed the nonlethal options for managing wildlife in agricultural operations; this is an especially important issue with regards to bear and elk management where nonlethal damage management might be preferred and/or more effective.
- There would be no oversight to limit unauthorized people from killing deer and bears.
- Increased kill of untargeted animals. This would be especially true for bears where damage by other species is often misidentified by landowners as damage from bears.
- Over- killing animals in a local population.
- Increased farmer/hunter/adjoining landowner conflicts.
- Possibility that farmers or landowners might claim damage before it happened in order to be able to kill any animal that passes through the property.
- Suggesting that kill permits could be issued for common residential bear damage goes against the standard Agency message which is supported by the Black Bear Management Plan where there should be a shared public/private responsibility for preventing bear damage. Calls concerning bears in unsecured trash or eating at birdfeeders comprise about 80% of the annual nuisance complaints. SB 868 suggests that kill permits could be issued for this type of damage which is completely preventable using proper management of trash and bird feeders.
- The definition of agricultural operations as defined in § 3.2-300 is overly broad by including the “production and harvest of products from silviculture activity”. This definition would not only include nurseries and Christmas trees, but would also include any wild forest regeneration and production activity on the landscape. As such deer could be legally killed in any wildland situation where timber production might be an objective.
- SB 868 also eliminates the “commercial” requirement for agricultural operations. As such, any agricultural operation, regardless of the commercial value, would qualify for kill permits.

RESULTS – OTHER COMMITTEE AND STAFF CONCLUSIONS

Other Stakeholder Advisory Committee Conclusions

Additional Issues Identified with the Kill Permit System

In addition to the following efficiency-related issues identified by the Stakeholder Advisory Committee that addressed the House Committee charge,

- Issue #2, meeting farmers’ needs in a timely manner
- Issue #3, need to create a more simple, understandable process
- Issue #5, need to streamline the process for issuing multiple permits
- Issue #7, need to improve options for contacting the VDGIF
- Issue #28, need to provide resources for effective administration of kill permits
- Issue #33, need to acknowledge what is working (“don’t fix what is not broken”)

a number of other issues also were identified and discussed by the SAC. In addition to the efficiency-related issues, the remaining issue list included:

- A. Meeting the Needs of Kill Permit System Applicants and Users -
 - Issue #1: Need to Improve Consistency of the Permitting Process
 - Issue #4: Need to Foster More Transparent Administration of Kill Permits
 - Issue #6: Need to Develop Fall Back Options if a Kill Permit Does Not Eliminate a Pest Problem
- B. Communication with DGIF -
 - Issue #8: Need to Address a Gap in Local Information about the Kill Permit System
 - Issue #9: Need to Better Communicate Conditions of Kill Permits
- C. Accommodating Herd Management, including Hunting -
 - Issue #10: Need to Address the Question of To What Extent Biological Considerations Should be a Factor in Issuance of Kill Permits
 - Issue #11: Need to Clarify the Relationship of the Kill Permit System to Hunting Seasons & Wildlife Management
 - Issue #12: Need to Enable Hunters to Help Reduce Herd Pressure
 - Issue #13: Need to Establish Special/Different Criteria for Elk
 - Issue #14: Need to Support the Reestablishment of Elk Herds in Southwest Virginia
 - Issue #15: Need to Acknowledge a Person’s Responsibility for Damage
- D. Ensuring Safety -
 - Issue #16: Need to Allow for Permit Denial for Safety Reasons
 - Issue #17: Need to Address Safety Concerns
 - Issue #18: Need to Provide Recourse for Neighbors
 - Issue #19: Need to Address Food Safety Concerns (e.g., Fecal Contamination)

E. Broader Understanding of Agriculture -

- Issue #20: Need to Accommodate New Orchards
- Issue #21: Need to Clarify the Definition of Agriculture
- Issue #22: Need to Align Definitions to Cover All Beekeepers (Commercial & Hobbyist)

F. Addressing Abuse -

- Issue #23: Need to Prevent Abuse of the Kill Permitting System
- Issue #24: Need to Promote Ethical Carcass Disposal
- Issue #25: Need to Prevent Illegal Baiting
- Issue #26: Need to Establish an Appeals Process

G. Including Municipalities -

- Issue #27: Need to Include Wording that Covers Municipalities

H. Expanding the System -

- Issue #29: Need to Collect Data to Inform for Future Decision-Making About Kill Permits
- Issue #30: Need to Consider Inclusion of Additional Species in the Kill Permit System
- Issue #31: Need to Expand the Potential of the Kill Permit System (i.e., to Include Natural Resources, Health & Safety, Additional Species)

I. Kill Permit Code -

- Issue #32: Need to Consider the Language of the Code (i.e., Deterrence vs. Shall Issue Kill Permit)

J. Placing Issues in Perspective -

- Issue #34: Need to Stay Focused on the Charge (General Assembly's Charge & VDGI's Broadened Scope)

The three issues of greatest importance to the SAC were:

- Issue #1 - Ensuring consistency in the permitting process.
- Issue #2 - Meeting farmers' needs in a timely manner (one of the efficiency issues).
- Issue #23 - Preventing abuse of the kill permit system.

Through discussion, the SAC decided that a couple of these issues (Issue #25, Issue #32) were either not sufficiently important or appropriate for committee attention and thus were not reflected in their recommendations.

SAC Recommendations to Address Other Issues with the Kill Permit System

In addition to the recommendations and suggestions that addressed the efficiency issues, Part 5 of the report provides SAC recommendations to address these other issues with the kill permit system. The following additional recommendations were provided by the SAC to address the set of issues beyond efficiency and timeliness.

- The Committee recommends that the DGIF develop through the least disruptive means possible a kill permit program that will ensure consistent application of the program and meet the needs of a diverse group of stakeholders including farmers, residential landowners, municipalities and localities, airports, and the hunting community
- The DGIF will make changes through statutory, regulatory, or guidance mechanisms as appropriate.
- The committee intends for its recommendations to provide guidance on the specific areas of the kill permit system that need improvement, and also does not want to weaken what is currently in the Code of Virginia.
- It desires the DGIF to implement the *intent* of its suggestions as expeditiously as possible.
- Permit issuance should take species management plans and specific circumstances of localities into consideration.
- DGIF agrees to include KP system data in annual species reports as well as produce a semi-annual progress report to the Committee.
- The committee's intent is that the DGIF shall make the filing of complaints and inquiry about complaints a streamlined and easy process.
- The committee strongly recommends that meat from animals killed on kill permits be used and not be wasted and that carcasses be disposed of properly whenever practical and safe.
- The committee recommends that the DGIF create a definition in its operating procedures for commercial agriculture that is clearer than is currently found in the Code.
 - Commercial agricultural production is defined by the definition of agricultural production, with clarification as needed: *"Agricultural production" means any operation devoted to the production of crops, including honey; or animals, including bees or fowl; or including the production of fruits and vegetables of all kinds; or meat, dairy, and poultry products, nuts, tobacco, nursery, and floral products; and early stage production of trees. (21) (22).*
- If it is the determination of the DGIF that a person is planting a food crop to attract wildlife for hunting purposes, and not for production, he or she will not be given a kill permit.
- If an individual has been denied the initial Kill Permit, he/she can file an appeal with the Department Director or his/her representative outlining the reasons he/she believes that his/her kill permit request was wrongfully denied.
- The Committee would like the Department to develop a formal appeals process that may have these components:
 - The Director or his/her representative must initially respond and address their appeal without undue delay, and with a formal written response no later than 5 days from written notification of appeal, giving the reasons for either upholding the initial denial or reasons for overriding the denial.
 - All appeals will become part of a permanent record.
- All current enforcement mechanisms will remain in place as established by §29.1-529 F.
- While the recommendations focus on improving agricultural permits, it also suggests that the DGIF may wish to develop a similar process for residential permits, where appropriate.

- To be used for antlerless deer unless the Department finds clear and convincing evidence that an antlered deer is the cause of the damage, in which case a waiver to this requirement shall be granted.
- Educate applicants who have property upon which damage is occurring to allow hunting or other control measures.
- A kill permit shall not be in effect when a hunting season is open for the species for which the permit is issued (not to include chase season for bears) and will expire no later than the first day of hunting season. Upon the discretion of the Department, this requirement can be waived on a case-by-case basis if deemed necessary to address significant damage, emergencies, or other extenuating circumstances.
- If an applicant does not receive a response within 48 hours, then this applicant may use the Appeal Process.
- A reporting system will be developed to allow reporting of harvested animals by kill permit holders or others designated on their permit at the end of the permit. This reporting system will support a complaint system that is available to permit holders, the public, and law enforcement.
- The Department maintains the ability to extend the amount of animals authorized on subsequent requests.
- The Committee recommends a Code Change that will allow Elk to be addressed in the Kill Permit system for the purposes of controlling damage. The Committee proposes that the word “elk” be added to accompany the mention of “bear” in the relevant existing Code (specifically 29.1-529).
- The Department can, based upon herd management objectives and wildlife recommendations, authorize non-lethal control measures in lieu of a kill permit for elk and bears.
- Non-lethal capture methods for elk and bears should include every effort to tag the animal.
- If an applicant has damage from elk to their property in and outside the management area from the same tagged animal that has been captured three consecutive times, the DGIF or its designee is authorized to kill the animal and report the kill to the Department.
- Outside the management area, nonlethal measures for elk are a first resort.
- Within the Elk Restoration Area, all practical non-lethal methods should first be exhausted. If all non-lethal methods are not effective, it is preferred that DGIF Staff or their agent will lethally remove the elk.
- DGIF should provide general education to potential permittees and the public about the KP system and about abuse of the system.
- Create general safety standards as part of DGIF’s Standard Operating Procedures (SOP). Safety concerns, in general, should be a guidance recommendation to CPOs via the SOP.
- In addition, the Committee wanted it noted as part of this report that it held a conversation on the issue of spotlighting, but did not develop consensus recommendations on this issue. *The Committee wishes to highlight spotlighting to kill trophy bucks (where not permitted) as an illegal, serious abuse that the Department should attempt to address with a serious penalty.*
- To assist future decision-making about the KP system, the DGIF should collect any new

biological data in such a way as to enhance its future management system, as well as KP data including but not limited to the following:

- Permits issued versus requested.
- Permits denied and reasons for denial.
- Violations that occur within the life of the permit, by participant.
- Where and when appropriate, expand kill permit potential to include damage to natural resources, health and safety (e.g., fecal contamination), etc.
 - DGIF develop a policy of interpretation of “crop damage,” specifically to expand the definition to include, for example, crops that are no longer saleable because of fecal contamination. DGIF should keep consistent definitions of crop damage in the program and this definition should continue to evolve to reflect evolving conditions.
- The Committee felt that the DGIF should have the authority to determine other contexts in which a kill permit would be necessary.
- In residentially zoned areas, the DGIF will encourage permittees to notify their neighbors.

Other DGIF Conclusions and Responses

Additional DGIF Recommendations for the Kill Permit System

A seemingly overlooked result from the survey of 2010 kill permit holders was the relatively low satisfaction rating respondents had regarding (1) the number of deer/bear the kill permit holder actually killed on the permit(s) and (2) the relief from damage the permit holder obtained with the kill permit. Kill permit holders were generally very pleased about the specific kill permit details, with 80-90% rating the details as excellent or good (e.g., persons named on the kill permit, willingness of the Department to assist with the damage, shooting restrictions for the kill permit, number of deer allowed on the kill permit, time of day restrictions on shooting, carcass disposal restrictions, number of days authorized on the kill permit). However, the number of deer/bear the kill permit holder actually killed on the permit(s) and the relief from damage obtained from the kill permit had notably smaller percentages of *excellent* or *good* responses (62-63% for deer and 48-59% for bears).

The lower satisfaction associated with the number of deer/bear actually killed on the kill permit probably has more to do with the user execution of kill permits than with the administrative limitations placed on them by DGIF. With the most common reason for not killing deer or bears on their kill permits being that they tried to kill, but were simply unsuccessful, it is not surprising that almost half (44%) of the deer permits resulted in no deer being killed. Clearly, just having an acceptable and satisfactory kill permit is no guarantee that depredating deer or bears can even be killed; implementation and execution are not necessarily easy to accomplish. Because there is more room for improved satisfactions, kill permit users might benefit more from additional training and education about how to actually kill depredating animals than by making additional changes to other kill permit processes.

DGIF Response to Recommendations

Recognizing that satisfaction levels with the current kill permit system are already very high for current users (94% are at least satisfied, with 74% being very satisfied), additional improvements may still be made per the recommendations of the Stakeholder Advisory Committee. Virtually all the SAC recommendations to improve efficiency and to address other issues can be implemented by VDGIF. In fact, many of the recommendations are already aspects of the existing kill permit system or are in the process of being implemented. Without compromising the existing satisfactions with the current kill permit processes, the VDGIF will implement the intent and/or specific recommendations to address the remaining issues as soon as possible within budgetary, programmatic, and administrative constraints.

PART 1: INTRODUCTION AND COMMITTEE CHARGE

The Virginia Department of Game and Inland Fisheries (VDGIF) is responsible for issuing kill permits for deer, bear, and other types of wildlife damage under the authority of the Code of Virginia (COV §29.1-529) (Appendix I). Originally enacted by the Virginia General Assembly in 1940, COV §29.1-529 and kill permits have had a long history of controversy and change. Some 27 changes have been made to §29.1-529 since 1950, with 14 changes since 1994.

Concerns from some agricultural kill permit holders about the current kill permit processes spawned a Senate bill (SB 868) during the 2011 session of the General Assembly to address perceived problems by amending §29.1-529 (Appendix II,III). After being passed by the Senate, the bill was referred to the House Committee on Agriculture, Chesapeake and Natural Resources. While under review in the House Committee, SB 868 generated objections from other citizens and sportsmen and the bill was tabled. Concurrent with tabling the bill, the Chairman of the House Agriculture, Chesapeake, and Natural Resources Committee charged the Department of Game & Inland Fisheries to answer particular questions about kill permits and SB 868 impacts (Appendix IV). The Chairman's charge also requested that a panel of stakeholders be formed to help address these charges with a report due to the Chairman by October 1, 2011. The Chairman later extended this deadline to October 8, 2011.

To address the House Committee charge, VDGIF established specific objectives related to: (A) the current kill permit system (per §29.1-529) and (B) proposed changes to the kill permit system (per tabled SB 868). Some objectives specifically addressed questions posed by the House Agriculture, Chesapeake, and Natural Resources Committee (*House Committee charge*) while other objectives focused on a more comprehensive look at the current kill permit system. The objectives were:

A. Existing Kill Permit System (per §29.1-529):

3. To identify issues and problems with the current kill permit system.
 - a. Among the issues identified will be to determine if the issuance of kill permits is done efficiently (*House Committee charge*) and according to law.
4. To propose solutions to these issues and problems.
 - a. Solutions that can be accomplished within the framework of §29.1-529.
 - i. Among the solutions proposed will be to identify steps that can be taken to authorize permits in a more timely manner? (*House Committee charge*)
 - b. Solutions that might require changes to the framework of §29.1-529.

B. Proposed Changes to the Kill Permit System (per tabled SB 868):

6. To determine if SB 868 would place significant stress on the various herds affected by this measure. (*House Committee charge*)

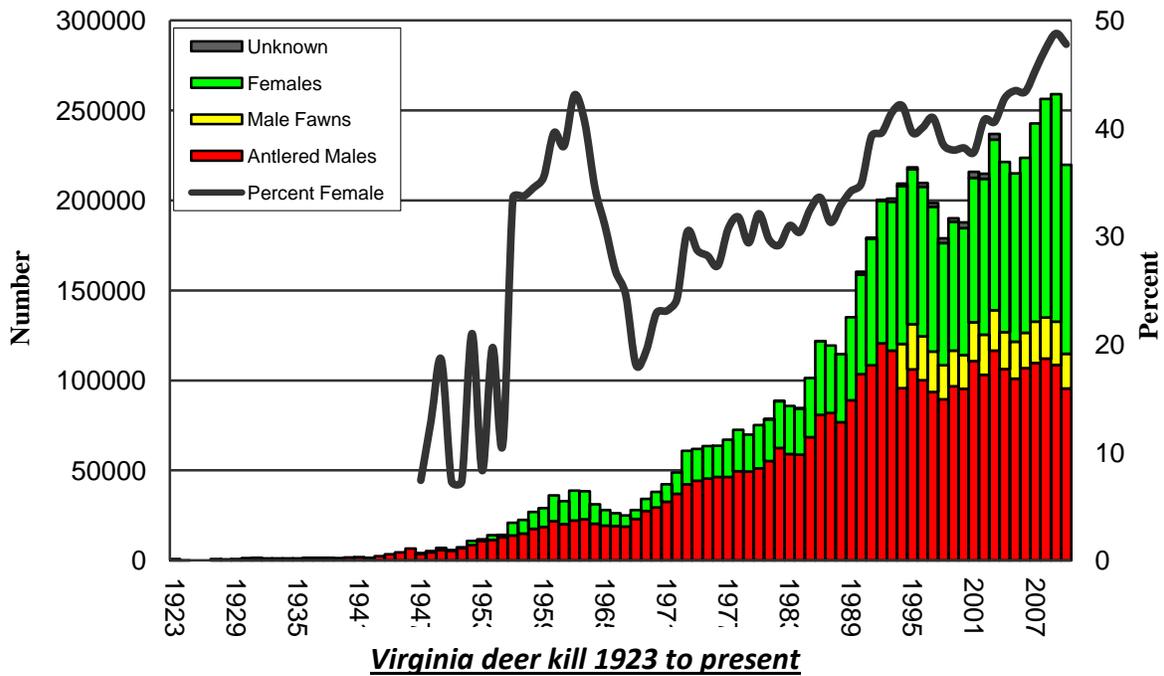
7. If SB 868 places significant stress on herds, to determine the extent that biological considerations should be a factor in the issuance of kill permits. (*House Committee charge*)
8. To determine the extent that SB 868 will result in abuse of current hunting laws. (*House Committee charge*)
9. To determine what provisions can be put in place to effectively prevent abuse of the kill permit system under SB 868. (*House Committee charge*)
10. To identify other issues affected by SB 868. (*House Committee charge*)

PART 2: BACKGROUND MATERIALS

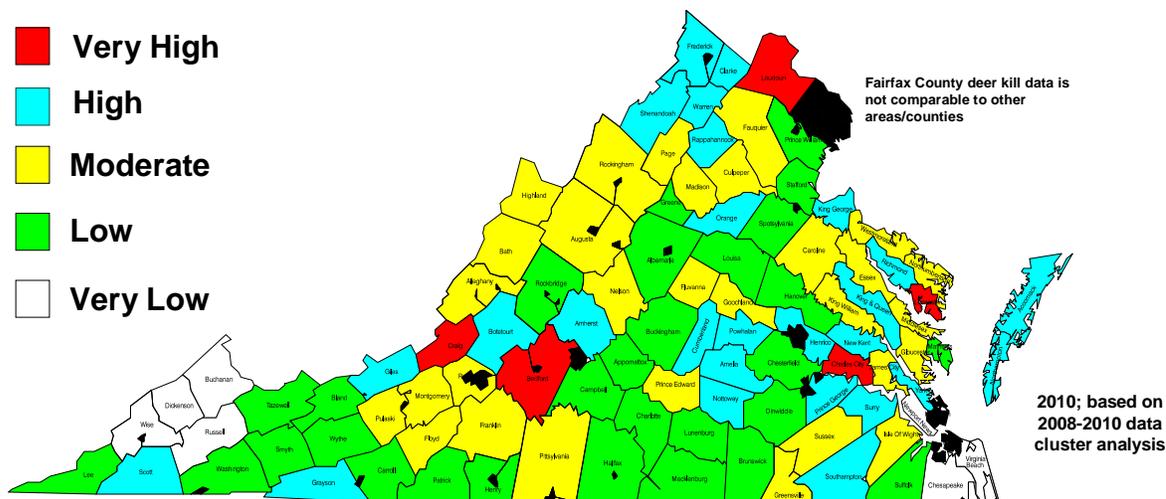
DEER PROGRAM AND MANAGEMENT BACKGROUND

Deer Population Status

White-tailed deer (*Odocoileus virginianus*) garner more interest than any other wildlife species in Virginia. Deer were plentiful and widespread when Jamestown was settled in 1607. By 1900, over-harvest of deer for food and hides had nearly extirpated the species. Since the 1930s, Virginia's deer population has rebounded as a result of protective game laws, restocking of deer into areas where they were absent, and land use changes. Since the early 1990s, deer management objectives have switched from restoring and increasing to controlling and stabilizing populations over much of the Commonwealth. Today, hunters are the primary management tool and harvest some 250,000 deer annually.



Deer occur throughout Virginia, but population densities vary from area to area.



2010 private land relative deer population abundance by management unit

Deer Management Plan

The Virginia Deer Management Plan guides deer management across the Commonwealth. The plan describes the history of white-tailed deer management, current status (supply and demand) of the deer resource and management programs, and the future of the deer management program in Virginia. The plan identifies a framework of what needs to be done, how it should be done, and when it should be done. Guided by the VDGIF mission statement, the Virginia Deer Management Plan includes 4 goals which specify the general directions for: (1) deer populations, (2) deer habitat, (3) deer damage, and (4) deer-related recreation. Specific objectives help guide the attainment of each goal. Preferred strategies clarify how each objective should be achieved. By clarifying goals and directions of deer management, this plan will assist the VDGIF Board of Directors, VDGIF administrators and staff, and the public in addressing deer issues.

The plan can be found at: <http://www.dgif.virginia.gov/wildlife/deer/management-plan/>

The Virginia Deer Management Plan contains goals that reflect the values of a diverse public and are broad statements of principles and ideals about *what* should be accomplished with deer management in Virginia. These guiding public values represent the underpinning for deer management in Virginia. Important goals for deer management in Virginia include:

Population Goal. *Manage local deer populations as a public resource using innovative, flexible, publicly accepted, and technically sound practices that balance:*

- *the varied needs and expectations of a diverse community (cultural carrying capacity)*

- *the requirements of a biologically diverse ecosystem*
- *the anticipated future social/ecosystem demands.*

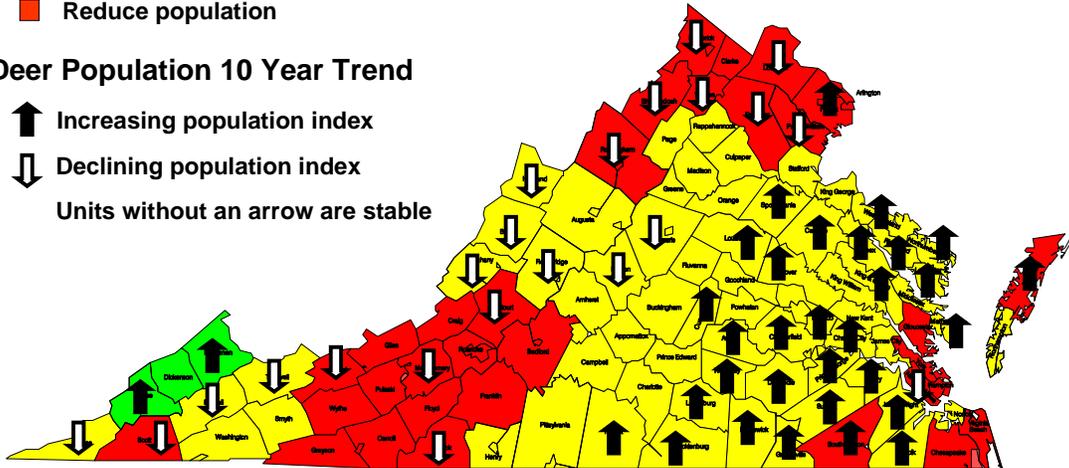
The specific deer population objectives and trends are:

Deer Population Objective

- Increase population
- Stabilize population
- Reduce population

Deer Population 10 Year Trend

- ↑ Increasing population index
- ↓ Declining population index
- Units without an arrow are stable



2010 private land deer population status by management unit (10 year trend)

Recreation Goal. Provide opportunities for all citizens to safely and ethically enjoy diverse deer-related recreational experiences and traditions (including observation and hunting) consistent with deer population and damage goals.

With about 250,000 hunters hunting about 3 million man-days annually, deer are Virginia’s most popular game species. Hunters in Virginia annually expend \$321 million to hunt all species. Also, more trips are taken by Virginia citizens to view deer than for any other species. About \$789 million is spent annually in VA for wildlife watching.

Damage Goal. Proactively manage deer impacts on a local basis consistent with deer population objectives and acceptable levels of damage. Manage agricultural, urban, ecosystem, vehicular, forestry, animal health, human health and safety, and other impacts caused by deer. Deer damage management should use diverse approaches and promote personal and community responsibility.

Deer Damage in Virginia

Most changes in deer management direction that have taken place over the past decade can be attributed to deer damage demands. Examples of damage demands commonly associated with deer management in Virginia include deer crop depredation, deer-vehicle collisions, and residential deer conflicts.

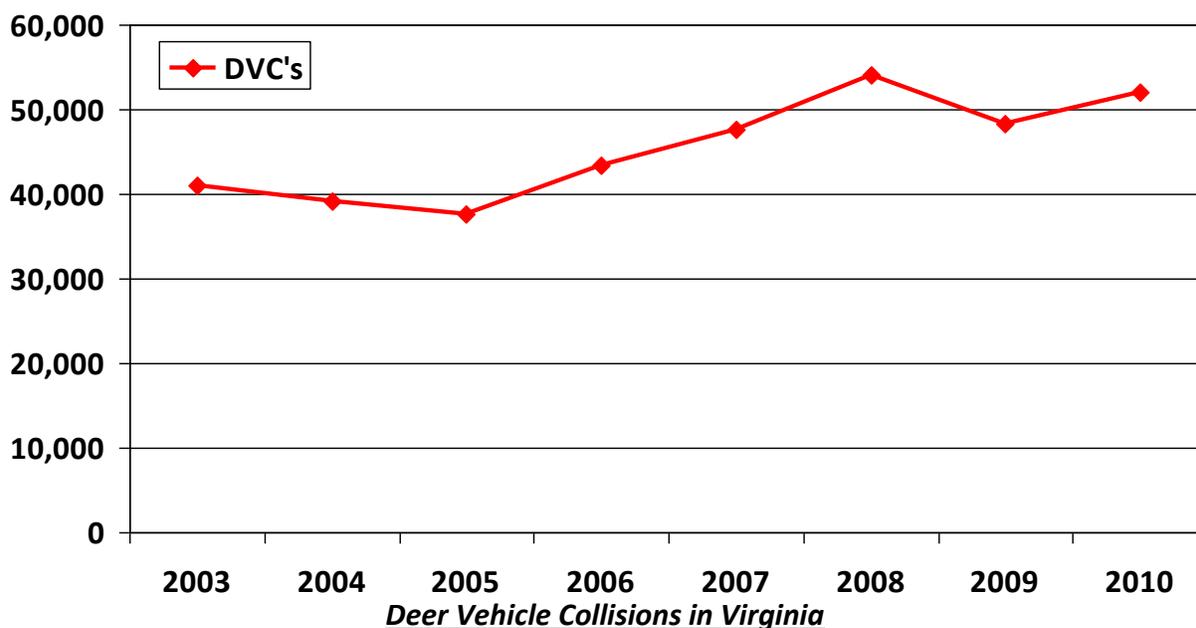
Deer Crop Damage. Reliable estimates of crop damage are difficult to obtain. During 1992, a

VDGIF Deer Damage House Resolution Study estimated \$11.4 million in agricultural crop damage caused by deer in Virginia. The majority of damage was to soybeans (\$6.3 million), peanuts (\$2.0 million), and orchards (\$1.9 million). A 1996 VDHA study in Virginia found that producers of forage crops typically reported less severe damage than found in soybeans, peanuts, or orchards.

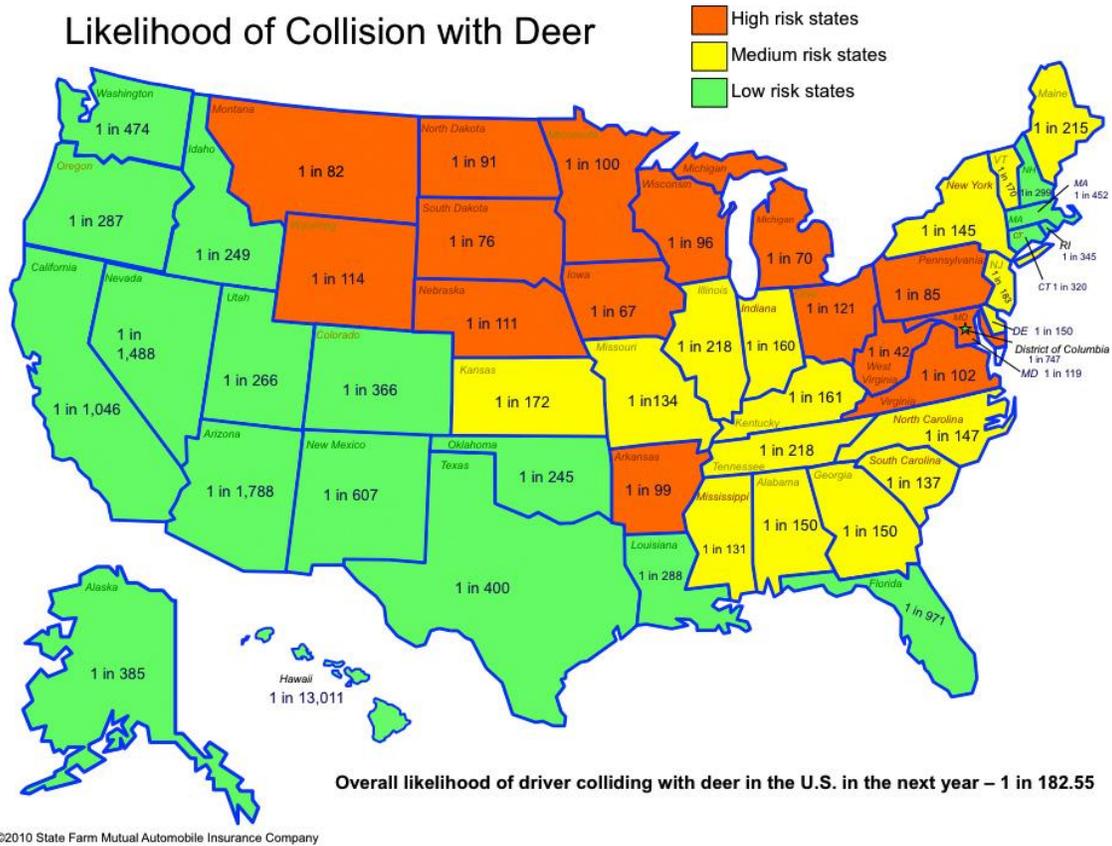
A 2009 survey of North Carolina growers' perceptions of wildlife damage to corn, peanut, and soybean crops estimated monetary losses of 1.5%, 2%, and 3% of these crops estimated total value for the state. Other studies (NC, IN, MN) comparing growers' damage estimates to verified crop losses indicate that growers overestimate (2X) monetary losses attributable to wildlife and can misidentify the species responsible for damage (e.g. raccoon vs. deer).

Deer were the most commonly reported species to cause a nuisance for large Virginia landowners. Nearly 30% of Virginia landowners owning > 40 acres reported property damage from deer in 2000. However, more than 50% of people with deer damage considered the damage to be slight and most landowners (63%) enjoyed seeing and having deer around. Only 4% indicated that they generally regarded deer as a nuisance.

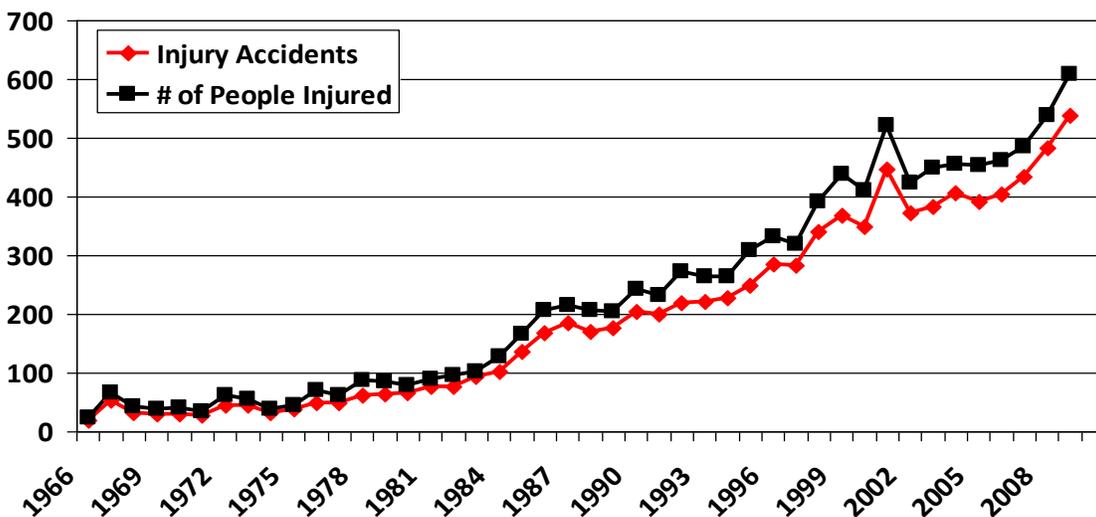
Deer-Vehicle Collisions. With an annual average of 45,440 deer-vehicle collisions since 2003, nearly 52,000 deer-vehicle collisions occurred in Virginia during 2010.



Considered a high-risk state for deer vehicle collisions, the overall likelihood of a driver colliding with a deer in Virginia is 1 in 102.



The number of people injured in deer collision accidents has increased significantly since the 1960s. In recent years, 500-600 people have been annually injured in deer-vehicle accidents with 3-6 people being killed each year.



Residential Deer Conflicts. Urban and residential deer conflicts are one of the fastest growing deer management issues in Virginia. Management of deer in urban environments often involves deer populations that traditionally have not been hunted, that occur in residential areas, and that have experienced significant population growth, all of which can create the potential for damage to ornamental plants and property. In a 2005 survey of Virginia citizens (Responsive Management) 23% of Virginians reported problems with wild animals within the past 2 years and the largest number of problems (49%) were caused by deer. The most common kind of problem was damage to yards (37%) and gardens (34%).

Deer Management Programs

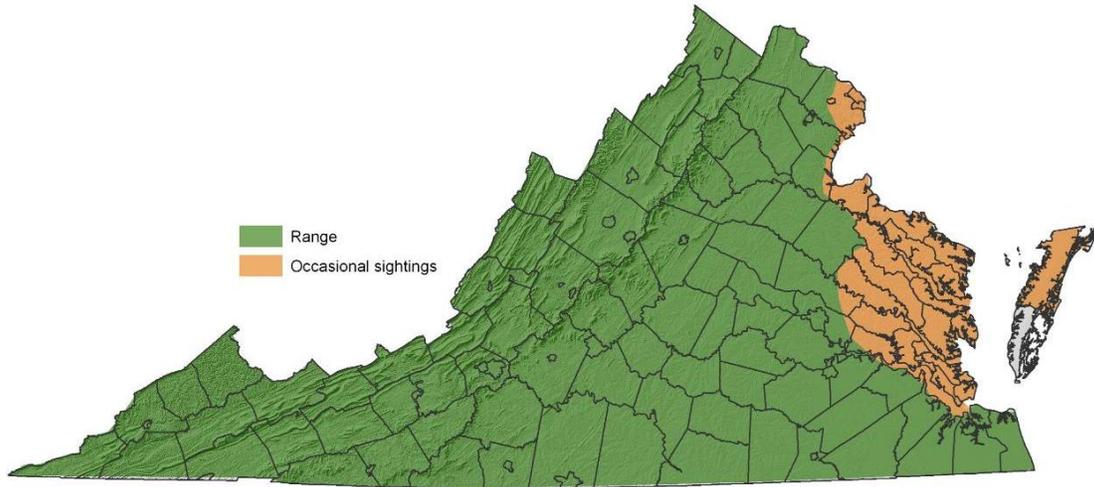
In order to address deer population management, recreation, and damage needs, the VDGIF has implemented a diversity of deer management programs to meet both large-scale and site-specific objectives and needs. Hunting seasons in Virginia are among the most liberal in the country. For example, some areas of Virginia have a deer season that is antlerless full season and runs from Sept 3 – Mar 31. Virginia's deer management programs include:

- Deer Harvest Regulations
 - Antlerless seasons
 - Bonus Tags
 - Quality Deer Management Regulations
 - Earn-a-Buck
- Deer Management Assistance Program (DMAP)
- Damage Control Assistance Program (DCAP)
- Kill Permits
- Deer Population Reduction Program (DPOP)
- Urban Archery Season

BEAR PROGRAM AND MANAGEMENT BACKGROUND

Bear Population Status

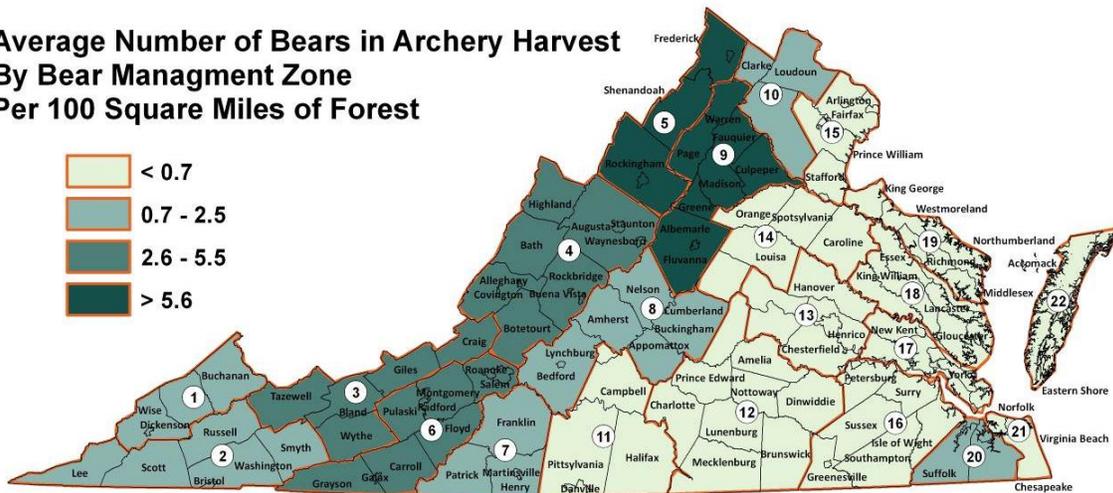
Black bear populations have increased significantly in Virginia during the past quarter century. Harvest management controls, reforestation, public land purchases, oak forest maturation, bear restoration efforts and natural range expansions have all contributed to bear population growth in Virginia. At present, bear populations in Virginia are established across most of the state and bears may occasionally be seen in almost any county.



Current black bear distribution in Virginia with counties experiencing occasional sightings.

However, based on the relative archery harvest as an index of population density, the largest bear densities are found primarily in and around the Great Dismal Swamp National Wildlife Refuge in southeastern Virginia, along the Blue Ridge Mountains, and in the Allegheny Mountains.

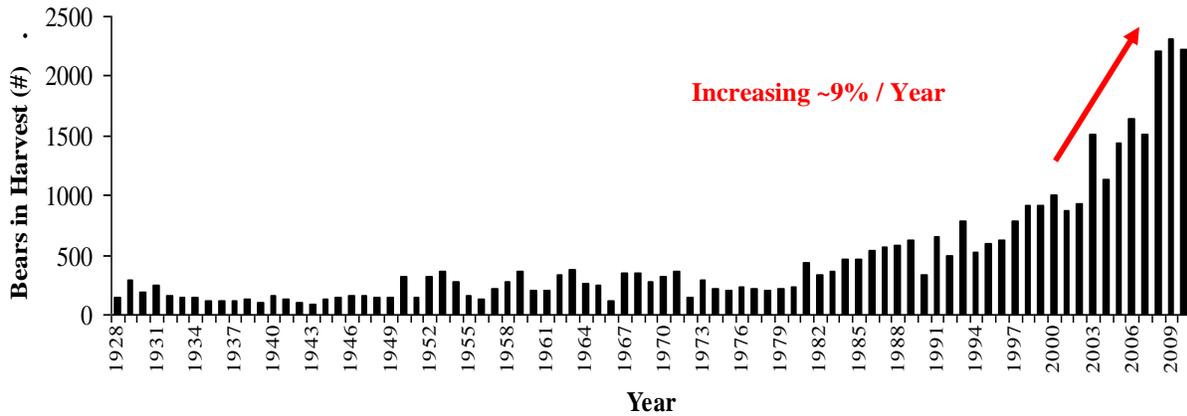
Average Number of Bears in Archery Harvest By Bear Management Zone Per 100 Square Miles of Forest



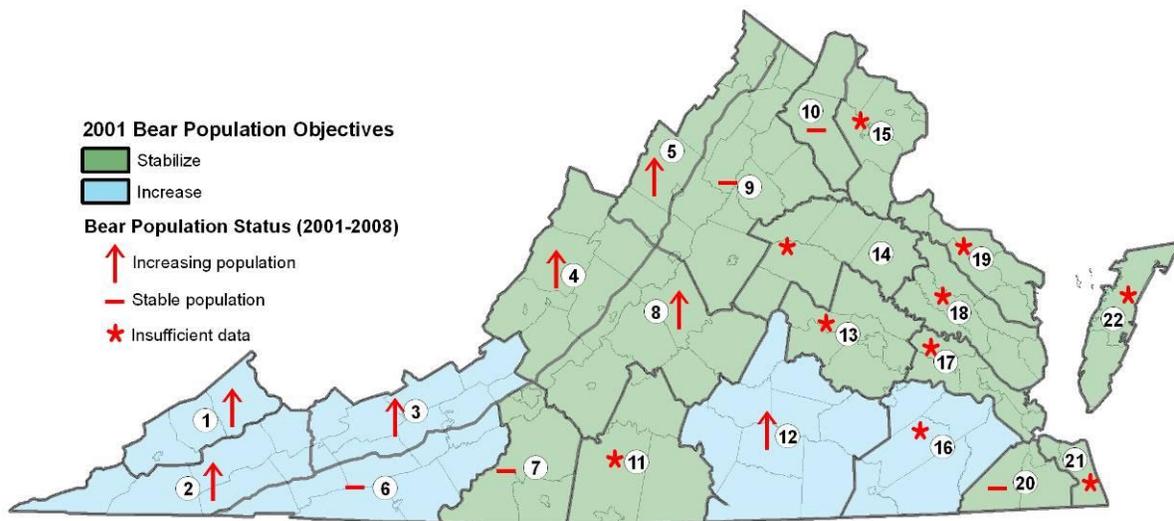
No economically practical methods exist to accurately and precisely estimate black bear population size in Virginia. Bear population status (trends and relative density) is primarily determined by monitoring indices derived from harvest and age structure. Harvest trends have

indicated significant increases since 1974 when hunting regulations were changed to reduce the hunting mortality on adult females. Consistent with this harvest trend, over 2,300 black bears have been annually harvested by black bear hunters during recent years. Since 2001, trends in harvest and population modeling suggest that the statewide bear population has been increasing at about 9% annually.

Statewide Virginia Black Bear Harvest



The most significant recent increases in bear populations have been found in the Allegheny Mountains and in the southern Piedmont, while populations around the Shenandoah National Park have remained relatively stable.



Bear Management Plan

The Virginia Black Bear Management Plan serves as a blueprint for black bear management across the Commonwealth. The Plan includes sections on black bear life history, program history in Virginia, program status (supply and demand), management options, and program goals and objectives. Guided by the VDGIF mission statement, the Virginia Black Bear

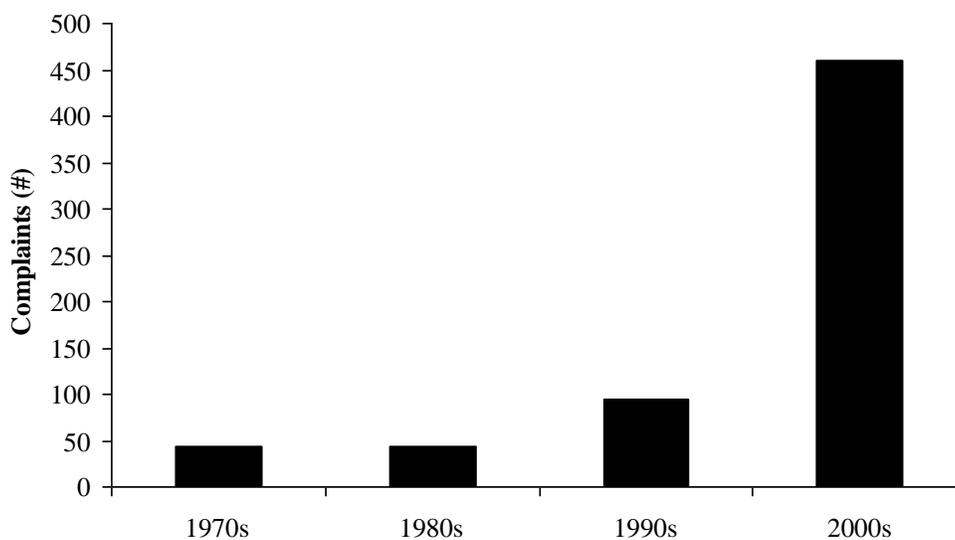
muzzleloader, gun, and dog hunters) in Virginia who hunt about 150,000 man-days annually. Other surveys show that black bears are second only to eagles and hawks as the animals Virginians are most interested in taking a trip to see.

***Human-Bear Problems Goal.** Promote human safety and protect personal income and property in attaining black bear population and recreation objectives in Virginia.*

Preliminary damage goals for the plan revision include the following values: (1) Promote human safety and recreational opportunities while reasonably mitigating loss of personal property and income. (2) Encourage private as well as government responsibility by providing collaborative and consistent conflict resolution. (3) Use hunting as a preferred method to manage problem bears.

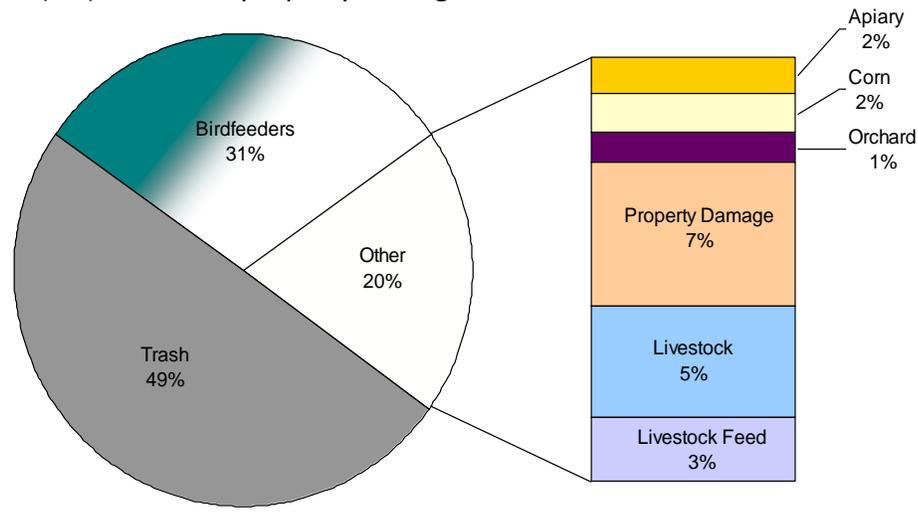
Bear Damage in Virginia

Concurrent with the growing bear populations, problems associated with bears also have been increasing with about 500 calls annually in recent years.



Average number of bear related complaints by decade (1970 – 2009).

Diverse bear-related problems can impact both residential and agricultural areas. Most bear complaints (80%) in Virginia have been for trash and bird feeders, followed by agricultural (13%), and other (7%) issues like property damage.



Average percent and type of annual complaints about bears.

In developed or residential areas, problems with bears often center on damage to bird feeders, scavenging garbage cans, feeding on pet food, foraging at garbage dumps, and simple public sightings. Agricultural problems include destruction of beehives, destroying crops (e.g., corn, fruit trees), feeding on grain at livestock feeders, damage to trees and occasional killing of livestock. With its combination of rural and urban environments in close proximity to bear habitat, any of these problems can occur almost anywhere in Virginia.

Residential bear concerns. Based on a 2010 survey (Responsive Management 2010), 11% of Virginia citizens felt that bears were a problem in their neighborhood. Over the last 2 years, 2% of Virginia residents had actually experienced a problem with a bear.

The most common bear problems for the 2010 survey respondents were bears getting into garbage (31%), damaging birdfeeders (29%) and getting into the garden (21%).

Bear vehicle collisions. Bear-vehicle collisions have become more of a concern with expanding bear populations and increased traffic volumes. A minimum average of 30 bear-vehicle collisions occurs annually statewide, but an unknown number remain unreported. Since the 1970's, there have been over 600 reports of bears killed as a result of vehicle strikes; over a third of these occurred within the last 10 years.

Agricultural bear damage. Agricultural concerns include damage to field and sweet corn, peanuts, beehives, orchards (peach, apple, cherry) and killing of livestock (goats, sheep, cattle, chickens, hogs). While annual fluctuations can be significant, damage to corn has been typically the most common agricultural complaint (27.2% of agricultural complaints), followed by livestock (22.2%), livestock feed (17.8%), damage to apiaries (17.4%), and orchards (15.3%) during 2001 through 2009

Agricultural producers often request assistance from the VDGI for nuisance bear problems. Assistance is provided in the form of education, assistance with exclusion devices, or issuance of kill permits.

Bear Management Programs

In order to address bear population management, recreation, and damage needs, the VDGI has a variety of bear management programs to meet both large-scale and site-specific objectives and needs. Hunting seasons have the biggest influence on region-wide population levels, but a number of other local management options are also available to landowners. Virginia's bear management programs include:

- Bear Hunting Regulations
- Special Hunting Programs (DMAP)
- Kill Permits
- Bear Population Reduction Program (BPOP)
- Capture and Kill
- Non-lethal options (provided by or in consultation with VDGI staff)
 - Education
 - Exclusion (fencing)
 - Repellants (noise, guard animals)
 - Aversive Conditioning (e.g., harassment, pepper spray)
 - Capture and Release or Relocation

ELK PROGRAM AND MANAGEMENT BACKGROUND

Elk Population Status

Elk are a native wildlife species historically found throughout the western two-thirds of Virginia. However, factors such as habitat loss and unregulated hunting caused elk to become extirpated by the late 1800s. Several attempts at elk restoration during the early to mid-1900's failed due to factors such as disease, unsustainable harvest levels, removal of crop-depredating elk, and isolation of small, unsustainable herds on limited ranges. By 1970, elk once again were gone from Virginia. Having moved into the state following releases in Kentucky between 1998 and 2002, the current number of elk in southwest Virginia is unknown, but may number 50-100.

Elk Damage in Virginia

Current damage problems from elk are minimal due to the low populations. Potential agricultural damage caused by elk could include: foraging/trampling crops directly, competition with cattle for hay and pasturage, fence damage, antler rubbing/browsing of orchard trees or trees suitable for timber harvest, and damage to other agricultural crops such as tobacco during the drying process. VDGI has received two complaints of elk damage to agricultural crops since 1998. Additionally, elk could hinder reforestation efforts on some mine reclamation sites.

Elk near road systems pose a risk of collision with vehicles. Since 2002, at least 4 elk vehicle collisions have occurred in Virginia (VDGIF unpublished data).

Elk may also carry or acquire diseases that affect white-tailed deer and cattle (Nettles and Corn 1998). Diseases of major concern include Chronic Wasting Disease, Brucellosis, and Bovine Tuberculosis, necessitating careful disease testing and monitoring. VDGIF has not documented any serious elk disease concerns since 1998, although one bull was found with a presumed brainworm infection in 2007. Kentucky has not found any cases of Chronic Wasting Disease, Brucellosis, or Bovine Tuberculosis in elk despite extensive testing.

Elk Management Plan and Programs

Current elk management programs have involved a combination of monitoring hunter harvests, disease testing of hunter-harvested elk, periodic population monitoring surveys, and assistance to address complaints from citizens about elk damage. At its August 17, 2010 meeting, the Board of Game and Inland Fisheries directed VDGIF to establish a pilot program for the reintroduction of elk by stocking not more than 75 elk in Buchanan County only. The elk restoration area is Buchanan, Dickenson and Wise counties, where elk hunting is now prohibited. The restoration goal is to have an elk herd not to exceed 400 animals in Buchanan County. The first release of Kentucky elk in Buchanan County is planned for May, 2012. The specific management and operational plans for elk restoration can be found at:

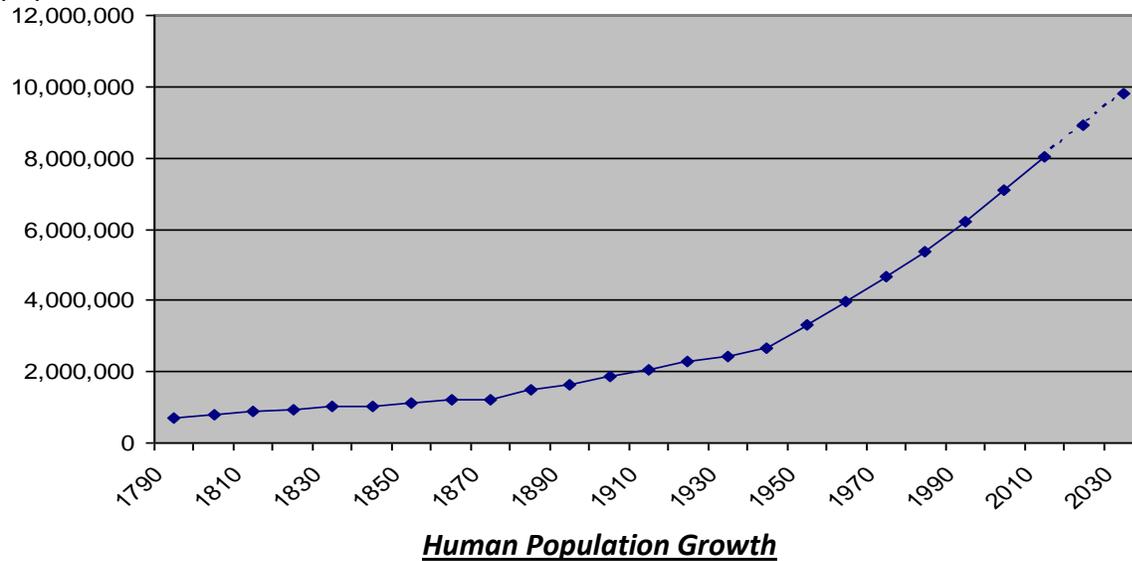
<http://www.dgif.virginia.gov/wildlife/elk/management-plan/>.

HUMAN DEMOGRAPHICS AND LAND MANAGEMENT BACKGROUND

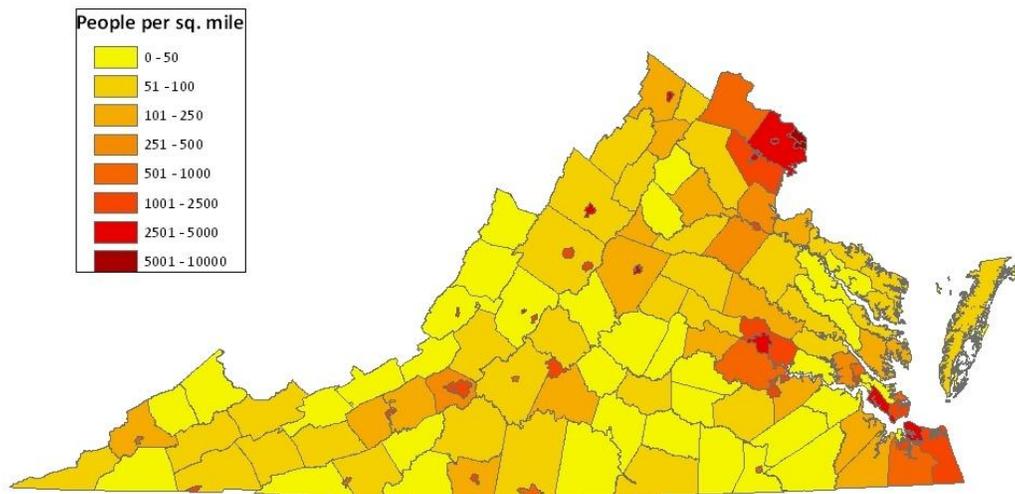
The status of wildlife populations is not the only factor to consider regarding potential conflicts with people. Human population growth, changing demographics, and land-use patterns across Virginia play an important role in determining the negative consequences of wildlife living in close proximity to people.

Human Demographics

Virginia’s human populations have grown rapidly over the past several decades which puts people on a collision course with Virginia’s healthy and sometimes rapidly growing wildlife populations.



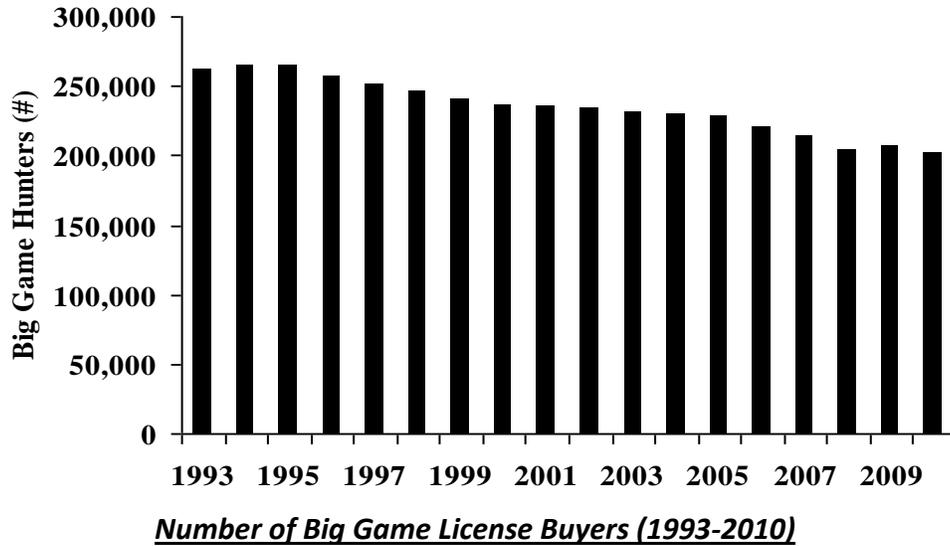
The growing human population is not distributed uniformly across the state. While suburban and urban problems with wildlife can occur anywhere across Virginia, the likelihood of residential wildlife problems is increased in those areas of highest human densities.



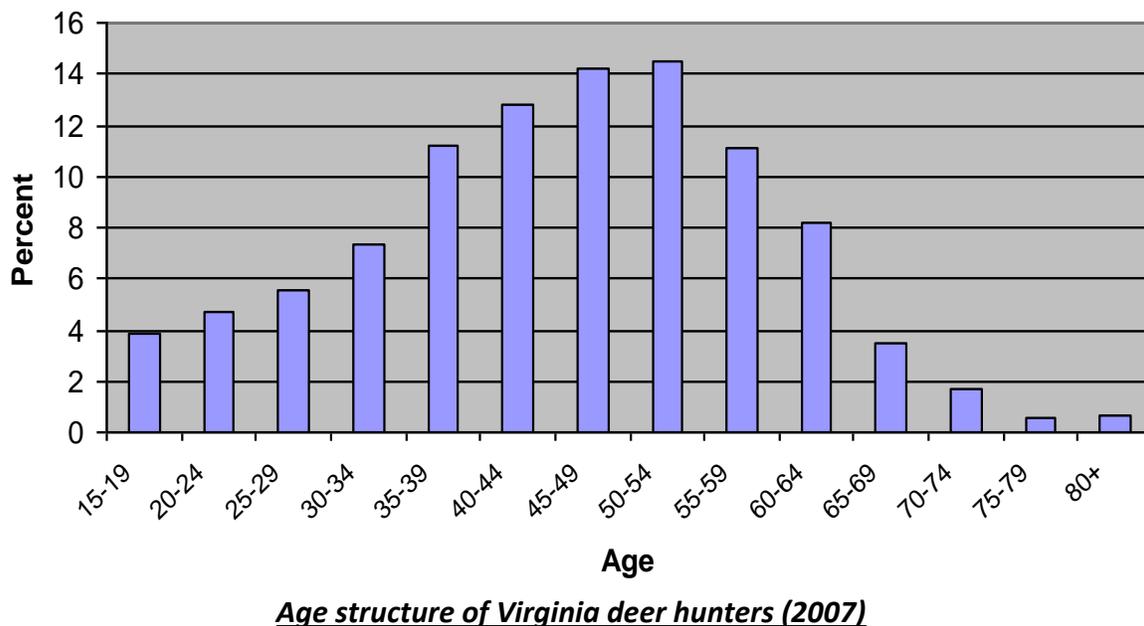
Source: U.S. Census Bureau. 2010 Census

2010 Human Population Density

Recreational hunters provide the most valuable and cost-effective population management strategy for deer and bear populations. However, the impact of hunting as a population management tool is questionable in the future as the number of Virginia big game hunters has steadily decreased over the last 30 years.



A continuation of this decreasing trend is supported by an age structure of deer hunters that indicates relatively few younger hunters to replace an aging population of hunters.

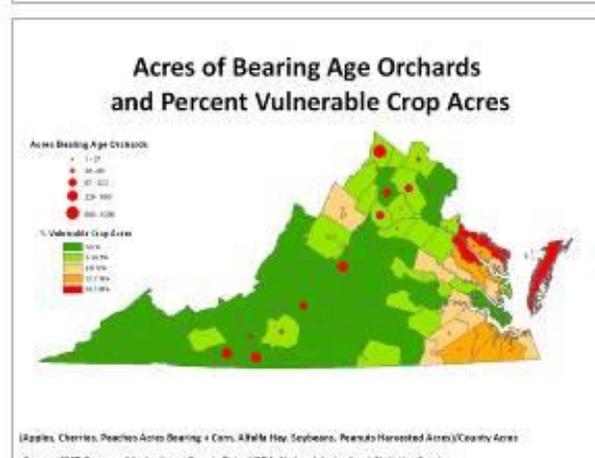
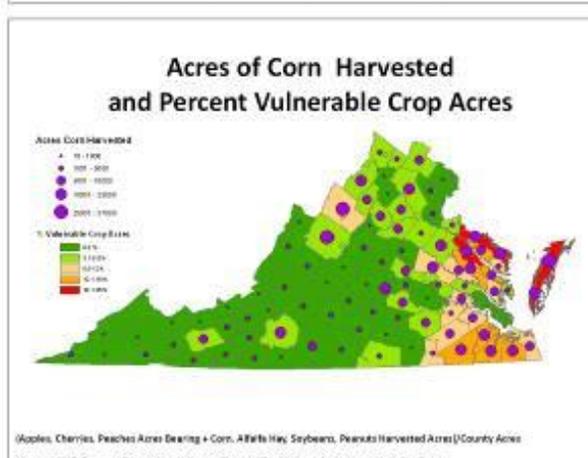
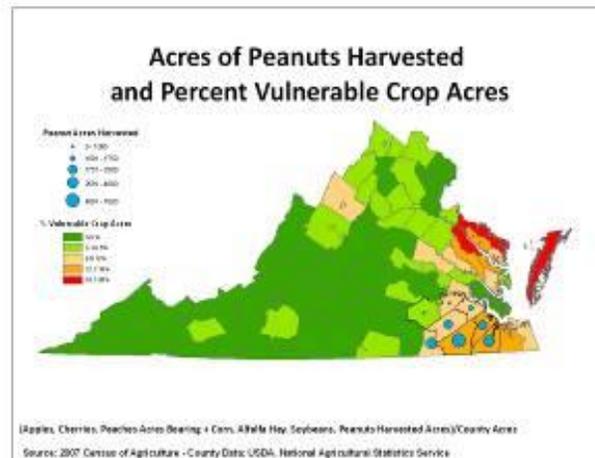
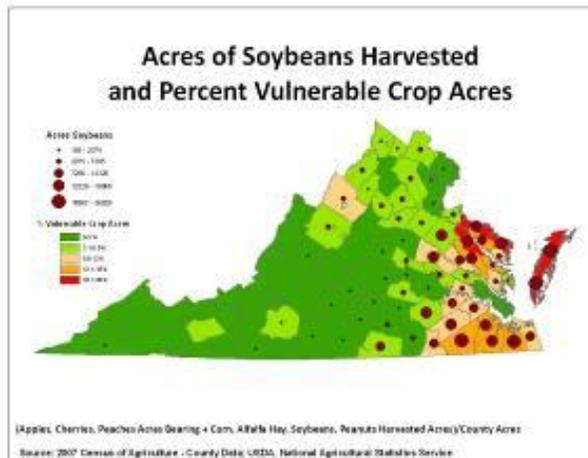
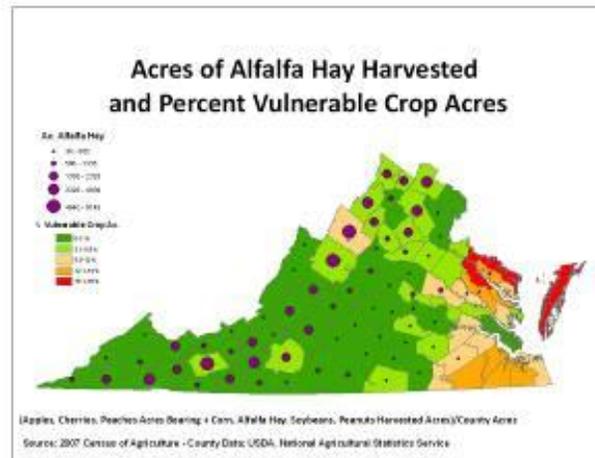
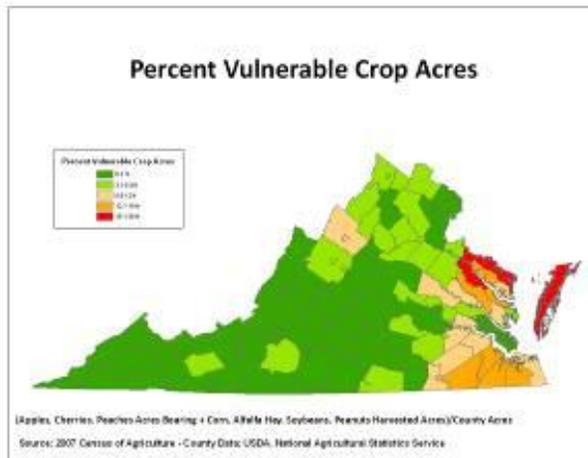


Agricultural Land Use and Economic Value

Agriculture provides significant economic benefits for Virginia with a field crop production value of nearly 764 million dollars during 2010 (USDA, National Agricultural Statistics Service). Major

crops include the production of hay (\$562 million), soybeans (\$166 million), corn (\$106 million), and peanuts (\$7 million).

With the highest density of crops vulnerable to potential wildlife damage, the Tidewater region of Virginia would be expected to have the most significant potential for agricultural problems. Even so, other areas of the state (e.g., the mountains) contain significant acreages of some crops like hay, corn, and orchards that may also experience wildlife damage problems.



Percent of land area in crops vulnerable to wildlife damage and acres of crops by county

KILL PERMIT USE**Overview**

The Department of Game & Inland Fisheries (DGIF) maintains an historical database of kill permits and their use. Data routinely collected for each permit issued include:

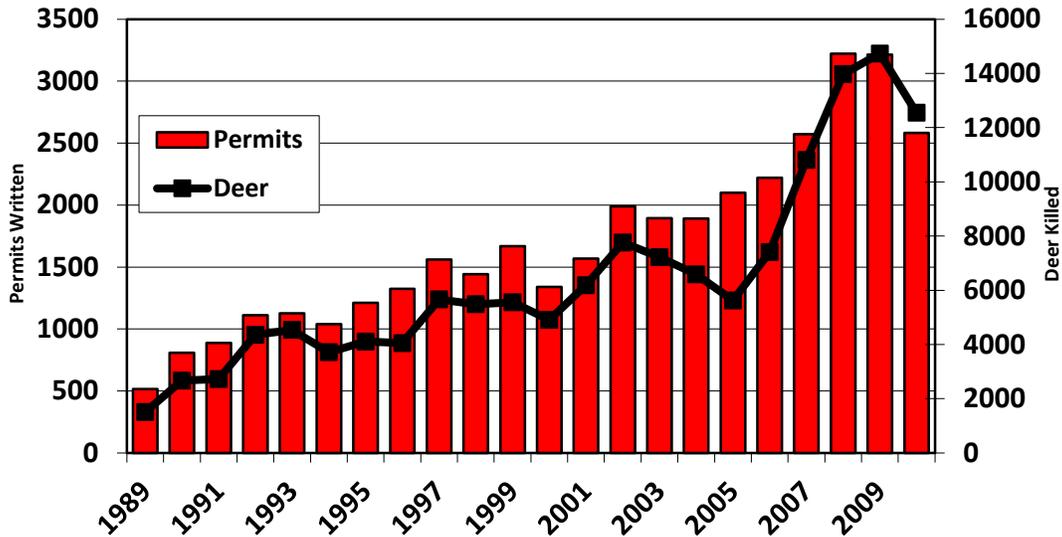
- Year
- Permit #
- Name
- Address
- Species
- Property Owner
- County
- Conservation Police Officer Unit #
- Date Issued
- Crop Type
- Acres Damaged
- Crop Acres
- Acres in Control Area
- Kill
 - If deer: # antlered bucks, # male fawns, # does
- DCAP issued?
- # DCAP tags
- Agricultural or Urban?

Over the last 15 years (1996–2010), approximately 35,648 kill permits have been issued by the VDGIF for 23 different species. Deer kill permits represent the large majority of all permits issued (86%).

Species	#	%	Species	#	%
Deer	30,618	85.878	Geese	2	0.006
Beaver	2,634	7.388	Nutria	2	0.006
Bear	1,227	3.442	Turkey	2	0.006
Raccoons	687	1.927	Vultures	2	0.006
Muskrat	315	0.884	Coyotes	1	0.003
Squirrel	34	0.095	Feral hogs	1	0.003
Fox	33	0.093	Furbearing	1	0.003
Otter	33	0.093	Mink	1	0.003
Bobcat	23	0.065	Skunk	1	0.003
Opossum	10	0.028	Weasel	1	0.003
Rabbits	10	0.028			
Groundhogs	6	0.017			
Crows	4	0.011			

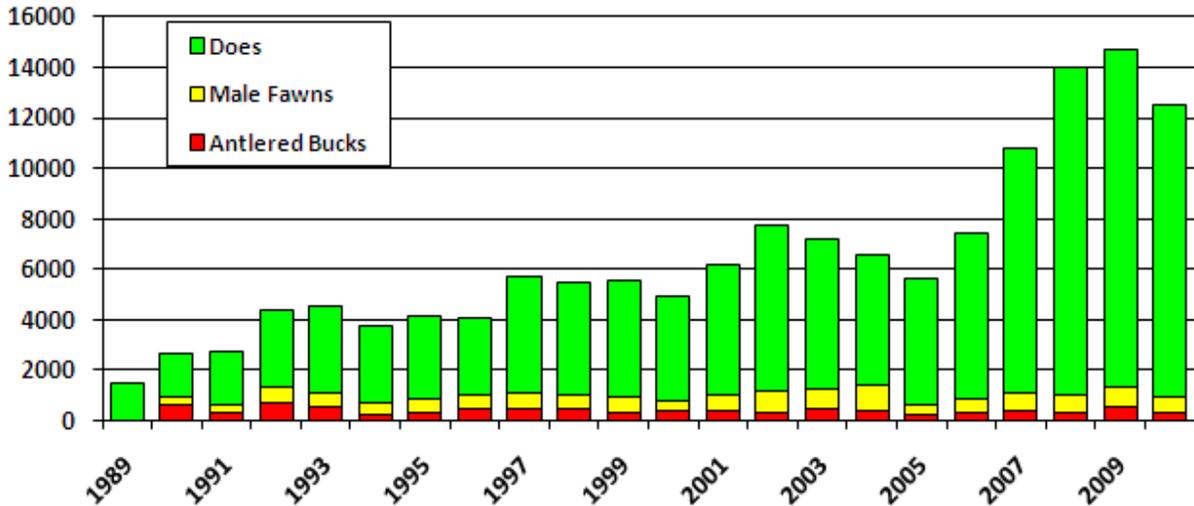
Deer Kill Permit Use

Until recent years, the number of kill permits issued statewide to manage deer damage has risen steadily. Over the last 3 years, an annual average of 3,004 kill permits has been issued to kill an average of 13,804 deer each year.



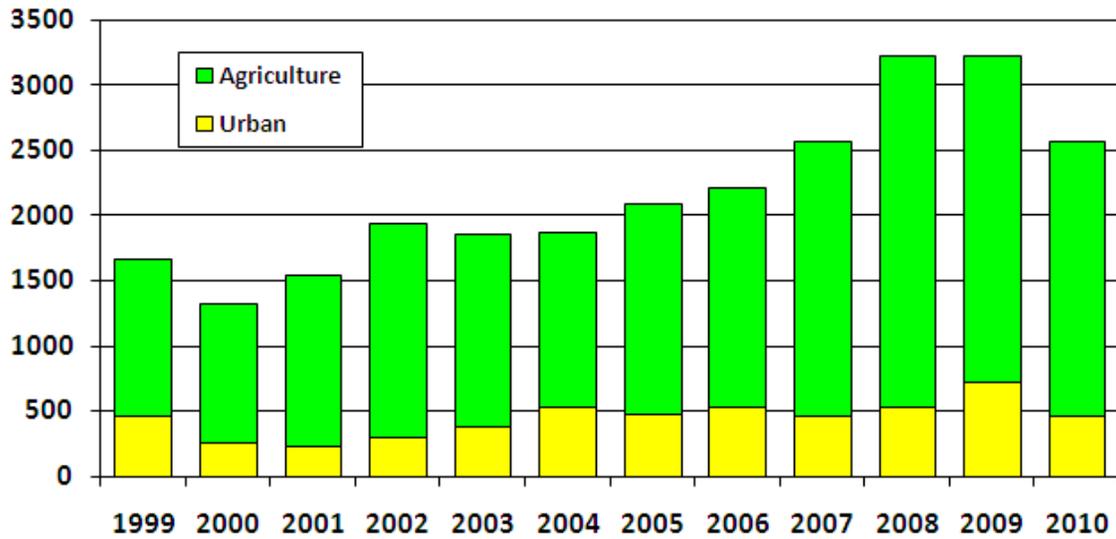
Number of deer kill permits and deer killed by year

Almost all deer killed on kill permits are antlerless, doe deer.



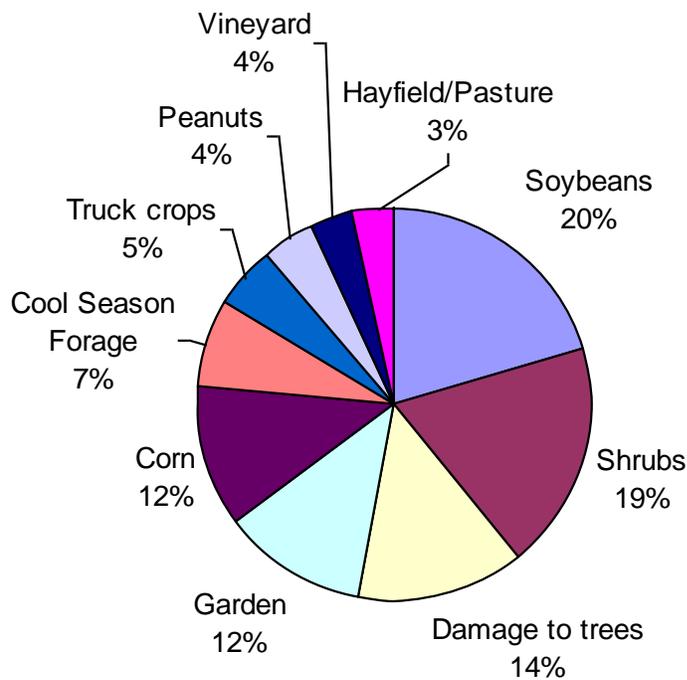
Number of deer killed and type of deer killed on kill permits by year

Compared to the number of urban kill permits issued, most permits have been issued for agricultural damage.



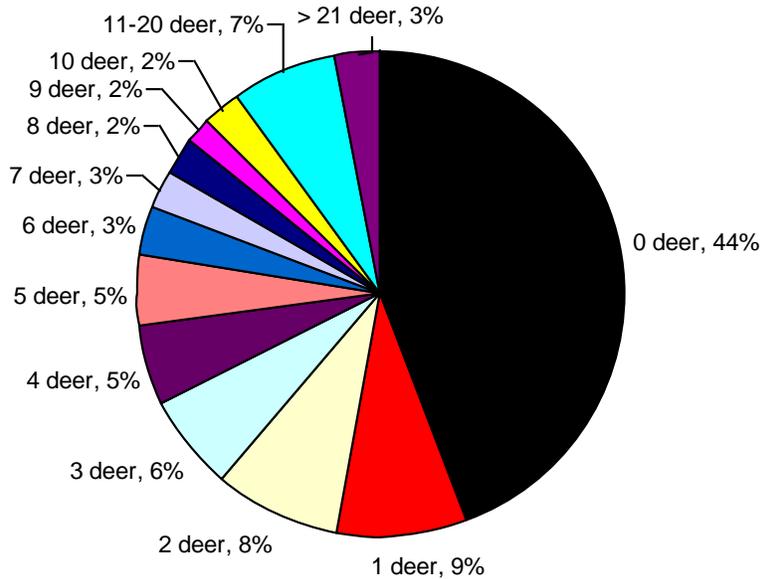
Number of deer kill permits issued for urban versus agriculture situations

The largest numbers of kill permits have been issued for soybeans (20%), shrubs (19%), tree damage (14%), gardens (12%), and corn (12%).



Distribution of kill permits issued for different damage situations

Almost half (44%) of the permits issued result in no deer being killed. At the other extreme, 10% of the kill permittees kill more than 10 deer.

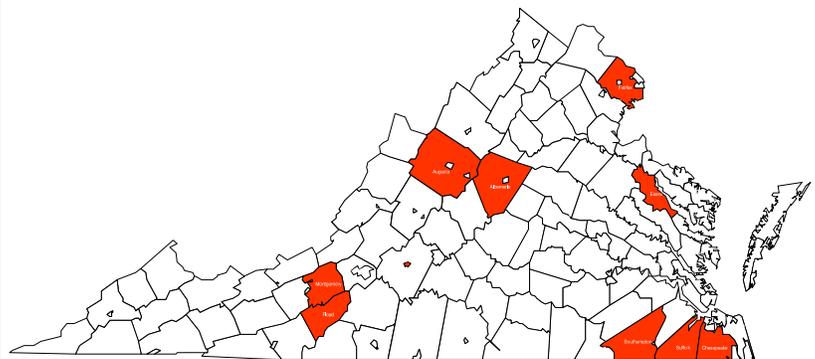


Distribution of the number of deer killed by kill permit holders (30,650 permits over 15 years)

On a statewide basis and within most counties, the current kill permit system for deer probably has a negligible impact. Overall, deer killed on kill permits are equal to only 6% of the total killed by hunters during regular hunting seasons. However in Alleghany County, Chesapeake, and Virginia Beach, the impact is significant and kill permits currently add another 42%, 55%, and 28% to the hunter kill, respectively. Another 11 counties have kill permit impacts that add another 10-20% to the hunter kill. The significant liberalization of kill permits would certainly increase these county-wide impacts.

Over the past decade, the top 10 deer kill permit counties have been distributed across the state and include:

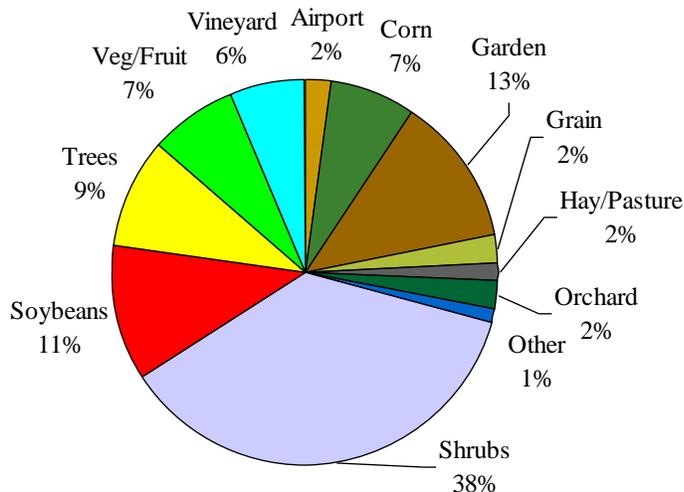
County	Permits
Fairfax	171
Lynchburg (City of)	131
Albemarle	122
Floyd	78
Chesapeake (City of)	65
Augusta	63
Suffolk (City of)	59
Essex	57
Montgomery	53
Southampton	50



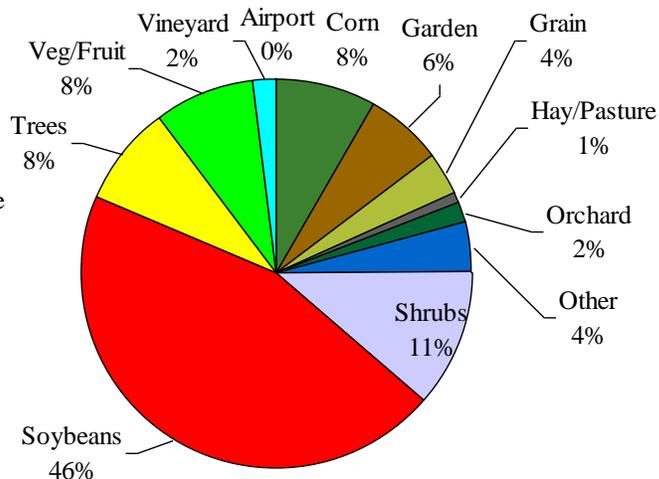
Recurrent Use of Deer Kill Permits Among Years. Very few people receive kill permits every

during 2010. Growers with shrub damage were less likely to need the additional issuance of kill permits.

1 Kill Permit - 2010



Repeat Kill Permits - 2010

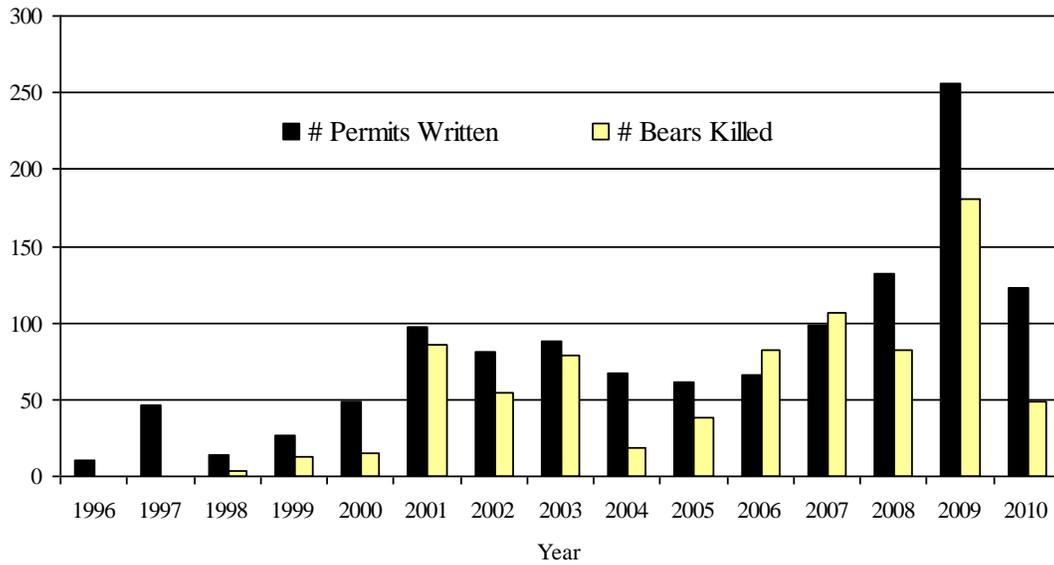


Comparisons to Other States. Based on a sample of 3-year (2008-2010) averages from other eastern states, Virginia issues many more kill permits than any other state. Per total land area in the state, only Delaware already issues kill permits at a higher rate than Virginia.

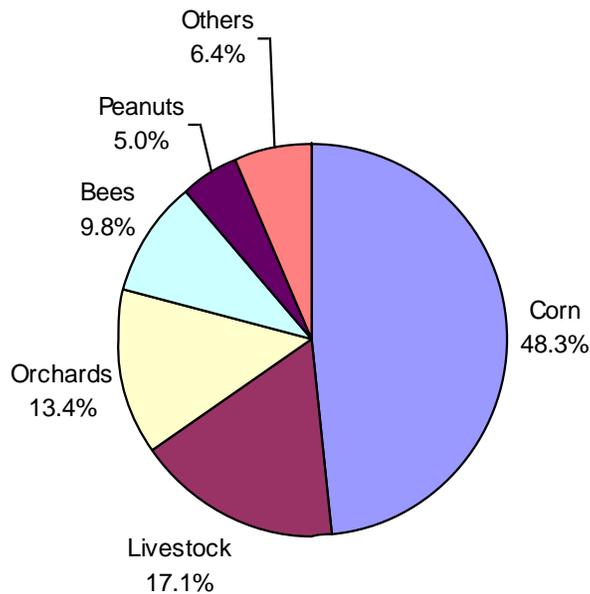
State	# of Crop Permits Issued	# Deer Killed	Land Area in State (mi ²)	Kill / mi ²
MO	22	213 (max)	69,704	0.003
TN		260	42,143	0.006
MS	149	344	48,430	0.007
SC		307	32,020	0.010
PA	177	1,082	46,055	0.023
NC	598	2,359	53,818	0.044
NY	1,311	4,328	54,556	0.079
CT	~300	793	5,543	0.143
NJ	302	1,326	8,721	0.152
VA	3,004	13,804	42,774	0.323
DE	150	1,422	2,489	0.571

Bear Kill Permit Use

Concurrent with growing bear populations, the number of kill permits issued statewide to manage bear damage has generally risen over the last decade. Over the last 3 years, an annual average of 170 kill permits has been issued to kill an average of 104 bears each year.



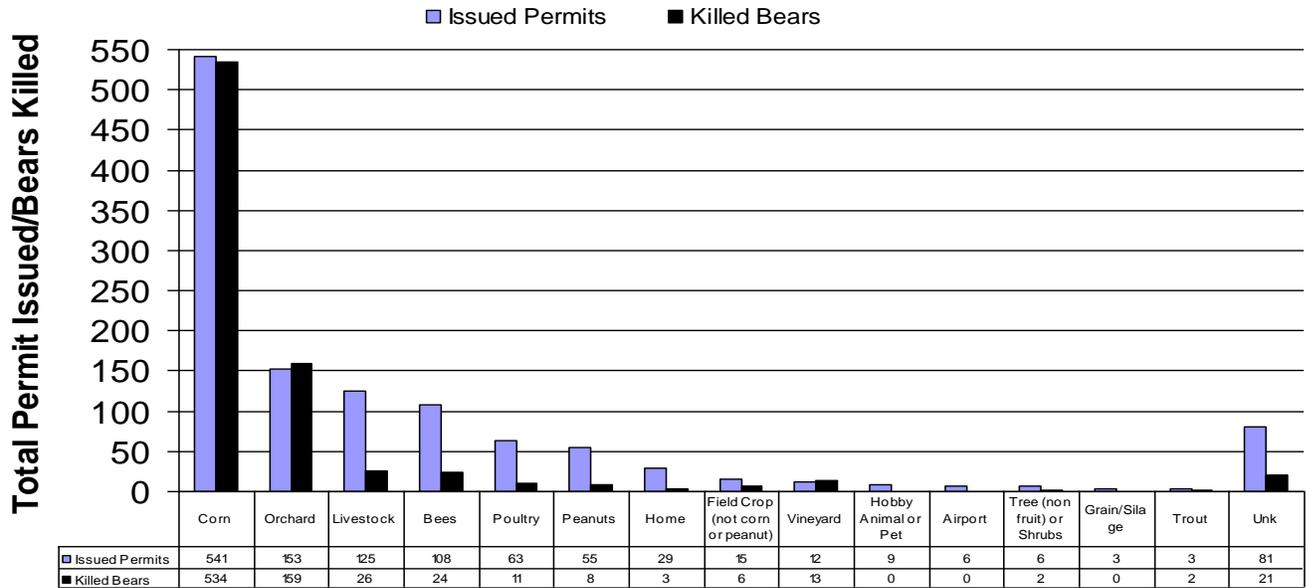
Nearly half of bear kill permits have been issued for corn (48.3%), with livestock (17.1%) and orchards (13.4%) as the next most common agricultural kill permit.



Average Percent of Bear Kill Permits Issued by Type

Success in killing bears on kill permits varies by crop/damage type. On average, about 1 bear is killed for every kill permit issued for corn and orchard problems. However, success killing bears on a kill permit is much lower for livestock, bee, poultry, and peanut damage.

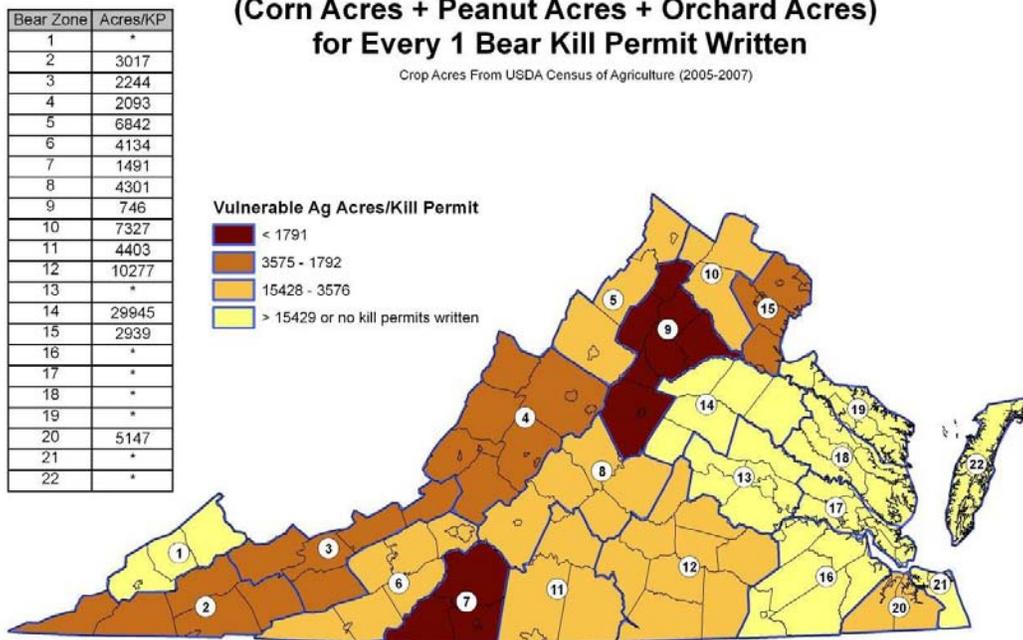
Kill Permits and # Killed Bears (1996-2010)



Based on the vulnerable acres of crops available to bears in each county (i.e., the combined acreage of corn, orchards, and peanuts), the issuance rate of kill permits is highest in the counties surrounding Shenandoah National Park and generally higher in the western mountains. The greater incidence of damage and kill permit use is primarily a function of the relatively higher densities of bears in these areas.

Agricultural Crop Acres (Corn Acres + Peanut Acres + Orchard Acres) for Every 1 Bear Kill Permit Written

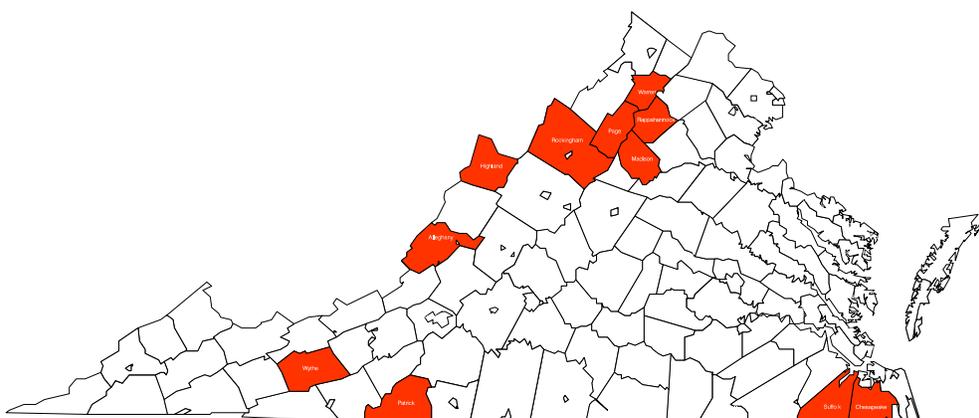
Crop Acres From USDA Census of Agriculture (2005-2007)



Legend Key: For every X acres there was 1 kill permit written.
*No kill permits written

Recurrent Use of Bear Kill Permits Among Years. Repeat users of kill permits for bears are even rarer than found with deer kill permit holders. Over the last 15 years (1996-2010), 647 individuals have received kill permits for bears. A large majority of these individuals (76%) only received permits during a single year and 90% received permits during only 1 or 2 years. Only 2.2% (n=14) of the permitted landowners received kill permits more often than once out of every 3 years (i.e., those that received kill permits in 6 or more years over the last 15 years), with just 1.1% (n=7) obtaining kill permits at least as often as every other year.

The counties with at least one permittee who received bear kill permits more often than once out of every 3 years are Alleghany, Highland, Madison, Page, Patrick, Rappahannock, Rockingham, Warren, Wythe, Chesapeake, and Suffolk.



SATISFACTIONS AND OPINIONS: CURRENT KILL PERMIT SYSTEM

Kill Permit Holders

To provide an objective determination of the satisfaction levels for kill permit holders, as well as identify areas where the kill permit system might be improved, a scientific survey was conducted through an independent survey research firm, Responsive Management (Appendix V). A telephone survey of all individual 2010 kill permit holders (n=2,045) with valid phone numbers (n=1,969) was conducted during June, 2011. Completed interviews were obtained from a total of 1,178 kill permit holders (a response rate of 60%).

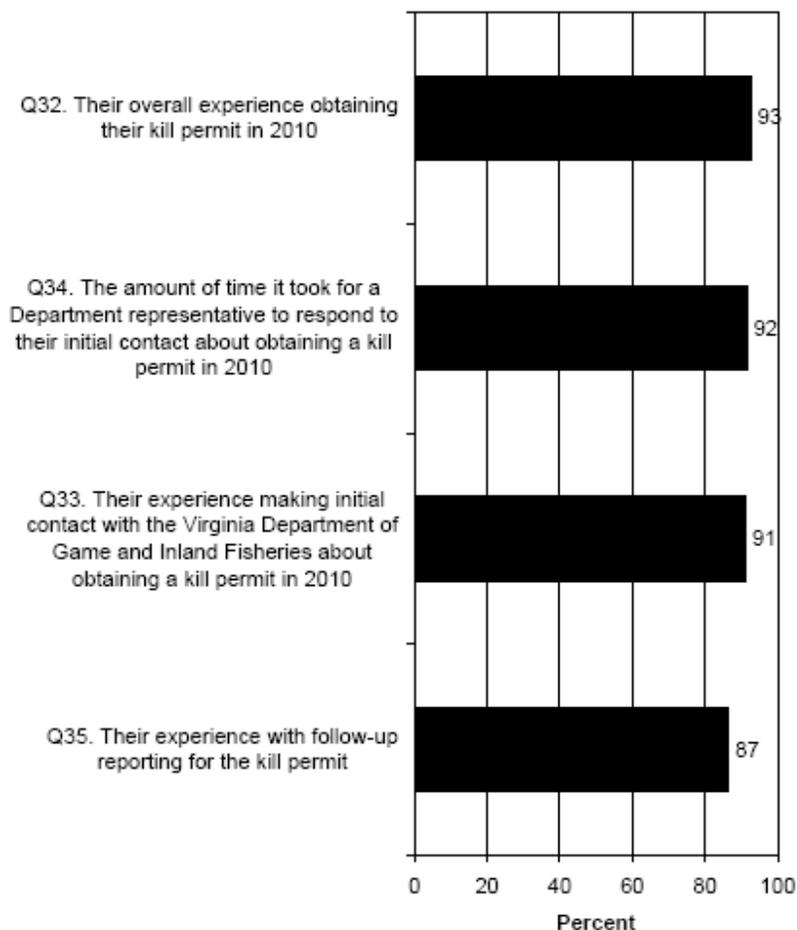
The 170-page final report contains many details about the survey results. Some of the key findings and highlights are summarized below. The report can be viewed online at:

http://www.responsivemanagement.com/download/reports/VA_Kill_Permit_Survey_Report.pdf

Satisfaction With and Ratings of Kill Permits. The overwhelming majority of those who were issued kill permits for deer and/or bear in 2010 were satisfied with their permits. Among kill permit holders, 94% were satisfied (with 74% very satisfied). Some key findings about satisfactions include:

- 93% rated the overall experience of obtaining kill permits in 2010 as *excellent* or *good*, with 66% rating it *excellent*.
- 92% rated the amount of time it took for a Department representative to respond to their initial contact as *excellent* or *good*, with 65% rating it *excellent*.
- 91% rated their experience making initial contact with the Department about obtaining a kill permit as *excellent* or *good*, with 63% rating it *excellent*.
- 87% rated their experience with follow-up reporting for the kill permit as *excellent* or *good*, with 53% rating it *excellent*.

**Percent who rated the following experiences with their kill permit(s) in 2010 as excellent or good.
(Asked of those who received kill permits for deer and/or bear.)**

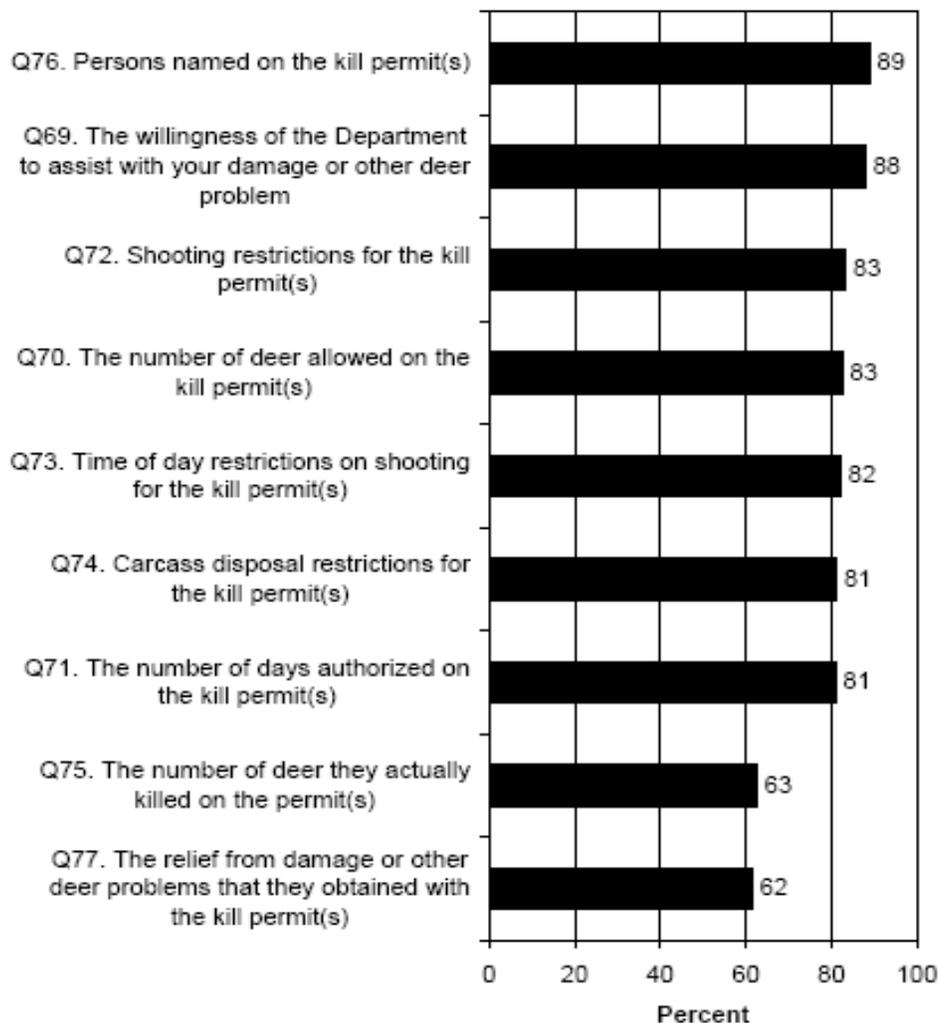


Holders of deer and bear kill permits were asked to rate nine items pertaining to the kill permits themselves on a scale of *excellent*, *good*, *fair*, or *poor*. Only two items had notably smaller percentages of *excellent* or *good* responses: (1) the number of deer/bear the kill permit holder actually killed on the permit(s), and (2) the relief from damage or other deer/bear problems the permit holder obtained with the kill permit. Otherwise, the other seven items in the series had solid majorities of kill permit holders rating them as *excellent* or *good*:

Among holders of kill permits for deer:

- 89% rated persons named on the kill permit(s) as *excellent* or *good*, with 55% rating it *excellent*.
- 88% rated the willingness of the VDGIF to assist with the damage or other deer problem as *excellent* or *good*, with 60% rating it *excellent*.
- 83% rated shooting restrictions for the kill permit(s) as *excellent* or *good*, with 45% rating it *excellent*.
- 83% rated the number of deer allowed on the kill permit(s) as *excellent* or *good*, with 49% rating it *excellent*.
- 82% rated time of day restrictions on shooting for the kill permit(s) as *excellent* or *good*, with 48% rating it *excellent*.
- 81% rated carcass disposal restrictions for the kill permit(s) as *excellent* or *good*, with 46% rating it *excellent*.
- 81% rated the number of days authorized on the kill permit(s) as *excellent* or *good*, with 45% rating it *excellent*.
- 63% rated the number of deer the kill permit holder actually killed on the permit(s) as *excellent* or *good*, with 32% rating it *excellent*.
- 62% rated the relief from damage or other deer problems that the kill permit holder obtained with the kill permit(s) as *excellent* or *good*, with 30% rating it *excellent*.

Percent who rated the following as excellent or good for the kill permit(s) they were issued in 2010 for deer. (Asked of those who received a kill permit for deer.)

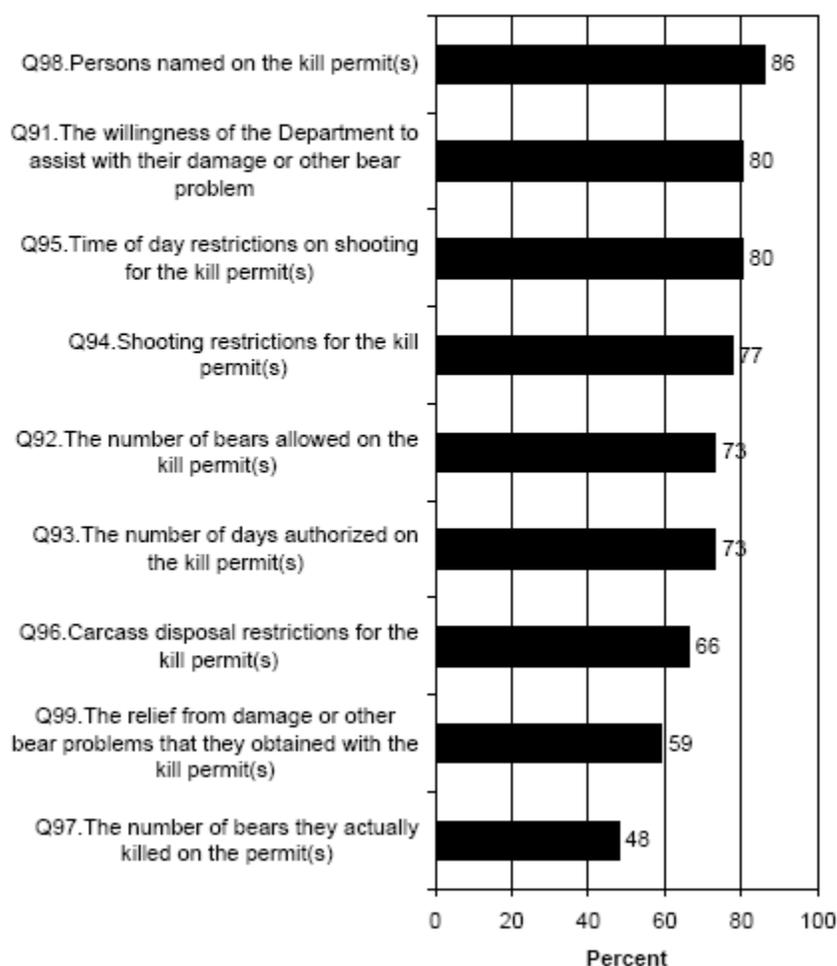


Among holders of kill permits for bear:

- 86% rated persons named on the kill permit(s) as *excellent* or *good*, with 58% rating it *excellent*.
- 80% rated the willingness of the Department to assist with the damage or other bear problem as *excellent* or *good*, with 52% rating it *excellent*.
- 80% rated time of day restrictions on shooting for the kill permit(s) as *excellent* or *good*, with 55% rating it *excellent*.
- 77% rated shooting restrictions for the kill permit(s) as *excellent* or *good*, with 52% rating it *excellent*.

- 73% rated the number of bears allowed on the kill permit(s) as *excellent* or *good*, with 51% rating it *excellent*.
- 73% rated the number of days authorized on the kill permit(s) as *excellent* or *good*, with 42% rating it *excellent*.
- 66% rated carcass disposal restrictions for the kill permit(s) as *excellent* or *good*, with 44% rating it *excellent*.
- 59% rated the relief from damage or other bear problems that the kill permit holder obtained with the kill permit(s) as *excellent* or *good*, with 34% rating it *excellent*.
- 48% rated the number of bears the kill permit holder actually killed on the permit(s) as *excellent* or *good*, with 31% rating it *excellent*.

Percent who rated the following as excellent or good for the kill permit(s) they were issued in 2010 for bear. (Asked of those who received a kill permit for bear.)



Contacting the Department for Kill Permits. 2010 kill permit holders most commonly contacted a Conservation Police Officer (48%) to initially request a kill permit, with smaller percentages contacting the Richmond VDGIF office or staff (18%), other VDGIF offices or staff (13%), or a

local sheriff/police (9%). Phone calls were by far the most common method of contacting the VDGIF.

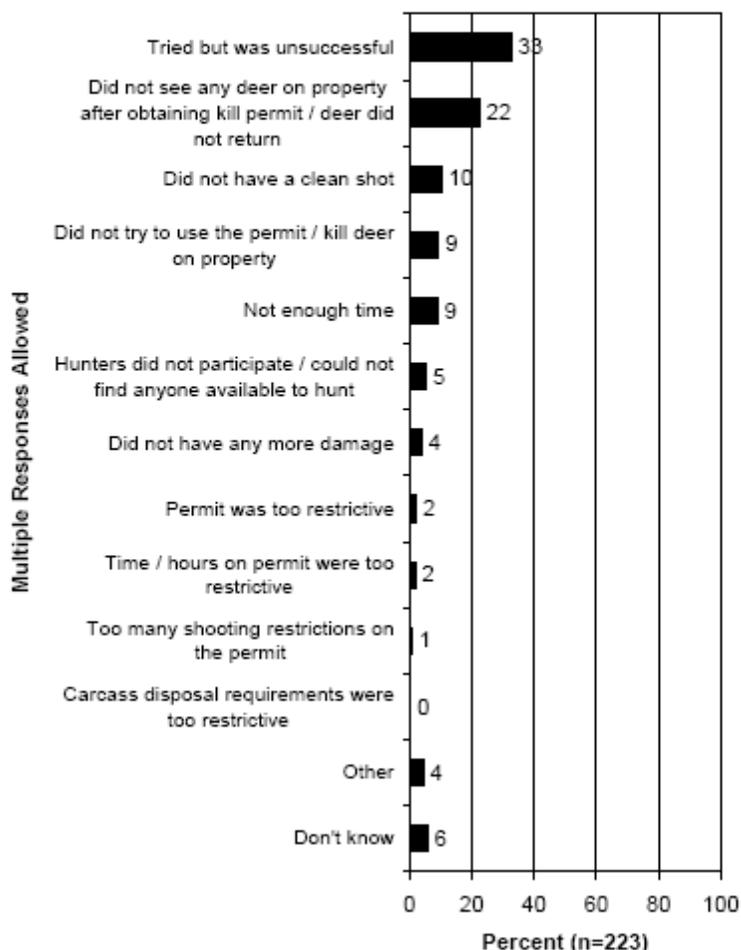
The average wait time for a VDGIF representative to respond to an initial request for a kill permit in 2010 was 2.78 days, while the average total time between the initial request and the actual issuance of the kill permit was 4.18 days. About half of the individuals surveyed received their kill permit within 2 days or less.

Use of Kill Permits. Those who killed deer on the kill permit most commonly disposed of the deer through “personal use” (53%), followed by either burying or destroying it (29%), donating it to charity (24%), or giving it to a friend (24%).

Those who did *not* kill any deer were asked the reasons why no deer were killed on the kill permit:

- they most commonly indicated trying to kill one but being unsuccessful (33%)
- failed to see a deer on their property after obtaining the permit (22%).
- not having a clean shot (10%).
- not trying to use the kill permit to kill a deer (9%).
- not having enough time (9%).

Q65. What are the reasons no deer were killed on your kill permit(s)? (Asked of those who received a kill permit for deer, but no deer were killed on the permit.)

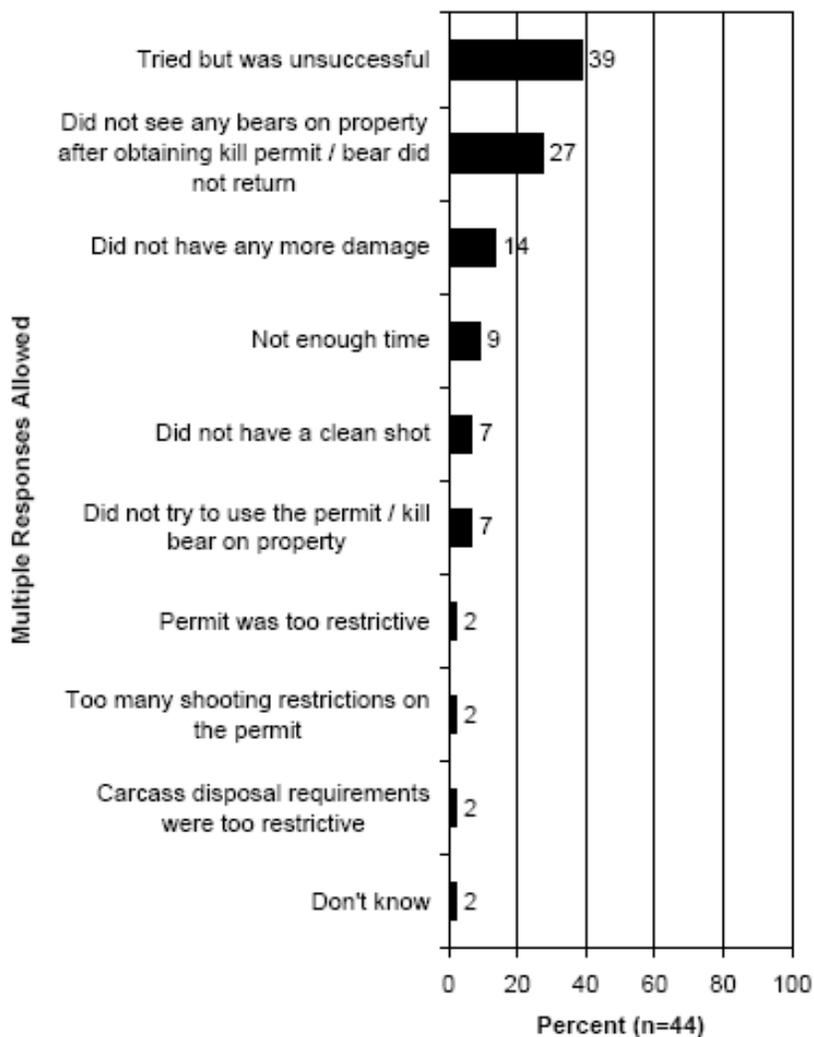


Those who killed bear on the kill permit most commonly disposed of the bear by burying or destroying it (38%) or through “personal use” (38%), followed by giving it to a friend (12%).

Those who did *not* kill any bears were asked the reasons why no bears were killed on the kill permit:

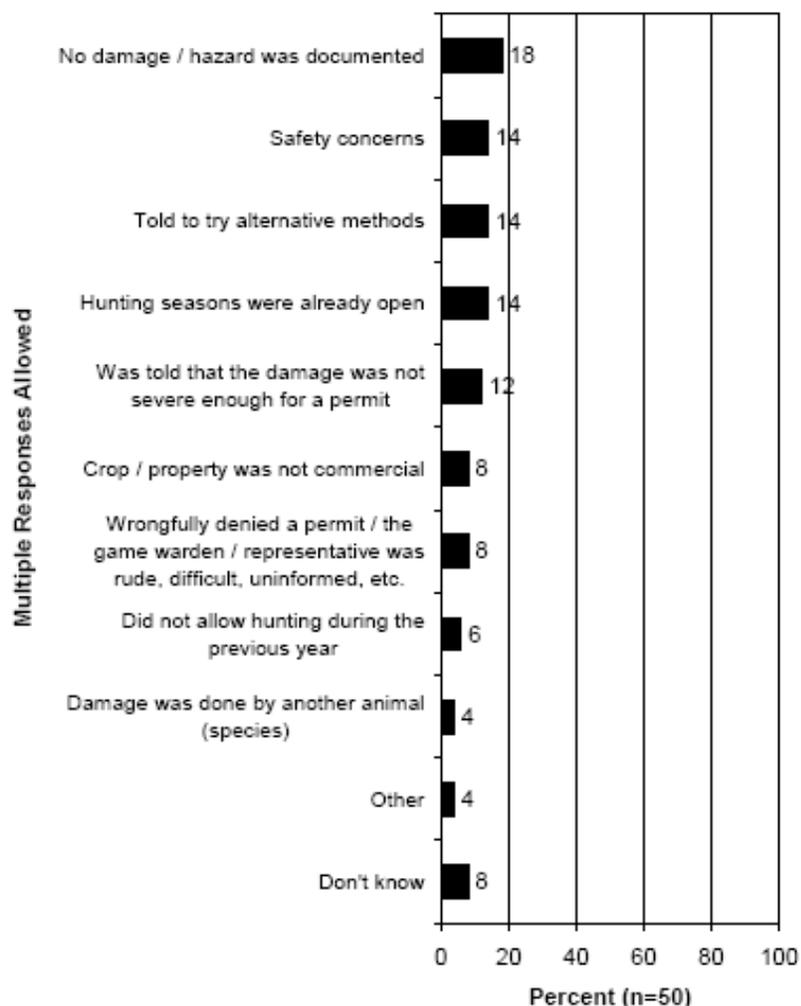
- they most commonly indicated trying to kill one but being unsuccessful (39%).
- failing to see a bear on their property after obtaining the permit (27%).
- did not have any more damage after they received the kill permit (14%).

Q87. What are the reasons no bears were killed on your kill permit(s)? (Asked of those who received a kill permit for bear, but no bear were killed on the permit.)



Denials of Kill Permits. Just 5% of the survey respondents had ever been denied a request for a kill permit for any species on any property. The most common reasons for denials were that no damage or hazard was documented (18%), that safety concerns had prevented issuance of the permit (14%), that the person had been told to try alternative methods of resolving the damage (14%), that hunting seasons were already open at the time the person requested a kill permit (14%), and that the damage was not severe enough to warrant a kill permit (12%).

Q109. Why were you denied a kill permit? (Asked of those who have ever been denied a request for a kill permit for any species on any property.)



Likelihood of Requesting Kill Permits In The Future. Overall, a large majority of respondents (90%) would be likely to request a kill permit in 2011. This percentage is based on the number who have already requested a kill permit in 2011 combined with those who reported being either *very* or *somewhat* likely to request one pending further damage.

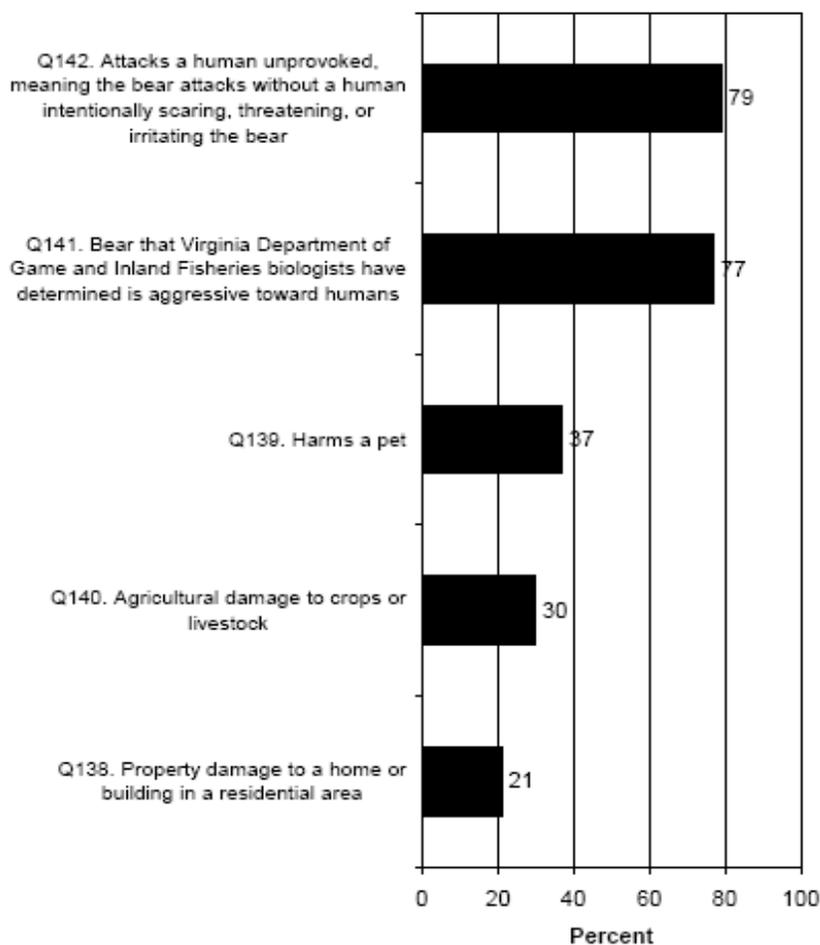
Willingness to Pay. Overall, a little more than a third (37%) of those who received a kill permit for deer and/or bear would *not be willing* to pay \$5 (the lowest hypothetical fee about which the survey asked). Otherwise, a further 18% are willing to pay \$5 (but not \$10), 12% are willing to pay \$10 (but not \$20), and a quarter (25%) of those who received a kill permit for deer and/or bear are willing to pay \$20 (the highest hypothetical fee about which the survey asked).

General Public

Lethal Management in Nuisance Situations. Limited information exists regarding the opinions of the general public in Virginia about kill permits or the lethal control of nuisance wildlife. However, some insight regarding lethal measures for managing problem bears is provided by a 2010 Responsive Management survey, *Virginia Residents' Opinions on Black Bears and Black Bear Management*, found online at http://www.responsivemanagement.com/download/reports/VA_Bear_Survey_Report.pdf

Several questions were asked regarding support for or opposition to destroying black bears in various situations. In general, the public only supports killing a black bear if the bear poses a threat to people.

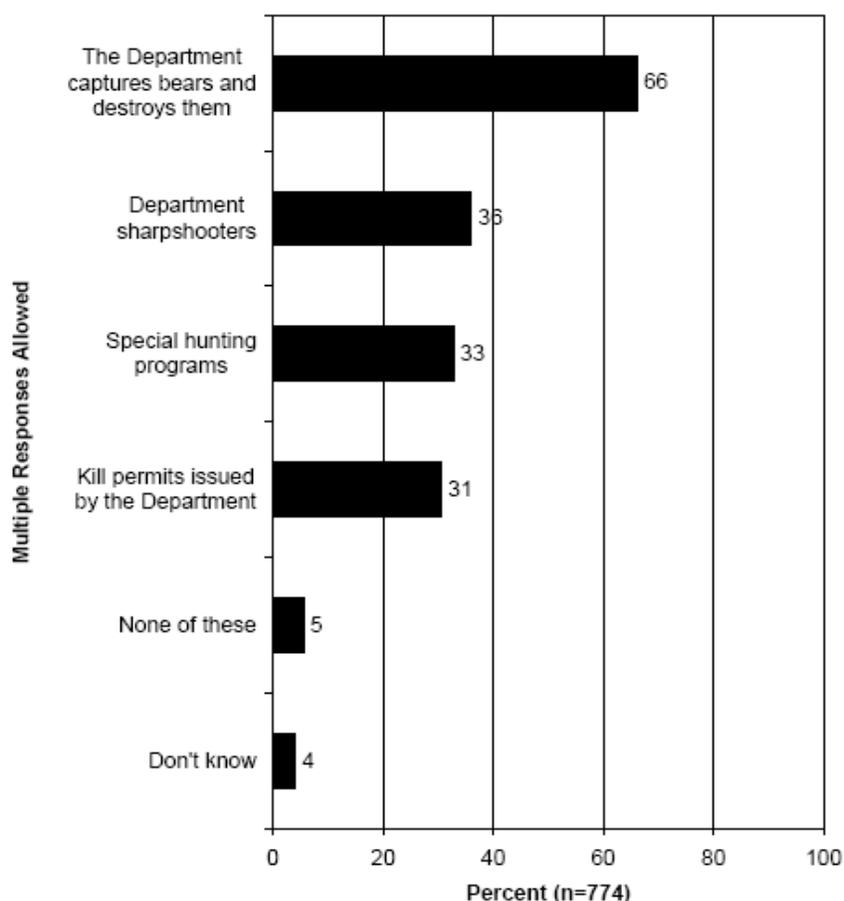
Percent who strongly or moderately support destroying a black bear in each of the following situations.



- The majority of Virginia residents (71%) *oppose* destroying a black bear that causes property damage to a home or building in a residential area; 21% supported destroying the bear.
- The majority of Virginia residents (61%) *oppose* destroying a black bear that causes agricultural damage to crops or livestock; 29% support.

- With only 53% *opposing* destroying a black bear that harms pet, residents were more protective of their pets: 37% supported destroying the bear.
- The majority of Virginia residents (76%) supported destroying a black bear only when VDGIF biologists have determined that a bear is aggressive toward humans; 18% opposed destroying the bear.
- The large majority of residents (79%) *support* destroying a black bear that attacks a human unprovoked; 15% oppose.

Q145. If black bears that are causing problems need to be destroyed, which of the following methods are acceptable to you?



Preferred Management Methods. Kill permits were not among the methods preferred by Virginia citizens for managing problem bears. When asked to indicate their preferred management methods for areas where black bear populations need to be reduced due to high human populations or frequent human use, Virginia residents most preferred capture and relocating (88%) followed by regulated hunting (31%), kill permits (16%), sharpshooters (7%), and capture and destroy (5%).

If a bear was causing problems and needed to be destroyed, 66% of the public indicated that it would be acceptable to have the VDGIF capture and destroy the bear. Less popular were VDGIF sharpshooters (36%), special hunting programs (33%), and kill permits (31%).

PART 3. COMMITTEE PROCESS

Convening the Committee

The Virginia Department of Game and Inland Fisheries (VDGIF) was charged with convening the Stakeholder Advisory Committee. The DGIF selected a team of professionals from the Institute for Environmental Negotiation (IEN) at the University of Virginia to provide input into process design and to guide the process as neutral facilitators. Through a series of conference calls, VDGIF and IEN staff worked closely to identify a diverse group of potential stakeholders to invite, to design a five meeting process aimed at consensus building, and to develop background informational material to be sent in advance to the final cohort of stakeholders.

Stakeholder Interests Represented on the Committee

The IEN and VDGIF worked to identify the full array of interests that have expressed interest in, and have been impacted by, the kill permit system. They identified six key interests comprising of: Agriculture; Transportation; Timber and other Vegetation Regeneration; Sportsmen; Neighboring Property Owners; and Residential Neighborhoods. The VDGIF then worked with stakeholder groups to identify and invite organizations and individuals who could represent these interests. The final Stakeholder Advisory Committee was comprised of 32 members representing these six diverse core interests. The following organizations were represented:

Organizations Represented on the Stakeholder Advisory Committee
VA Farm Bureau Federation (VFBF)
VA Department of Agriculture and Consumer Services (VDACS)
VA Association of Biological Farmers (VABF)
VA Agribusiness Council
VA Cattlemen's Association
VA Nursery & Landscape Association, VA Christmas Tree Growers Association
VA Vineyard Association
VA Beekeepers Association Heart of Virginia Beekeepers
VA Apple Growers Association (VA State Apple Board)
VA State Dairymen's Association
Fairfax County Animal Control
Wildlife Services – Northern VA Airports
Lynchburg Police Department
TECO COAL-Clintwood Elkhorn Mining Company
VA Deer Hunters Association
VA Bear Hunters Association
Suburban Whitetail Management of Northern Virginia
VA Hunting Dog Alliance

Organizations Represented on the Stakeholder Advisory Committee
VA Bowhunters Association
Western VA Deer Hunters Association
Rocky Mountain Elk Foundation
Southwest Virginia Coalfields Chapter, Rocky Mountain Elk Foundation
Hale Hunt Club
Izaak Walton League of America, Harrisonburg / Rockingham Chapter
Concerned citizens were invited to represent the needs of neighbors

Committee Process

The Stakeholder Advisory Committee convened for five meetings that progressed through several stages, from information gathering to building consensus recommendations for consideration by the VDGIF and the General Assembly.

Meeting 1 (June 14): Introductions were made to one another, to the issue, and to the consensus process. This meeting involved technical presentations on the kill permit issue, herd management and kill permits, and the Committee's charge. The charge was described as *both* the questions posed by the General Assembly about SB 868, and an *expanded* request by the VDGIF to provide recommendations for improving the existing kill permit system. Committee members identified a number of issues through initial discussion. The Committee also reviewed and commented upon a proposed Kill Permit Survey draft instrument prepared by the VDGIF, and it provided the consensus recommendation that this survey be administered to existing permit holders and not to the general public, with the understanding that the results of the survey would be considered by the committee as one source of information that would not exclude other sources of information, such as information from neighbors or from those who have not been able to obtain kill permits. The Committee developed a "charter" for working together, including deciding (by consensus) to operate with a consensus process. Finally, members requested additional technical information from the VDGIF to be provided by the following meeting.

Meeting 2 (July 12): In this meeting, VDGIF gave additional technical presentations in response to the Committee's requests for information. Preliminary results from the survey of kill permit holders were also presented. The Committee then identified additional issues with the kill permitting system. Over 30 issues emerged, and the Committee prioritized the three they felt were most important – 1. preventing abuse of the kill permit system; 2. meeting farmers' needs in a timely manner; and 3. ensuring consistency in the permitting process – as well as the three they felt would be most easily addressed – 1. improving how to contact the VDGIF; 2. data collection needs for future decision-making; and 3. use of baiting. The process then shifted from understanding the issue to brainstorming recommendations to address these six prioritized issues.

Meeting 3 (August 2): In this meeting, VDGIF again presented answers to the Committee's requests for further information, and also presented information on aspects of the House

charge that required technical expertise on the potential influence of SB 868 on relevant herd populations. Moving from brainstorming to a consensus process, the Committee began to develop proposals for tackling identified issues. The Committee also considered how its recommendations to the VDGI should be framed. The Committee decided that its recommendations would center on changes in implementation and enforcement of the system, and that it would strive to avoid overly prescriptive suggestions. In order to facilitate the process of working to build consensus, some committee members volunteered to synthesize more specific proposals during the period between Meeting 3 and Meeting 4, by drawing on ideas already discussed during the meeting.

Meeting 4 (August 17): During this key decision-making meeting, the Committee systematically reviewed and revised the language of proposals put forth by members. Consensus testing yielded several recommendations that were acceptable to the diverse group of stakeholders. The Committee expressed a keen interest in learning the VDGI's reaction to its recommendations, and to receiving some assurance that the spirit of the consensus proposals would be implemented in the future. In response, the VDGI agreed to hold a special Subcommittee Meeting before Meeting 5, at which VDGI staff would provide their reactions to the recommendations and begin the process of discussion with representatives of the Committee. Information emerging from this interim meeting was made available to other members of the Committee for review in advance of the final full Committee meeting.

Meeting 5 (September 20): VDGI presented the draft of its final report, including the Committee's final consensus recommendations. New proposals were discussed and tested for consensus. A final test of consensus confirmed that the portions of the report that reflected the work of the Committee were acceptable to all stakeholders.

Facilitation Team

The Institute for Environmental Negotiation at the University of Virginia was contracted to facilitate an intensive 5-meeting consensus process that would begin in June 2011 and be completed by late September 2011. The IEN provided a three-person team of professionals as well as an IEN graduate student associate who attended to take notes and assist with developing meeting summaries. The DGIF proposed the 5-meeting consensus process during its initial contact with IEN, and the IEN subsequently worked with staff to refine and adapt this process to meet the evolving needs of the stakeholder Committee.

Consensus Process

At the first meeting, the Committee agreed to work with a process where final decisions and recommendations pass the test of consensus. Consensus was described in the following terms:

- Everyone can live with the final agreements without compromising issues of fundamental importance;
- Individual portions of the agreement may be less than ideal for some members, but the overall package is worthy of support;

- Participants will work to support the full agreement and not just the parts they like best;
- Individual participants who might be skeptical of working with opponents or those they don't know are reassured by having effective veto power over any decisions;
- Group members seek to satisfy the needs of all participants;
- Everyone's views are given real consideration;
- As a practical matter, decisions with broad-based support are more likely to be implemented.

PART 4. ISSUES IDENTIFIED BY THE COMMITTEE

During the first two meetings, the Committee brainstormed over 30 issues with the current kill permit system. In later prioritization (discussed below), some issues were probed in detail, some consolidated, and others eliminated. Three key issues of greatest importance were identified during a prioritization process:

- Preventing abuse of the kill permit system;
- Meeting farmers' needs in a timely manner; and
- Ensuring consistency in the permitting process.

All issues identified by Committee members are listed below, grouped under thematic headings with explanations of Committee concerns. It is important to note that the Committee often developed proposals that would address multiple issues at one time. Also, through the process of discussion, the Committee decided that some issues were either not sufficiently important or appropriate for committee attention, and thus not all issues listed below will be found reflected in the Committee's recommendations.

Preliminary List of Issues

Meeting the Needs of Kill Permit System Applicants and Users

Issue #1: Need to Improve Consistency of the Permitting Process

Issue #2: Need to Meet Farmers' Needs in a Timely Manner

Issue #3: Need to Create a More Simple, Understandable Process

Issue #4: Need to Foster More Transparent Administration of Kill Permits

Issue #5: Need to Streamline the Process for Issuing Multiple Permits

Issue #6: Need to Develop Fall Back Options if a Kill Permit Does Not Eliminate a Pest Problem

Justification: Several issues of concern to Committee members centered on the need to make the implementation of the kill permit system more transparent, accessible, and standard. In particular, stakeholders expressed concern with disparities in the system. Members expressed that in some counties it is very easy to obtain a kill permit while in others it is nearly impossible to do so. Similarly, they expressed that CPOs in some counties are more responsive to needs and complaints, while others are not. Overall, the Committee noted a desire that the issuance of permits and their enforcement be consistently applied across regions, user groups, and species; that farmers enjoy timely responses; that the process be simplified; that the process be more transparent; that there be a more effective process for issuing additional or multiple permits; and that there be additional options for kill permit users in the event that a kill permit does not eliminate the problem. All of these issues point to concerns among Committee members that the existing kill permit system does not meet the needs of all users (particularly agriculture users), and that it is not applied across the Commonwealth with sufficient consistency.

Communication with DGIF**Issue #7: Need to Improve Options for Contacting the VDGIF****Issue #8: Need to Address a Gap in Local Information about the Kill Permit System****Issue #9: Need to Better Communicate Conditions of Kill Permits**

Justification: Committee members noted that potential kill permit users, farmers in particular, as well as concerned neighbors, have expressed frustration with not being able to obtain information or communicate with the VDGIF in a timely manner. They highlighted the need to make it easier and faster for people to communicate with the VDGIF about the kill permit system, and for the VDGIF to respond within a predictable and rapid timeframe. In particular, stakeholders wanted to see more options for contacting the VDGIF, more locations for finding contact information, and better ways for people in localities to find relevant local and state information. In addition, Committee members pointed to the need for the VDGIF to make information about conditions on kill permits more accessible. When VDGIF staff pointed out that conditions are attached to and written on each permit, it was suggested that it would be helpful for the public to see these conditions at a centralized location, such as a website. In general, Committee members requested that more information be made publicly available, and that avenues for finding this information be more transparent and accessible.

Accommodating Herd Management, including Hunting**Issue #10: Need to Address the Question of To What Extent Biological Considerations Should be a Factor in Issuance of Kill Permits****Issue #11: Need to Clarify the Relationship of the Kill Permit System to Hunting Seasons & Wildlife Management****Issue #12: Need to Enable Hunters to Help Reduce Herd Pressure****Issue #13: Need to Establish Special/Different Criteria for Elk****Issue #14: Need to Support the Reestablishment of Elk Herds in Southwest Virginia****Issue #15: Need to Acknowledge a Person's Responsibility for Damage**

Justification: Committee members recognized the need to balance the kill permit system against the needs of herd management, and also recognized the important role that hunting plays in effective herd management. The Committee echoed the question posed by the General Assembly about the need to determine to what extent biological considerations should be a factor in issuing kill permits. As will be seen in the Consensus Recommendations below, the Committee decided that the VDGIF should consider the herd management needs of regions and localities when making decisions about kill permits. Committee members also saw the importance of establishing different criteria for elk within the kill permitting system, and underscored that elk should not be treated as deer but instead treated according to the management plan that currently promotes growth of herds in Southwest Virginia. With regard to the identified issue of acknowledging a person's responsibility for damage, the Committee explained that it believes the individual property owners should be encouraged to take measures (such as allowing hunting) that would mitigate the need for a kill permit, as a kill permit should be considered a last resort option.

Ensuring Safety**Issue #16: Need to Allow for Permit Denial for Safety Reasons****Issue #17: Need to Address Safety Concerns**

Issue #18: Need to Provide Recourse for Neighbors**Issue #19: Need to Address Food Safety Concerns (e.g., Fecal Contamination)**

Justification: The Committee identified several issues that pointed to its concerns about ensuring safety in the kill permit system, as well as ensuring safety in human food that might be contaminated by wildlife. These issues underline the opinion by many that the VDGIF should retain the right to deny permits that compromise safety and to otherwise address safety concerns. In addition, stakeholders felt that neighbors concerned about safety should have recourse within the system, such as through an investigation or appeals process. Some stakeholders as well as VDGIF staff pointed to the issue of fecal contamination of certain crops and the need for a kill permit system that recognizes this as a form of crop damage.

Broader Understanding of Agriculture**Issue #20: Need to Accommodate New Orchards****Issue #21: Need to Clarify the Definition of Agriculture****Issue #22: Need to Align Definitions to Cover All Beekeepers (Commercial & Hobbyist)**

Justification: The Committee observed that the way “agriculture” is defined in the kill permit system has practical bearing on what operations are included or excluded, either because of the Code or because of enforcement policies. Stakeholders wanted the definition of agriculture to be clarified so that beginning orchardists and beekeepers would be included. Stakeholders were concerned that small and fledgling operations not be excluded simply because they do not meet an income minimum.

Addressing Abuse**Issue #23: Need to Prevent Abuse of the Kill Permitting System****Issue #24: Need to Promote Ethical Carcass Disposal****Issue #25: Need to Prevent Illegal Baiting****Issue #26: Need to Establish an Appeals Process**

Justification: Committee members expressed several concerns about abuse within the kill permit system. These include abuse by kill permit users as well as by enforcers. In the former category, stakeholders were concerned about unethical disposal of carcasses, illegal baiting and using the kill permit to obtain trophy bucks. In the latter category, stakeholders were concerned that individuals who are denied permits have access to a standardized and accessible system for appealing the decision. The issue of illegal baiting dropped out of the discussion over time and does not emerge in the recommendations. The Committee acknowledged that illegal baiting is already dealt with by the system, and that baiting can be an important tool for Conservation Police Officers in eliminating animals causing crop damage.

Including Municipalities**Issue #27: Need to Include Wording that Covers Municipalities**

Justification: Municipalities expressed concern that they might be affected by any changes in the Kill Permit system or new regulations or legislation. They expressed that they have more specific, local policies and procedures that they have developed over time to best meet their needs and wanted the committee and the VDGIF to consider any affects on municipalities and their jurisdictions in their deliberations.

Expanding the System

Issue #28: Need to Provide Resources for Effective Administration of Kill Permits

Issue #29: Need to Collect Data to Inform for Future Decision-Making About Kill Permits

Issue #30: Need to Consider Inclusion of Additional Species in the Kill Permit System

Issue #31: Need to Expand the Potential of the Kill Permit System (i.e., to Include Natural Resources, Health & Safety, Additional Species)

Justification: Committee members expressed concern that one of the reasons that the kill permit system may not be working as well as it might is due to lack of sufficient resources. The Committee and VDGIF staff identified issues that point to possible ways the existing kill permit system might be improved through expansion of both resources and the program. These include the possibility of providing additional resources to the VDGIF for kill permit enforcement, and a need to collect new kinds of data to assist with future decision-making. The Committee did discuss the issue of including additional species. While the Committee focused on deer, bear and elk, it noted that other species can be a pest problem, but decided that it did not wish to issue a recommendation on this topic. The VDGIF said it could investigate the use of “special permits” for non-deer/bear/elk pests, such as turkeys in vineyards, which it may already be doing in some counties and may want to expand where it would be helpful. The Committee also agreed that it did not wish to pursue the issue of expanding the permit system to cover damage to natural resources, and agreed that health and safety had already been dealt with under the other issue of food safety.

Kill Permit Code

Issue #32: Need to Consider the Language of the Code (i.e., Deterrence vs. Shall Issue Kill Permit)

Justification: The Committee held considerable discussion to deliberate the option of recommending opening the Code of Virginia and recommending legislative changes. Initially, the group came to consensus that it would avoid Code change and limit its recommendations to policy and implementation suggestions for VDGIF. On the final meeting day, the Committee did agree by consensus that the Code should be amended to differentiate Elk from Deer, allowing Elk to be included as a separate species within the Kill Permit system. This is the *only* recommendation regarding the Code. It is highlighted below in the Recommendations section.

Placing Issues in Perspective

Issue #33: Need to Acknowledge what is Working (“Don’t Fix What is Not Broken”)

Issue #34: Need to Stay Focused on the Charge (General Assembly’s Charge & VDGIF’s Broadened Scope)

Justification: As the Committee brainstormed issues to address, members acknowledged the importance of recognizing the high levels of satisfaction with the kill permit system that were reported in the scientific survey conducted by Responsive Management for the VDGIF to permit holders. Some stakeholders felt that there were few problems with the existing system, and that the Committee should take care not to “fix what is not broken.” Some stakeholders also emphasized the importance of the Committee staying on track in following the charge as articulated by the General Assembly and by the VDGIF. These issues are not reflected in specific recommendations, but are reflected in the Committee’s desire to enable the VDGIF to make

changes to the kill permit system through the least disruptive means possible, such as through internal policy and regulatory changes as opposed to changes to the Code of Virginia.

Prioritization of Issues

Issues were then prioritized through a two-part process. Participants identified the top three most important issues, as well as the three they felt would be most easily addressed:

Most Important Issues (above numbering system preserved)

Issue #23: Preventing Abuse of the Kill Permitting System

Issue #2: Meeting farmers' needs in a timely manner

Issue #1: Consistency in the permitting process

Issues that are Most Easily Addressed (above numbering system preserved)

Issue #7: Improve methods for contacting VDGIF

Issue #29: Data collection needs for future decision-making

Issue #25: The use of baiting

The Committee first developed solution ideas for these six prioritized issues. The remaining issues on the preliminary brainstormed list were systematically revisited in Meeting 3 and Meeting 4, where participants were asked whether they were in fact contained in already discussed issues, had been sufficiently addressed by already proposed recommendations, were no longer relevant to the Committee's work, or continued to be important and in need of attention. The Committee treated each issue accordingly.

PART 5. COMMITTEE RECOMMENDATIONS TO ADDRESS THESE ISSUES TO IMPROVE THE KILL PERMIT SYSTEM

The Committee developed several consensus recommendations aimed at addressing the issues identified above. These recommendations are listed below.

Note that specific recommendations are annotated by a parenthetical referencing system of brackets containing the numbering of the issue(s) addressed. These numbers correspond to the list in the above section, and they are included so that the reader may track particular recommendations to the issues they address.

Consensus Recommendations to Address Identified Issues

General Framework for Committee's Recommendations

To ensure consistent application of the Kill Permit Program, the Committee recommends that the VDGIF develop through the least disruptive means possible a kill permit program that will ensure consistent application of the program and meet the needs of a diverse group of stakeholders including farmers, residential landowners, municipalities and localities, airports, and the hunting community (9,27,1,3). To accomplish this, the committee envisions that the VDGIF will make changes through statutory, regulatory, or guidance mechanisms as appropriate. The committee intends for its recommendations to provide guidance on the specific areas of the kill permit system that need improvement, and also does not want to weaken what is currently in the Code of Virginia (Code). It does not expect the VDGIF to be able to implement its recommendations overnight, and also wishes to make clear that it desires the VDGIF to implement the *intent* of its suggestions as expeditiously as possible. Permit issuance should take species management plans and specific circumstances of localities into consideration (10,11).

In response to a request that progress be reported, VDGIF agrees to include kill permit system data in annual species reports as well as produce a semi-annual progress report to the Committee, which will most likely be posted online.

The Committee recommends that DGIF consider a VDGIF homepage that will include a site for complaints and system for reporting and investigating complaints (7,4,26,23). The Committee's intent is that the VDGIF shall make the filing of complaints and inquiry about complaints a streamlined and easy process. It understands that citizens are also able to obtain specific information on complaints and abuses through the Freedom of Information Act.

The Committee strongly recommends that meat from animals killed on kill permits be used and not be wasted and that carcasses be disposed of properly whenever practical and safe (24).

Proposed Process to Address Applicants for Kill Permits

All Species: General Specifications

Item 1: Definition of Commercial Agricultural Production

The committee recommends that the VDGIF create a definition in its operating procedures for commercial agriculture that is clearer than is currently found in the Code.

Commercial agricultural production is defined by the definition of agricultural production, below, with clarification as needed with proof listed below:

“Agricultural production” means any operation devoted to the production of crops, including honey; or animals, including bees or fowl; or including the production of fruits and vegetables of all kinds; or meat, dairy, and poultry products, nuts, tobacco, nursery, and floral products; and early stage production of trees. (21) (22).

If it is the determination of the VDGIF that if a person is planting a food crop to attract wildlife for hunting purposes, and not for production, he or she will not be given a kill permit.

- When proof is necessary as determined by the Conservation Police Office (CPO), sufficient evidence of bona fide commercial agricultural production may include any of the following provided to the Department upon request:
 - o Conservation plan established by Natural Resource Conservation Service, Soil and Water Conservation District, or other entity
 - o Copies of bills and receipts of sufficient amount for establishment costs associated with the operation
 - o Copies of other expenses related to the agricultural operation
 - o Other evidence deemed sufficient by the Department at the time of their request (20)

Item 2: Appeals Process Established (26)

- If an individual has been denied the initial Kill Permit, he/she can file an appeal with the Department Director or his/her representative outlining the reasons he/she believes that his/her kill permit request was wrongfully denied.
- The Committee would like the Department to develop a formal appeals process that may have these components:
 - o The Director or his/her representative must initially respond and address the appeal without undue delay, and with a formal written response no later than 5 days from written notification of appeal, giving the reasons for either upholding the initial denial or reasons for overriding the denial.

- All appeals will become part of a permanent record.

Item 3: Enforcement Mechanisms

- All current enforcement mechanisms will remain in place as established by §29.1-529 F.

Species: Deer - Process to Respond to and Issue Agricultural Kill Permits

While the committee has outlined recommendations below for improving the process for obtaining an agricultural kill permit, it also suggests that the VDGIF may wish to develop a similar process for residential permits, where appropriate.

- Note: To be used for antlerless deer unless the Department finds clear and convincing evidence that an antlered deer is the cause of the damage, in which case a waiver to this requirement shall be granted.
- The kill permit holder or his/her representative, who must be given authority by a CPO, may execute the permit.

Step 1: Formal process for connecting with applicants early on, prior to the issuance of a kill permit

The Committee encourages VDGIF to:

1. Establish a process such as pre-registration that encourages applicants who have reason to believe significant damage will occur on their property to contact VDGIF in advance of the damage occurring in order to initiate discussions regarding wildlife management options including kill permits
2. Educate applicants who have property upon which damage is occurring to allow hunting or other control measures.
3. Develop a central communications system (e.g., toll-free phone number, website) that allows an applicant to easily and quickly request a kill permit when damage occurs from deer. The system should provide a confirmation of the request to the applicant for appropriate follow-up and appeals process, if needed.

Step 2: The Committee would like the Department to develop Response and Establishment of Permit Conditions with the following components (1,2):

The Committee's goal is for applicants to receive a response from the VDGIF as soon as possible; if the initial contact at VDGIF does not respond within 48 hours, the committee would like the request to be rerouted to another VDGIF staff who *can* respond within 48 hours. The Committee recognizes that this will require a change in practices for applicants: for the clock to start ticking, the applicant will need to call the central routing system to engage the system, and not rely on personal VDGIF contacts.

- Permit conditions will include:
 - Permit will be authorized from the time damage is documented for up to the length of the crop growing season or the time during which damage can occur as

set forth in guidance by the Department in consultation with Virginia Cooperative Extension and the Virginia Department of Agriculture and Consumer Services (5).

- Up to fifteen deer will be allowed to be killed under each kill permit, consistent with the deer management plan, unless VDGIF feels a larger number is appropriate for that circumstance. Subsequent requests for additional animals on a kill permit during the calendar year will be in fifteen animal increments (see Step 4- Subsequent Requests). Fifteen animal increments can be expanded at the discretion of the Department on a case-by-case basis in instances of significant crop damage or large acreage (5).
- The kill permit will not be effective during hunting season and will expire no later than the first day of hunting season for deer (11,12). Upon the discretion of the Department, this requirement can be waived on a case-by-case basis if deemed necessary to address significant damage, emergencies, or other extenuating circumstances.
- Upon the determination of the Department, based upon herd management and safety concerns, the Department may waive the initial inspection (2,11).

Step 2 (a): Lack of VDGIF Response within 48 hours and Interim Authorization for Kill Permit

- If an applicant does not receive a response within 48 hours, then this applicant may use the Appeal Process. The Appeal Process will include mechanisms for complaint (26).

Step 3: Reporting of Killed Deer

- A reporting system will be developed to allow reporting of killed deer by kill permit holders or others designated on their permit at the end of the permit. When feasible, the Committee would recommend that this be incorporated into the centralized database, including but not limited to electronic reporting. This reporting system will support a complaint system that is available to permit holders, the public, and law enforcement (23).
- Data from the reporting system may be used in aggregate by the Department to provide necessary data for future decision-making, reports to the General Assembly, Board, and assist in identifying future program needs (29).

Step 4: Subsequent requests for Kill Permits in the same calendar year or into the future (5).

- The Committee requests that the VDGIF develop a process that would enable subsequent requests in the same calendar year for additional deer on a kill permit be handled quickly and simply. The Committee requests that subsequent requests be authorized for an immediate kill of up to fifteen deer, consistent with the deer management plan, unless VDGIF feels a larger number is appropriate for that

circumstance, generally following the same conditions as the already established kill permit, and reporting requirement.

- Subsequent requests in the next calendar year for a kill permit may be re-issued immediately upon receipt of request and approval of an agency representative, generally following the same conditions as the previous permit. Normally, it should be established that hunting did take place during the past hunting season. The agency representative should take into account any extenuating circumstances if hunting did not take place on the damaged property. *The Committee wished that the following language be included as a qualifier:* The requirement for hunting in a previous season is appropriate for most agricultural operations, but not for all permits. Land that is *able* to be hunted on must be hunted on before a permit can be issued.
- The Department maintains the ability to extend the number of animals authorized on subsequent requests.
- The Department may inspect the property and or damage as deemed necessary. Generally, a kill permit shall not be in effect when a hunting season for the species for which the permit is issued is open in the jurisdiction in which the permit is issued (12).

Species: Elk – Process to Respond to and Issue Agriculture Kill Permits

Recommendation for Code Change

The Committee recommends a Code Change that will allow Elk to be addressed in the Kill Permit system for the purposes of controlling damage. The Committee proposes that the word “elk” be added to accompany the mention of “bear” in the relevant existing Code (specifically 29.1-529). Note that this is the **only** recommendation of code change in the body of Committee consensus recommendations.

Step 1: Formal process for connecting with applicants early on, prior to the issuance of a kill permit (1,2,5)

The Committee encourages VDGIF to:

1. Establish a process such as pre-registration that encourages applicants who have reason to believe significant damage will occur on their property to contact VDGIF in advance of the damage occurring in order to initiate discussions regarding wildlife management options including kill permits
2. Educate applicants who have property upon which damage is occurring to allow hunting or other control measures.
3. Develop a central communications system (e.g., toll-free phone number; website) that allows an applicant to easily and quickly request a kill permit when damage occurs from

elk. The system should provide a confirmation of the request to the applicant for appropriate follow-up and appeals process, if needed.

Step 2: The Committee would like the Department to develop *Response and Establishment of Permit Conditions* with the following components (1,2):

The Committee's goal is for applicants to receive a response from the VDGI as soon as possible; if the initial contact at VDGI does not respond within 48 hours, the Committee would like the request to be rerouted to another VDGI staff who *can* respond within 48 hours. The committee recognizes that this will require a change in practices for applicants: for the clock to start ticking, the applicant will need to call the central routing system to engage the system, and not rely on personal DGIF contacts.

- Permit conditions will include:
 - o Permit will be authorized from the time damage is documented for up to the length of the crop growing season or the time during which damage can occur as set forth in guidance by the Department in consultation with Virginia Cooperative Extension and the Virginia Department of Agriculture and Consumer Services (5).
 - o The kill permit will not be effective during hunting season and will expire no later than the first day of hunting season for elk (11,12). Upon the discretion of the Department, this requirement can be waived on a case-by-case basis if deemed necessary to address significant damage, emergencies, or other extenuating circumstances. The Department can, based upon herd management objectives and wildlife recommendations, authorize non-lethal control measures in lieu of a kill permit for elk (11,13,14).
 - Non-lethal capture methods should include every effort to tag the animal (14).
 - If an applicant has damage from elk to their property in and outside the management area from the same tagged animal that has been captured three consecutive times, the VDGI or its designee is authorized to kill the animal and report the kill to the Department (6).
 - o Outside the management area, one elk will be allowed to be killed under each kill permit, consistent with the elk management plan, unless VDGI feels a larger number is appropriate for the circumstance. Non-lethal measures are a first resort (14).
 - o Within the Elk Restoration Area, all practical non-lethal methods should first be exhausted. If all non-lethal methods are not effective, it is preferred that VDGI staff or their agent will lethally remove the elk. In this way, proper biological testing will be ensured (13,14,28). If these fail, it is preferred that VDGI Staff or

their agent be responsible. If they cannot, then DGIF staff may designate the applicant to kill the elk.

- A kill permit shall not be in effect when a hunting season is open for the species for which the permit is issued (not to include chase season for bears) (11,12). But upon the discretion of the Department, this requirement can be waived on a case-by-case basis if deemed necessary to address significant damage, emergencies, or other extenuating circumstances.
- Upon the determination of the Department, based upon herd management and safety concerns, the Department may waive the initial inspection (2,11).

Step 2 (a): Lack of VDGIF Response within 48 hours and Interim Authorization for Kill Permit

- If an applicant does not receive a response within 48 hours, then this applicant may use the Appeal Process. The Appeal Process will include mechanisms for complaint (26).

Step 3: Reporting of Killed Elk

- A reporting system will be developed to allow reporting of killed elk by kill permit holders or others designated on their permit at the end of the permit. When feasible, the Committee would recommend that this be incorporated into the centralized database, including but not limited to electronic reporting. This reporting system will support a complaint system that is available to permit holders, the public, and law enforcement (23).
- Data from the reporting system may be used in aggregate by the Department to provide necessary data for future decision-making, reports to the General Assembly, Board, and assist in identifying future program needs (29).

Step 4: Subsequent requests for Kill Permit for Elk in the next calendar year (5)

- The same processes outlined in Steps 1-3 will be followed.
- The Department maintains the ability to extend the number of animals authorized on subsequent requests.
- The Department may inspect the property and or damage as deemed necessary.

Species: Bear – Process to Respond to and Issue Agriculture Kill Permits

Step 1: Formal process for connecting with applicants early on, prior to the issuance of a kill permit (1,2,5)

The Committee encourages VDGIF to:

4. Establish a process such as pre-registration that encourages applicants who have reason to believe significant damage will occur on their property to contact DGIF in advance of the damage occurring in order to initiate discussions regarding wildlife management options including kill permits.

5. Educate applicants who have property upon which damage is occurring to allow hunting or other control measures.
6. Develop a central communications system (e.g., toll-free phone number; website) that allows an applicant to easily and quickly request a kill permit when damage occurs from bear. The system should provide a confirmation of the request to the applicant for appropriate follow-up and appeals process, if needed.

Step 2: The Committee would like the Department to develop *Response and Establishment of Permit Conditions* with the following components (1,2):

The Committee's goal is for applicants to receive a response from the VDGIF as soon as possible; if the initial contact at VDGIF does not respond within 48 hours, the Committee would like the request to be rerouted to another VDGIF staff who *can* respond within 48 hours. The Committee recognizes that this will require a change in practices for applicants: for the clock to start ticking, the applicant will need to call the central routing system to engage the system, and not rely on personal VDGIF contacts.

- Permit conditions will include:
 - o Permit will be authorized from the time damage is documented for up to the length of the crop growing season or the time during which damage can occur as set forth in guidance by the Department in consultation with Virginia Cooperative Extension and the Virginia Department of Agriculture and Consumer Services (5).
 - o The kill permit will not be effective during hunting season and will expire no later than the first day of hunting season for bear (11,12). Upon the discretion of the Department, this requirement can be waived on a case-by-case basis if deemed necessary to address significant damage, emergencies, or other extenuating circumstances.
 - o The Department can, based upon herd management objectives and wildlife recommendations, authorize non-lethal control measures in lieu of a kill permit for bear (11,14). Non-lethal capture methods should include every effort to tag the animal (14).
 - o Up to three bear will be allowed to be killed under each kill permit, consistent with the bear management plan, unless VDGIF feels a larger number is appropriate for the circumstance (11).
 - o A kill permit shall not be in effect when a hunting season is open for the species for which the permit is issued (not to include chase season for bears) (11,12). But upon the discretion of the Department, this requirement can be waived on a case-by-case basis if deemed necessary to address significant damage, emergencies, or other extenuating circumstances.

- Upon the determination of the Department, based upon herd management and safety concerns, the Department may waive the initial inspection (2,11).

Step 2 (a): Lack of VDGIF Response within 48 hours and Interim Authorization for Kill Permit

- If an applicant does not receive a response within 48 hours, then this applicant may use the Appeal Process. The Appeal Process will include mechanisms for complaint (26).

Step 3: Reporting of Killed Bear

- A reporting system will be developed to allow reporting of killed bear by kill permit holders or others designated on their permit at the end of the permit. When feasible, the Committee would recommend that this be incorporated into the centralized database, including but not limited to electronic reporting. This reporting system will support a complaint system that is available to permit holders, the public, and law enforcement (23).
- Data from the reporting system may be used in aggregate by the Department to provide necessary data for future decision-making, reports to the General Assembly, Board, and assist in identifying future program needs (29).

Step 4: Subsequent requests for Kill Permit for Bear in the next calendar year (5)

- The same processes outlined in Steps 1-3 will be followed.
- Where appropriate, the permittee would be required to state that the property had been hunted during the previous hunting season (12,15).
- The Department maintains the ability to extend the number of animals authorized on subsequent requests.
- The Department may inspect the property and or damage as deemed necessary.

Consensus Recommendation to Address Issue #19: Preventing Abuse of the Kill Permit System

VDGIF should provide general education to potential permittees and the public about the kill permit system and about abuse of the system (e.g. – brochure of guidance, website, etc). An improved data tracking system is now being developed at VDGIF to address this and other issues identified below.

Consensus Recommendation to Address Issue #3; #8: Improve Methods for Contacting VDGIF; Local Information Gap

Make information easily accessible by creating a centralized online guide to the Kill Permit system, including information about how documentation of damage can be provided and about options for non-lethal approaches to pest animals.

Justification: Committee rationale for this recommendation includes the following:

- i. Transparency needs to be a goal of communication efforts.

- ii. Information needs to be publicized and made more readily available.
- iii. Stakeholders need easy and quick access to VDGIF resources.
- iv. A central online location would make the process more timely.
- v. A kill permit guide could be made available, including non-lethal options for pest control, at minimal cost.
- vi. Easy access to non-lethal methods could reduce the need for kill permits.
- vii. Information about the process could expedite future permit issuances.

Consensus Recommendation to Address Issues #16, #17: Improving Safety

Create general safety standards as part of VDGIF's Standard Operating Procedures (SOP). Safety concerns, in general, should be a guidance recommendation to CPOs via the SOP.

In addition, the Committee wanted it noted as part of this report that it held a conversation on the issue of spotlighting, but did not develop consensus recommendations on this issue. The conversation touched on why spotlighting is currently used under the kill permit system as a legitimate and important tool for efficacy and safety, but also noted that there are improper uses and abuses of the practice. One stakeholder held a strong opinion that the current allowance for spotlighting under a Kill Permit should be removed, and there was a suggestion that a CPO should specify if this tool is allowed on a case-by-case basis. *The Committee wishes to highlight spotlighting to kill trophy bucks (where not permitted) as an illegal, serious abuse that the Department should attempt to address with a serious penalty.*

Justification: In considering issues of safety, the Committee noted the importance of considering land size, adjacency, public buildings, schools, parks, etc. According to VDGIF, this is an area where most discretion will be used by CPOs, and where most appeals will originate.

Consensus Recommendation to Address Issue #29: Improve Data Collection for Future Decision-Making

To assist future decision-making about the kill permit system, the VDGIF should collect any new biological data in such a way as to enhance its future management system, as well as kill permit data including but not limited to the following:

- a. Permits issued versus requested.
- b. Permits denied and reasons for denial.
- c. Violations that occur within the life of the permit, by participant.

Justification: The Committee felt that the three specifically requested data categories would assist in any future decision-making process, should the Kill Permitting system be again under review by the VDGIF, the General Assembly, or the public. Beyond these

categories, the Committee felt that the VDGI should make its own internal decisions about what forms of data are needed for herd management.

Consensus Recommendation to Address Issues #19; #30; #31 – Food Safety; Species Not Covered; Expand Kill Permit Potential

Where and when appropriate, expand kill permit potential to include damage to natural resources, health and safety (e.g., fecal contamination), etc (19, 31).

The Committee requests that the VDGI develop a policy of interpretation of “crop damage,” specifically to expand the definition to include, for example, crops that are no longer saleable because of fecal contamination. DGIF should keep consistent definitions of crop damage in the program, and this definition should continue to evolve to reflect changing conditions.

Justification: The idea to expand the capabilities of the kill permit system to include damage to natural resources, health and safety, and other species was introduced by the VDGI as a potentially desirable change. The nature of agriculture is evolving, and there are now health standards for crops that add new conditions to the meaning of crop damage. For example, a crop may now be ruined by animal fecal contamination, and this should be recognized as “crop damage.”

The Committee felt that the VDGI should have the authority to determine other contexts in which a kill permit would be necessary. The Committee discussed at length the idea of adding other species, but determined that this recommendation was out of the scope of its work and asked that an acknowledgment of the problem be noted, without a formal recommendation. In response, the VDGI said it could investigate the use of “special permits” for non-deer/bear/elk pests, which it may already be doing in some counties and which it may wish to expand to places where it would be helpful (30).

Recommendation to Address Multiple Issues (Primarily Issue #18 – Recourse for Neighbors)

In residentially zoned areas, the VDGI will encourage permittees to notify their neighbors.

Justification: This recommendation acknowledges the concerns of neighbors. While notification is not mandatory, the recommendation is aimed at promoting a culture where sharing of information about kill permits is encouraged.

Committee Members and the Consensus Decision

Committee members present at Meeting 5 decided, by consensus, that stakeholder names and affiliations should be listed following the above consensus recommendations. The list of participants signifies the commitment to the decisions made. According to this group’s understanding of consensus, each individual agrees to support all of the agreement, and not just the parts that he or she likes best. The consensus recommendations reflect the work and consensus building of all stakeholders throughout the process, but only the list of those present for the decision to list names and for the final consensus test of recommendations is

reproduced below. An asterisk is placed next to the name of two individuals who could not be present for the final vote, but expressed support in absentia. The full list of participants is included in the Appendix.

Dr. George Andreadis, Neighboring Property Owner
Chesterfield County

Dage Blixt, Wildlife Services – NOVA Airports
Prince William County

Kirby Burch, Virginia Hunting Dog Alliance
Powhatan County

Leon Boyd, Rocky Mountain Elk Foundation, Southwest Virginia Coalfields Chapter
Buchanan County

Kevin Damian,* Virginia Association of Biological Farmers,
Hanover County

Larry Faust, Lynchburg Police Department
Lynchburg, VA

Kathy Funk, Rocky Mountain Elk Foundation
Augusta County

Nick Hall, Virginia Deer Hunters Association
Amelia County

Tex Hall, Virginia Bear Hunter's Association
Pulaski County

Michael Henry, Virginia Cattlemen's Association
Amelia County

Ricky Horn, Rocky Mountain Elk Foundation, Southwest Virginia Coalfields Chapter
Buchanan County

Donna Pugh Johnson, Virginia Agribusiness Council
City of Richmond

Michael Lucas, Fairfax County Animal Control Officer
Fairfax County

Robert O’Keeffe, Virginia Nursery and Landscape Association, Virginia Christmas
Tree Growers Association
Floyd County

Earit Powell
Fairfax County

Katie Register,* Heart of Virginia Beekeepers
Prince Edward County

Jon Ritenour, Izaak Walton League of America – Harrisonburg/Rockingham Chapter
Rockingham County

Chris Stanley, TECO COAL – Clintwood Elkhorn Mining Company

Wilmer Stoneman, Virginia Farm Bureau Federation
Henrico County

Steve Sturgis, Virginia Department of Agriculture & Consumer Services
Northampton County

Dick Thomas, Virginia Vineyard Association
Amherst County

Keith Wilt, Western Virginia Deer Hunter’s Association
Rockingham County

PART 6. CHARGES RELATED TO SB 868

Several House Committee charges relative to Senate Bill 868 are primarily technical in nature or already have significant guidance provided by Virginia's Black Bear and Deer Management Plans.

CHARGE: Determine if SB 868 would place significant stress on the various herds affected by this measure.

By automatically authorizing, without restrictions, *"the owner or his representative to kill such deer, elk, or bear for a term of 12 months from the date of registration"*, *"the length of the growing season"* (tabled bill with amendments), removing the requirement for an agricultural operation to be commercial to qualify for a permit, including a much broader scope of what a qualifying agricultural operation would be by referring to § 3.2-300, and removing the non-lethal option for wildlife in agricultural situations, SB 868 would significantly liberalize the agriculture operator's ability to kill deer, elk, and bears. If significant numbers of kill permittees within a county used SB 868 to liberally kill deer, elk, and bears for 12 months out of the year or the entire length of growing season, there could be a large impact on wildlife populations across entire management units. Driven by the liberal use of agricultural kill permits, wildlife populations could be suppressed to levels that preclude the attainment of cultural carrying capacity (CCC) population objectives. The CCC objectives in each management unit reflect the wildlife population desires of all citizens and are specified in the Management Plans.

On a statewide basis and within most counties, the current kill permit system for deer probably has a negligible impact. Overall, deer killed on kill permits are equal to only 6% of the total killed by hunters during regular hunting seasons. However in Alleghany County, Chesapeake, and Virginia Beach, the impact is significant and kill permits currently add another 42%, 55%, and 28% to the hunter kill, respectively. Another 11 counties have kill permit impacts that add another 10-20% to the hunter kill. The significant liberalization of kill permits would certainly increase these county-wide impacts.

Even if management unit-wide impacts remain minimal, local population impacts associated with heavy kill permit use under SB 868 would likely be greater than with the existing kill permit system. These "local" impacts will affect neighboring wildlife populations and wildlife users (e.g., hunters, wildlife watchers) within the home range of animals influenced by the agricultural site using kill permits.

Due to differences in population dynamics, movements, and population status, the management unit or local influence of SB 868 will have a differential impact among species. Compared to deer, the impact on bear populations would be more significant over a wider area. Some relevant facts related to bears include:

- The "local" area influenced would impact large areas because bears have very large home ranges (6 - 65mi²), travel extensively for seasonal food sources, and congregate

(by shifting home range use) at abundant food sources (like agricultural fields, orchards).

- Congregating bears from across large areas at agricultural sites would make animals extremely vulnerable to liberal kill permit use and cause subsequent wide-scale population impacts. Under the current kill permit system some areas already experience unusually high kills that undoubtedly have had a local population effect.
 - For example one farm near Shenandoah National Park has killed 110 bears over a 9-year period (2001-2009), including 28 bears killed during a 2-week period in 1 year.
- Bears have among the slowest reproductive rates of any North American mammal and population recovery from over harvested difficult.
- Human-caused death (primarily hunting harvests) is the most important limiting factor in black bear population dynamics.
- Bear losses from hunting or kill permits are additive forms of mortality, making population impacts especially significant.
- Unregulated killing could devastate populations over large areas (including adjoining refuges of Shenandoah National Park and the Great Dismal Swamp National Wildlife Refuge).

Some contrasting facts related to deer include:

- Deer have smaller home ranges ($\sim 1\text{mi}^2$) than bears and do not readily shift home ranges in response to food resources, so the area-wide impact would generally be less.
- In contrast to bears, deer mortality from hunting or kill permits may be partially offset by compensatory reproduction which mitigates losses. As a result, deer population impacts will not be as great as those for bears.
- Especially at the local property level, unrestricted killing of deer could reduce deer populations and hunting opportunity on surrounding lands.
 - This may be especially important on lands bordering National Forest, where deer herds are declining and deer commonly move to adjoining private land.
- Allowing an unlimited number of deer (including both bucks and does) to be killed over very long time periods could result in many local areas where deer herds would be significantly reduced around the state.
- With the unregulated killing of antlered bucks under SB 868, age structure and numbers of antlered bucks would be impacted, thus affecting hunter satisfaction and quality deer management objectives of neighboring landowners and hunt clubs.

Kill permit use for elk under SB 868 also has some unique biological implications. Currently, the VDGIF has plans to restore elk populations in a 3-county area of southwest Virginia (Buchanan, Dickenson, and Wise). Up to 75 translocated elk are planned for release in Buchanan County. Any loss in a population restoration effort would be significant and compromise the long-term population viability of this growing elk herd. SB 868 does not make any exceptions for an elk restoration management program where liberal use of kill permits could undermine elk restoration and population objectives.

In summary, SB 868 has the potential (1) for significant, large-scale statewide population impacts for both deer and bears that could impact existing public mandates for CCC population objectives and recreational objectives, (2) for significant local population impacts for deer and bears where “local” areas will be larger for bears than for deer, and (3) for significantly impacting elk restoration efforts in southwestern Virginia.

CHARGE: If SB 868 places significant stress on herds, to determine the extent that biological considerations should be a factor in the issuance of kill permits

The 2001 Black Bear Management Plan (2001-2010), the revisions to the Black Bear Management Plan (in progress), and the Virginia Deer Management Plan (2006-2015) already provide significant public guidance about balancing nuisance concerns with other population and recreation objectives. Approved by the VDGIF Board of Directors, these Plans have been developed with comprehensive input from the general public, diverse stakeholder advisory committees (including agricultural and hunter interests), and VDGIF staff.

In general, the nuisance management objectives for both deer and bear are to reasonably manage and protect human safety and property, but not at the expense of other public objectives for population size (i.e., CCC) and recreation. Any nuisance management approach (e.g., the use of kill permits) that produces an outcome which disregards other public objectives would not be consistent with the direction provided by the management plans. To the extent possible, nuisance concerns should be managed with a variety of methods (including hunting) that does not supersede other species management objectives for public benefits.

The specific nuisance management goals found in the plans are:

(a) Per the 2006-2015 Deer Plan, the damage goal is:

Proactively manage deer impacts on a local basis consistent with deer population objectives and acceptable levels of damage. Manage agricultural, urban, ecosystem, vehicular, forestry, animal health, human health and safety, and other impacts caused by deer. Deer damage management should use diverse approaches and promote personal and community responsibility.

(b) Per the 2001-2010 Bear Plan, the nuisance goal is:

Promote human safety and protect personal income and property in attaining black bear population and recreation objectives in Virginia.

(c) Per the ongoing revisions to the Bear Plan, the revised nuisance goal will include these ideas:

- *Promote human safety and recreational opportunities while reasonably mitigating loss of personal property and income.*

- *Should still attain population and recreation objectives while promoting human safety, mitigating the loss of personal income, and mitigating the loss of and damage to private property*
- *Encourage private as well as government responsibility by providing collaborative and consistent conflict resolution.*
- *Assure shared public /agency responsibility in the promotion of human safety and protection of personal income and property.*
- *Use hunting as a preferred method to manage problem bears.*

CHARGE: Determine the extent that SB 868 will result in abuse of current hunting laws

Current hunting laws govern hunting during prescribed seasons and prohibit hunting out of season. Use of kill permit privileges is not hunting per se, but rather it is the permitted killing of animals outside of regulated seasons. Although it would be difficult to determine how current hunting laws would be abused with SB 868, several other hunting-related impacts might develop.

SB 868 would likely create hunting-related issues such as:

- Especially without prior inspections or other controls, would shift hunting season harvests into kill permit harvest. These kill permit harvests would not be controlled and could exceed levels necessary to meet other population management objectives. This could result in a reduction in hunting seasons.
- With kill permits generally being issued before the deer and bear hunting seasons and especially with no restrictions on shooting antlered deer, kill permittees have first shot at trophy animals possibly resulting in lost opportunities for hunters.
- With liberal and uncontrolled use of kill permits by landowners, hunters on associated adjoining properties might be motivated to violate seasons, bag limits, and other hunting regulations to harvest animals before kill permit users significantly impact populations.

CHARGE: To determine what provisions can be put in place to effectively prevent abuse of the kill permit system under SB 868

There is a wide range of situations that could fall under the term *abuse* regarding kill permits, from violation of game laws to ethical misconduct. In terms of violations from a legal standpoint, kill permit abuse is usually investigated as violations of a specific law or regulation. For example, if an unauthorized person is partaking of the permit or antlered deer are taken on an antlerless-only permit, the “abuse” simply represents an illegal action while using a kill permit.

The passage of SB 868 would greatly liberalize the current Code and has the potential to exacerbate already occurring and perceived abuses in the kill permit system. These include the

overharvest of local wildlife populations, harvesting of trophies, and lack of actual damage to commercially produced crops.

In order to prevent potential abuses under SB 868:

- Add language to require damage inspection/confirmation by VDGIF.
- Remove authorization for 12 months of killing or *the length of the growing season* (amended bill).
- Ensure qualifying criteria for kill permit issuance for agricultural damage to be defined as Commercial.
- Remove reference to § 3.2-300 (*agriculture operation*) and refine definition.
- Add provisions for non-lethal management options for both bear and elk in agricultural situations.
- Remove bears from the residential option for kill permits.
- Set Agency-wide standards for minimal damage in all damage situations.
- Add antlered restriction to agriculture damage.
- Keep/allow unique treatment of different species (e.g., deer, bear, elk).
 - Compared to deer damage, bear damage is relatively minimal (less than 0.2% of farmland in Virginia).
 - Bear and deer have enormous differences in biology, population dynamics, management, and life history. Bear populations are far more sensitive to overharvest than deer and do not rebound as rapidly from population reductions.
 - Bear damage can often be addressed by nonlethal means that ultimately would be more effective than lethal control via kill permits.
 - Restoration of elk populations will require nuisance mitigation approaches that need to be different than those used for deer.

CHARGE: To identify other issues affected by SB 868

Other general issues with SB 868 include

- The submitted bill would have allowed year-round (12 months or length of growing season), unregulated, and unlimited killing of bear, deer, and elk without confirmation of damage. Implementation of the original bill would violate the publicly created and VDGIF Board-endorsed Deer and Bear Management Plans, the Elk Restoration Plan, and responsible wildlife management in Virginia.
- The restriction against shooting antlered bucks was also removed, which will affect hunter satisfactions and generally have little population impact for damage control.
- Without inspections for damage, it will be easier to kill animals for motives unrelated to damage (e.g., additional hunting opportunities, selling hunts /access to property, harvest of trophy animals like large-antlered deer and big bears).

- SB 868 removed the nonlethal options for managing wildlife in agricultural operations; this is an especially important issue with regards to bear and elk management where non-lethal damage management might be preferred and/or more effective.
- There would be no oversight to limit unauthorized people from killing deer and bears.
- Increased kill of untargeted animals. This would be especially true for bears where damage by other species is often misidentified by landowners as damage from bears.
- Over-killing animals in a local population.
- Increased farmer/hunter/adjoining landowner conflicts.
- Possibility that farmers or landowners might claim damage before it happened in order to be able to kill any animal that passes through the property.
- SB 868 adds a clause in subsection B regarding kill permits issued for bears causing residential property damage when previously it only referenced deer damage. Although the language added states the Director may issue a kill permit for bear residential damage, it implied that all types of residential damage may be eligible for the destruction of a bear. VDGIF gets an average of over 500 calls a year regarding bears near residences. Calls concerning bears in unsecured trash or eating at birdfeeders comprise an average of 80% of these calls. VDGIF does not allow homeowners to kill bears that are artificially drawn and held on individual properties due to human placed food attractants. Adding bears to this subsection may cause more homeowners to request kill permits for bears and if given the authorization, have the ability to alter local bear populations if the attractant is not removed. The primary message issued by the Department and reinforced by the Black Bear Management Plan is a shared responsibility for preventing bear damage. Suggesting kill permits could be issued for common residential damage is contrary to the Agency message.
- The definition of agricultural operations as defined in § 3.2-300 is overly broad by including the “production and harvest of products from silviculture activity”. This definition would not only include nurseries and Christmas trees, but would also include any wild forest regeneration and production activity on the landscape. As such deer could be legally killed in any wildland situation where timber production might be an objective.
- SB 868 also eliminates the “commercial” requirement for agricultural operations. As such, any agricultural operation, regardless of the commercial value, would qualify for kill permits.

PART 7: APPENDICES

Appendix I. Current Kill Permit Code

§ 29.1-529. Killing of deer or bear damaging fruit trees, crops, livestock, or personal property; wildlife creating a hazard to aircraft or motor vehicles.

A. Whenever deer or bear are damaging fruit trees, crops, livestock or personal property utilized for commercial agricultural production in the Commonwealth, the owner or lessee of the lands on which such damage is done shall immediately report the damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer or bear are responsible for the damage, he shall authorize in writing the owner, lessee or any other person designated by the Director or his designee to kill such deer or bear when they are found upon the land upon which the damages occurred. However, the Director or his designee shall have the option of authorizing non-lethal control measures rather than authorizing the killing of the bear, provided that such measures occur within a reasonable period of time; and whenever deer cause damage on parcels of land of five acres or less, except when such acreage is used for commercial agricultural production, the Director or his designee shall have discretion as to whether to issue a written authorization to kill the deer. The Director or his designee may limit such authorization by specifying in writing the number of animals to be killed and duration for which the authorization is effective and may in proximity to residential areas and under other appropriate circumstances limit or prohibit the authorization between 11:00 p.m. and one-half hour before sunrise of the following day. The Director or his designees issuing these authorizations shall specify in writing that only antlerless deer shall be killed, unless the Director or his designee determines that there is clear and convincing evidence that the damage was done by deer with antlers. Any owner or lessee of land who has been issued a written authorization shall not be issued an authorization in subsequent years unless he can demonstrate to the satisfaction of the Director or his designee that during the period following the prior authorization, the owner or his designee has hunted bear or deer on the land for which he received a previous authorization.

B. Subject to the provisions of subsection A, the Director or his designee may issue a written authorization to kill deer causing damage to residential plants, whether ornamental, noncommercial agricultural, or other types of residential plants. The Director may charge a fee not to exceed actual costs. The holder of this written authorization shall be subject to local ordinances, including those regulating the discharge of firearms.

C. Whenever wildlife is creating a hazard to the operation of any aircraft or to the facilities connected with the operation of aircraft, the person or persons responsible for the safe operation of the aircraft or facilities shall report such fact to the Director or his designee for investigation. If after investigation the Director or his designee finds that wildlife is creating a hazard, he shall authorize such person or persons or their representatives to kill wildlife when

the wildlife is found to be creating such a hazard. As used in this subsection, the term "wildlife" shall not include any federally protected species.

D. Whenever deer are creating a hazard to the operation of motor vehicle traffic within the corporate limits of any city, the operator of a motor vehicle may report such fact to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are creating a hazard within such city, he may authorize responsible persons, or their representatives, to kill the deer when they are found to be creating such a hazard.

E. Whenever deer are damaging property in a locality in which deer herd population reduction has been recommended in the current Deer Management Plan adopted by the Board, the owner or lessee of the lands on which such damage is being done may report such damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are responsible for the damage, he may authorize in writing the owner, lessee or any other person designated by the Director or his designee to kill such deer when they are found upon the land upon which the damages occurred. The Director or his designee also may limit such authorization by specifying in writing the number of animals to be killed and the period of time for which the authorization is effective. The requirement in subsection A of this section, that an owner or lessee of land demonstrate that during the period following the prior authorization deer or bear have been hunted on his land, shall not apply to any locality that conducts a deer population control program authorized by the Department.

F. The Director or his designee may revoke or refuse to reissue any authorization granted under this section when it has been shown by a preponderance of the evidence that an abuse of the authorization has occurred. Such evidence may include a complaint filed by any person with the Department alleging that an abuse of the written authorization has occurred. Any person aggrieved by the issuance, denial or revocation of a written authorization can appeal the decision to the Department of Game and Inland Fisheries. Any person convicted of violating any provision of the hunting and trapping laws and regulations shall be entitled to receive written authorization to kill deer or bear. However, such person shall not (i) be designated as a shooter nor (ii) carry out the authorized activity for a person who has received such written authorization for a period of at least two years and up to five years following his most recent conviction for violating any provision of the hunting and trapping laws and regulations. In determining the appropriate length of this restriction, the Director shall take into account the nature and severity of the most recent violation and of any past violations of the hunting and trapping laws and regulations by the applicant. No person shall be designated as a shooter under this section during a period when such person's hunting license or privileges to hunt have been suspended or revoked.

G. The Director or his designee may authorize, subject to the provisions of this section, the killing of deer over bait within the political boundaries of any city or town, or any county with a special late antlerless season, in the Commonwealth when requested by a certified letter from the governing body of such locality.

H. The parts of any deer or bear killed pursuant to this section or wildlife killed pursuant to subsection C shall not be used for the purposes of taxidermy, mounts, or any public display unless authorized by the Director or his designee. However, the meat of any such animal may be used for human consumption. The carcass and any unused meat of any such animal shall be disposed of within 24 hours of being killed. Any person who violates any provision of this subsection is guilty of a Class 3 misdemeanor.

I. It is unlawful to willfully and intentionally impede any person who is engaged in the lawful killing of a bear or deer pursuant to written authorization issued under this section. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

(Code 1950, § 29-145.1; 1954, c. 686; 1956, c. 684; 1958, cc. 315, 609; 1960, c. 129; 1962, c. 229; 1970, c. 79; 1980, c. 271; 1987, cc. 48, 488; 1991, c. 99; 1993, cc. 204, 273; 1994, c. **571**; 1996, c. **314**; 1998, c. **179**; 1999, c. **563**; 2000, c. **6**; 2002, c. **174**; 2003, cc. **123, 135**; 2004, c. **447**; 2008, cc. **17, 260**; 2009, cc. **8, 305**; 2010, c. **5**.)

Appendix II. Language of SB 868**SENATE BILL NO. 868**

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 31, 2011)

(Patrons Prior to Substitute--Senators Stuart and Puckett [SB 1023])

A BILL to amend and reenact § 29.1-529 of the Code of Virginia, relating to damage of crops and livestock; lawful killing of deer, elk and bear.

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-529 of the Code of Virginia is amended and reenacted as follows:

§ 29.1-529. Killing of deer, elk, or bear damaging agricultural operations and residential property; wildlife creating a hazard to aircraft or motor vehicles.

A. Whenever deer, elk, or bear are damaging ~~fruit trees, crops, livestock or personal property utilized for commercial agricultural production in the Commonwealth~~ *agriculture operations, as defined in § 3.2-300*, the owner ~~or lessee~~ of the lands on which such damage is done ~~shall immediately report the damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer or bear are responsible for the damage, he shall authorize in writing the owner, lessee or any other person designated by the Director or his designee to kill, or his representative, shall request authorization from the Director or his designee prior to killing such deer, elk, or bear when they are found upon the land upon which the damages occurred. However *The Director or his designee shall, without undue delay and subject to subsection F, authorize the owner or his representative to kill such deer, elk, or bear for a term of 12 months from the date of registration, except during the open season for each species. The owner or his representative authorized to kill such deer, elk, or bear pursuant to this subsection shall (i) report animals killed to the Director or his designee without undue delay and (ii) be subject to local ordinances regulating the discharge of firearms.*~~

B. Whenever deer, elk, or bear cause damage to residential property used for purposes other than agricultural operations, as defined in § 3.2-300, the Director or his designee ~~shall have the option of authorizing~~ *may (i) issue a written authorization to kill the deer, elk, or bear or (ii) authorize non-lethal control measures rather than authorizing the killing of the bear, provided that such measures occur within a reasonable period of time; and whenever deer cause damage on parcels of land of five acres or less, except when such acreage is used for commercial agricultural production, the Director or his designee shall have discretion as to whether to issue a written authorization to kill the deer.* The Director or his designee may limit ~~such~~ *any* authorization to kill the deer, elk, or bear by specifying in writing the number of animals to be killed and duration for which the authorization is effective and may in proximity to residential areas and under other appropriate circumstances limit or prohibit the authorization between 11:00 p.m. and one-half hour before sunrise of the following day. The Director or his designees issuing these authorizations shall specify in writing that only antlerless deer shall be killed, unless the Director or his designee determines that there is clear and

convincing evidence that the damage was done by deer with antlers. ~~Any owner or lessee of land who has been issued a written authorization~~ *The owner or his representative authorized to kill deer, elk, or bear pursuant to this subsection shall not be issued* receive an authorization in subsequent years unless he can demonstrate to the satisfaction of the Director or his designee that during the period following the prior authorization, the owner or his ~~designee representative~~ *representative* has hunted ~~bear or deer, elk, or bear~~ on the land for which he received a previous authorization.

~~B. Subject to the provisions of subsection A, the Director or his designee may issue a written authorization to kill deer causing damage to residential plants, whether ornamental, noncommercial agricultural, or other types of residential plants. The Director may charge a fee not to exceed actual costs. The holder of this written authorization~~ *owner or his representative authorized to kill deer, elk, or bear pursuant to this subsection shall be subject to local ordinances, including those regulating the discharge of firearms.*

C. Whenever wildlife is creating a hazard to the operation of any aircraft or to the facilities connected with the operation of aircraft, the person or persons responsible for the safe operation of the aircraft or facilities shall report such fact to the Director or his designee for investigation. If after investigation the Director or his designee finds that wildlife is creating a hazard, he shall authorize such person or persons or their representatives to kill wildlife when the wildlife is found to be creating such a hazard. As used in this subsection, the term "wildlife" shall not include any federally protected species.

D. Whenever deer are creating a hazard to the operation of motor vehicle traffic within the corporate limits of any city, the operator of a motor vehicle may report such fact to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are creating a hazard within such city, he may authorize responsible persons, or their representatives, to kill the deer when they are found to be creating such a hazard.

E. Whenever deer are damaging property *used for purposes other than agricultural operations, as defined in § 3.2-300*, in a locality in which deer herd population reduction has been recommended in the current Deer Management Plan adopted by the Board, the owner ~~or lessee~~ *of the lands on which such damage is being done, or his representative*, may report such damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are responsible for the damage, he may authorize in writing the owner, ~~lessee~~ *his representative*, or any other person designated by the Director or his designee to kill such deer when they are found upon the land upon which the damages occurred. The Director or his designee also may limit such authorization by specifying in writing the number of animals to be killed and the period of time for which the authorization is effective. The requirement in subsection ~~A of this section~~ *B*, that an owner or lessee of land demonstrate that during the period following the prior authorization deer, elk, or bear have been hunted on his land, shall not apply to any locality that conducts a deer population control program authorized by the Department.

F. The Director or his designee may revoke or refuse to reissue any authorization granted under this section when it has been shown by a preponderance of the evidence that an abuse of the authorization has occurred. Such evidence may include a *founded* complaint filed by any person with the Department alleging that an abuse of the written authorization has occurred. Any person aggrieved by the issuance, denial or revocation of a written authorization can appeal the decision to the Department of Game and Inland Fisheries. Any person convicted of violating any provision of the hunting and trapping laws and regulations shall be entitled to receive written authorization to kill deer, *elk*, or bear. However, such person shall not (i) be designated as a shooter nor (ii) carry out the authorized activity for a person who has received such written authorization for a period of at least two years and up to five years following his most recent conviction for violating any provision of the hunting and trapping laws and regulations. In determining the appropriate length of this restriction, the Director shall take into account the nature and severity of the most recent violation and of any past violations of the hunting and trapping laws and regulations by the applicant. No person shall be designated as a shooter under this section during a period when such person's hunting license or privileges to hunt have been suspended or revoked.

G. The Director or his designee may authorize, subject to the provisions of this section, the killing of deer over bait within the political boundaries of any city or town, or any county with a special late antlerless season, in the Commonwealth when requested by a certified letter from the governing body of such locality.

H. The parts of any deer, *elk*, or bear killed pursuant to this section or wildlife killed pursuant to subsection C shall not be used for the purposes of taxidermy, mounts, or any public display unless authorized by the Director or his designee. However, the meat of any such animal may be used for human consumption. The carcass and any unused meat of any such animal shall be disposed of within 24 hours of being killed. Any person who violates any provision of this subsection is guilty of a Class 3 misdemeanor.

I. *Any person receiving authorization to kill deer, elk, or bear under this section shall not charge a fee to transfer such privilege.*

J. It is unlawful to willfully and intentionally impede any person who is engaged in the lawful killing of a bear or deer pursuant to written authorization issued under *wildlife* pursuant to this section. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

Appendix III. Language of Tabled SB 868 (with House Committee amendments)

SB 868. A BILL to amend and reenact § 29.1-529 of the Code of Virginia, relating to damage of crops and livestock; lawful killing of deer, elk and bear.

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-529 of the Code of Virginia is amended and reenacted as follows:

§ 29.1-529. Killing of deer, elk, or bear damaging agricultural operations and residential property; wildlife creating a hazard to aircraft or motor vehicles.

A. Whenever deer, elk, or bear are damaging ~~fruit trees, crops, livestock or personal property utilized for commercial agricultural production in the Commonwealth~~ *agriculture operations, as defined in § 3.2-300*, the owner or lessee of the lands on which such damage is done ~~shall immediately report the damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer or bear are responsible for the damage, he shall authorize in writing the owner, lessee or any other person designated by the Director or his designee to kill, or his representative, shall request authorization from the Director or his designee prior to killing such deer, elk, or bear when they are found upon the land upon which the damages occurred. However~~ *The Director or his designee shall, without undue delay and subject to subsection F, authorize the owner or his representative to kill such deer, elk, or bear for the length of the growing season, not to exceed six months a term of 12 months from the date of registration, except during the open season for each species. The owner or his representative authorized to kill such deer, elk, or bear pursuant to this subsection shall (i) report animals killed to the Director or his designee without undue delay and (ii) be subject to local ordinances regulating the discharge of firearms. The owner may renew request or authorization during the subsequent growing season using the same procedures established under this subsection.*

B. Whenever deer, elk, or bear cause damage to residential property used for purposes other than *agriculture operations, as defined in § 3.2-300*, the Director or his designee ~~shall have the option of authorizing~~ *may (i) issue a written authorization to kill the deer, elk, or bear or (ii) authorize non-lethal control measures rather than authorizing the killing of the bear, provided that such measures occur within a reasonable period of time; and whenever deer cause damage on parcels of land of five acres or less, except when such acreage is used for commercial agricultural production, the Director or his designee shall have discretion as to whether to issue a written authorization to kill the deer. The Director or his designee may limit such any authorization to kill the deer, elk, or bear by specifying in writing the number of animals to be killed and duration for which the authorization is effective and may in proximity to residential areas and under other appropriate circumstances limit or prohibit the authorization between 11:00 p.m. and one-half hour before sunrise of the following day. The Director or his designees issuing these authorizations shall specify in writing that only antlerless deer shall be killed, unless the Director or his designee determines that there is clear and convincing evidence that the damage was done by deer with antlers. Any owner or lessee of land who has been issued a written authorization* *The owner or his representative authorized to kill deer, elk, or bear pursuant to this subsection shall not be issued receive an authorization in subsequent years unless he can demonstrate to the satisfaction of the Director or his designee that during the period following the prior authorization, the owner or his designee representative has hunted bear or deer, elk, or bear on the land for which he received a previous authorization.*

~~B. Subject to the provisions of subsection A, the Director or his designee may issue a written authorization to kill deer causing damage to residential plants, whether ornamental, noncommercial agricultural, or other types of residential plants. The Director may charge a fee not to exceed actual costs. The holder of this written authorization owner or his representative authorized to kill deer, elk, or bear pursuant to this subsection shall be subject to local ordinances, including those regulating the discharge of firearms.~~

C. Whenever wildlife is creating a hazard to the operation of any aircraft or to the facilities connected with the operation of aircraft, the person or persons responsible for the safe operation of the aircraft or facilities shall report such fact to the Director or his designee for investigation. If after investigation the Director or his designee finds that wildlife is creating a hazard, he shall authorize such person or persons or their representatives to kill wildlife when the wildlife is found to be creating such a hazard. As used in this subsection, the term "wildlife" shall not include any federally protected species.

D. Whenever deer are creating a hazard to the operation of motor vehicle traffic within the corporate limits of any city, the operator of a motor vehicle may report such fact to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are creating a hazard within such city, he may authorize responsible persons, or their representatives, to kill the deer when they are found to be creating such a hazard.

E. Whenever deer are damaging property *used for purposes other than agricultural operations, as defined in § 3.2-300*, in a locality in which deer herd population reduction has been recommended in the current Deer Management Plan adopted by the Board, the owner ~~or lessee~~ of the lands on which such damage is being done, *or his representative*, may report such damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are responsible for the damage, he may authorize in writing the owner, ~~lessee~~ *his representative*, or any other person designated by the Director or his designee to kill such deer when they are found upon the land upon which the damages occurred. The Director or his designee also may limit such authorization by specifying in writing the number of animals to be killed and the period of time for which the authorization is effective. The requirement in ~~subsection A of this section~~ *subsection B*, that an owner or lessee of land demonstrate that during the period following the prior authorization deer, *elk*, or bear have been hunted on his land, shall not apply to any locality that conducts a deer population control program authorized by the Department.

F. The Director or his designee may revoke or refuse to reissue any authorization granted under this section when it has been shown by a preponderance of the evidence that an abuse of the authorization has occurred. Such evidence may include a *founded* complaint filed by any person with the Department alleging that an abuse of the written authorization has occurred. Any person aggrieved by the issuance, denial or revocation of a written authorization can appeal the decision to the Department of Game and Inland Fisheries. Any person convicted of violating any provision of the hunting and trapping laws and regulations shall be entitled to receive written authorization to kill deer, *elk*, or bear. However, such person shall not (i) be designated as a shooter nor (ii) carry out the authorized activity for a person who has received such written authorization for a period of at least two years and up to five years following his most recent conviction for violating any provision of the hunting and trapping laws and regulations. In determining the appropriate length of this restriction, the Director shall take into account the nature and severity of the most recent violation and of any past violations of the hunting and trapping laws and regulations by the applicant. No person shall be designated as a shooter under this section during a period when such person's hunting license or privileges to hunt have been suspended or revoked.

G. The Director or his designee may authorize, subject to the provisions of this section, the killing of deer over bait within the political boundaries of any city or town, or any county with a special late antlerless season, in the Commonwealth when requested by a certified letter from the governing body of such locality.

H. The parts of any deer, *elk*, or bear killed pursuant to this section or wildlife killed pursuant to subsection C shall not be used for the purposes of taxidermy, mounts, or any public display unless authorized by the Director or his designee. However, the meat of any such animal may be used for human consumption. The carcass and any unused meat of any such animal shall be disposed of within 24 hours of being killed. Any person who violates any provision of this subsection is guilty of a Class 3 misdemeanor.

I. Any person receiving authorization to kill deer, elk, or bear under this section shall not charge a fee to transfer such privilege.

J. It is unlawful to willfully and intentionally impede any person who is engaged in the lawful killing of a bear or deer pursuant to written authorization issued under wildlife pursuant to this section. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

K. That the provisions of this act shall expire July 1, 2013.

Appendix IV. Charge from the Chairman of the House Agriculture, Chesapeake, and Natural Resources Committee



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

HARVEY B. MORGAN
POST OFFICE BOX 949
GLOUCESTER, VIRGINIA 23061

NINETY-EIGHTH DISTRICT

COMMITTEE ASSIGNMENTS:
AGRICULTURE, CHESAPEAKE AND
NATURAL RESOURCES (CHAIRMAN)
APPROPRIATIONS
COMMERCE AND LABOR

February 23, 2011

Mr. Robert W. Duncan, Director
Department of Game and Inland Fisheries
4010 W Broad Street
Richmond, VA 23230

Re: SB 868

Dear Director Duncan:



You are aware that SB 868 (Senator Stuart) would have enabled farmers to protect their agricultural operations from damage by deer, elk, and bear by relaxing the requirements for a kill permit. In response to several issues raised during the committee's deliberation, the bill was tabled.

I write to request that you convene a panel of stakeholders, including representatives of agricultural and hunting interests, agency biologist, as well as neighboring property owners, to review the bill and consider the following issues:

1. Is the issuance of kill permits done efficiently, and what steps can be taken to authorize such permits in a more timely manner?
2. Does the bill place significant stress on the various herds affected by this measure, and if so, to what extent should biological considerations be a factor in the issuance of kill permits?
3. To what extent will this measure result in abuse of current hunting laws and what provisions can be put in place effectively to prevent abuse of the kill permit system? and
4. Other issues that may be affected by this bill?

I should appreciate your working with the interested parties and ask that you submit a report on the bill's impacts and any recommendations to the House Agriculture, Chesapeake and Natural Resources Committee by October 1, 2011.

Sincerely,

Harvey B. Morgan, Chairman
Agriculture, Chesapeake, and Natural Resource Committee

Cc: Senator Richard H. Stuart

Appendix V. Survey of Kill Permit Holders (Executive Summary)

The full report can be seen online at

http://www.responsivemanagement.com/download/reports/VA_Kill_Permit_Survey_Report.pdf

The report summary can be found online at

<http://www.responsivemanagement.com/wildlifereports.php>

Responsive Management™



VIRGINIA KILL PERMIT HOLDERS' OPINIONS ON AND ATTITUDES TOWARD KILL PERMITS

Conducted for the Virginia Department of Game and Inland Fisheries

by Responsive Management

2011

VIRGINIA KILL PERMIT HOLDERS' OPINIONS ON AND ATTITUDES TOWARD KILL PERMITS

2011

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Acknowledgments

Responsive Management would like to thank Dave Steffen of the Virginia Department of Game and Inland Fisheries for his input, support, and guidance on this project.

EXECUTIVE SUMMARY

INTRODUCTION AND METHODOLOGY

This study was conducted for the Virginia Department of Game and Inland Fisheries (VDGIF or “the Department”) to determine opinions on kill permits issued by the Department as part of its deer and bear management programs. In particular, the research was conducted to examine kill permit holders’ satisfaction with kill permits as a management tool for resolving difficulties with wildlife causing crop or other property damage. In addition, the study obtained data on how permit holders contacted the Department, their attitudes toward the application process, how they used the kill permits, and their likelihood of paying for kill permits in the future.

The study entailed a telephone survey of Virginia landowners who received kill permits in 2010. The telephone survey questionnaire was developed cooperatively by Responsive Management and the VDGIF; respondents were contacted using an electronic database of permit holders as well as paper copies of kill permits provided by the VDGIF.

The survey was conducted in June 2011, and the analysis of data was performed using Statistical Package for the Social Sciences as well as proprietary software developed by Responsive Management.

SATISFACTION WITH AND RATINGS OF DCAP TAGS AND KILL PERMITS

The overwhelming majorities of those who were issued Damage Control Assistance Program (DCAP) tags for deer and those who were issued kill permits for deer and/or bear in 2010 were satisfied with their tags or permits: among DCAP tag holders, 95% were satisfied (with 80% *very* satisfied); among kill permit holders, 94% were satisfied (with 74% *very* satisfied).

The survey asked kill permit holders to rate four different aspects of their experiences with kill permits in 2010 in general on a scale of excellent, good, fair, or poor. The aspects included their overall experience obtaining their kill permit in 2010, their experience making initial contact with the Department about obtaining a kill permit, the amount of time it took for a Department representative to respond to their initial contact, and their experience with follow-up reporting for the kill permit. In general, each of these aspects received high ratings, with overwhelming majorities rating each one as either excellent or good:

- Their overall experience obtaining their kill permit in 2010 (93% rated this as *excellent* or *good*, with 66% rating it *excellent*);
- The amount of time it took for a Department representative to respond to their initial contact (92% rated this as *excellent* or *good*, with 65% rating it *excellent*);
- Their experience making initial contact with the Department about obtaining a kill permit (91% rated this as *excellent* or *good*, with 63% rating it *excellent*);
- Their experience with follow-up reporting for the kill permit (87% rated this as *excellent* or *good*, with 53% rating it *excellent*).

Additionally, holders of deer and bear kill permits were asked to rate a series of nine items

pertaining to the kill permits themselves on the same scale of *excellent*, *good*, *fair*, or *poor*. In examining the ranking by the percentages of deer and bear kill permit holders who rated each item as *excellent* or *good*, it emerges that the only two items for which notably smaller percentages assigned a rating of *excellent* or *good* for each species were those over which the Department had no control: the number of deer/bear the kill permit holder actually killed on the permit(s), and the relief from damage or other deer/bear problems the permit holder obtained with the kill permit(s) (this latter item presumably being largely dependent on the number of deer/bear the permit holder was able to kill). Otherwise, the other seven items in the series had solid majorities of kill permit holders rating them as *excellent* or *good*:

- Among holders of kill permits for deer:
 - Persons named on the kill permit(s) (89% rated this as *excellent* or *good*, with 55% rating it *excellent*);
 - The willingness of the Department to assist with the damage or other deer problem (88% rated this as *excellent* or *good*, with 60% rating it *excellent*);
 - Shooting restrictions for the kill permit(s) (83% rated this as *excellent* or *good*, with 45% rating it *excellent*);
 - The number of deer allowed on the kill permit(s) (83% rated this as *excellent* or *good*, with 49% rating it *excellent*);
 - Time of day restrictions on shooting for the kill permit(s) (82% rated this as *excellent* or *good*, with 48% rating it *excellent*);
 - Carcass disposal restrictions for the kill permit(s) (81% rated this as *excellent* or *good*, with 46% rating it *excellent*);
 - The number of days authorized on the kill permit(s) (81% rated this as *excellent* or *good*, with 45% rating it *excellent*);
 - The number of deer the kill permit holder actually killed on the permit(s) (63% rated this as *excellent* or *good*, with 32% rating it *excellent*);
 - The relief from damage or other deer problems that the kill permit holder obtained with the kill permit(s) (62% rated this as *excellent* or *good*, with 30% rating it *excellent*).
- Among holders of kill permits for bear:
 - Persons named on the kill permit(s) (86% rated this as *excellent* or *good*, with 58% rating it *excellent*);
 - The willingness of the Department to assist with the damage or other bear problem (80% rated this as *excellent* or *good*, with 52% rating it *excellent*);
 - Time of day restrictions on shooting for the kill permit(s) (80% rated this as *excellent* or *good*, with 55% rating it *excellent*);
 - Shooting restrictions for the kill permit(s) (77% rated this as *excellent* or *good*, with 52% rating it *excellent*);
 - The number of bears allowed on the kill permit(s) (73% rated this as *excellent* or *good*, with 51% rating it *excellent*);
 - The number of days authorized on the kill permit(s) (73% rated this as *excellent* or *good*, with 42% rating it *excellent*);
 - Carcass disposal restrictions for the kill permit(s) (66% rated this as *excellent* or *good*, with 44% rating it *excellent*);

- o The relief from damage or other bear problems that the kill permit holder obtained with the kill permit(s) (59% rated this as *excellent* or *good*, with 34% rating it *excellent*);
- o The number of bears the kill permit holder actually killed on the permit(s) (48% rated this as *excellent* or *good*, with 31% rating it *excellent*).

CONTACTING THE DEPARTMENT FOR KILL PERMITS

2010 kill permit holders most commonly contacted a Conservation Police Officer or Game Warden (48%) to initially request a kill permit, with smaller percentages contacting the Richmond VDGIF office or staff (18%), other VDGIF offices or staff (13%), or a local sheriff/police (9%).

- Phone calls were by far the most common method of contacting the VDGIF.

Conservation Police Officers (63%) were the most common type of VDGIF representative to respond to requests for kill permits, while about a fifth of respondents (19%) had a Complementary Work Force (CWF) volunteer respond to their request.

- The average wait time for a VDGIF representative to respond to an initial request for a kill permit in 2010 was 2.78 days, while the average wait time between the initial request and the actual issuance of the kill permit was 4.18 days (although note that about half of the individuals surveyed received their kill permit within 2 days or less).
- For the most part, those who received kill permits for deer and/or bear were not offered other damage management options other than or in addition to a kill permit (72% of respondents said they were not offered other options, while 9% were informed of DCAP and 8% were provided information on other or non-lethal ways to control damage).

The overwhelming majority of those who received a single kill permit (89%) had a Conservation Police Officer, Game Warden, or other VDGIF representative inspect their crop or property to confirm the damage before they were issued a kill permit. Among those who received multiple kill permits, 64% had their crop or property inspected for confirmation of damage before each kill permit was issued, while another 27% had their crop or property inspected only before the first kill permit.

- Combining the responses to the above questions (i.e., measuring how often crops or properties were inspected by a VDGIF representative prior to the issuance of a single kill permit or multiple permits) suggests that crops/properties were inspected before at least one kill permit 91% of the time.

USE OF KILL PERMITS

Three-quarters of those who were issued a kill permit for deer (75%) killed at least one deer on the permit (note that this question asked if the respondent or anyone else had killed any deer on the permit).

- Those who killed deer on the kill permit most commonly disposed of the deer through “personal use” (53%), followed by either burying or destroying it (29%), donating it to

charity (24%), or giving it to a friend (24%).

- Those who did *not* kill any deer were asked the reasons why no deer were killed on the kill permit, and they most commonly indicated trying to kill one but being unsuccessful (33%) or failing to see a deer on their property after obtaining the permit (22%). Smaller percentages reported not having a clean shot (10%), not trying to use the kill permit to kill a deer (9%), and not having enough time (9%).

Just over a third of those who were issued a kill permit for bear (37%) killed at least one bear on the permit (note that this question asked if the respondent or anyone else had killed any bears on the permit).

- Those who killed bear on the kill permit most commonly disposed of the bear by burying or destroying it (38%) or through “personal use” (38%), followed by giving it to a friend (12%). Finally, a notable percentage reported that the bear did not return after the respondent or someone else had shot at it (12%).
- As before, those who did *not* kill any bears were asked the reasons why no bears were killed on the kill permit, and they most commonly indicated trying to kill one but being unsuccessful (39%) or failing to see a bear on their property after obtaining the permit (27%). Following these reasons, 14% of respondents said that they did not have any more damage after they received the kill permit.

DENIALS OF KILL PERMITS

Just 5% of the survey respondents had ever been denied a request for a kill permit for any species on any property, with the most common reasons being that no damage or hazard was documented (18%), that safety concerns had prevented issuance of the permit (14%), that the person had been told to try alternative methods of resolving the damage (14%), that hunting seasons were already open at the time the person requested a kill permit (14%), and that the person was told that the damage observed or documented was not severe enough to warrant a kill permit (12%).

LIKELIHOOD OF REQUESTING KILL PERMITS IN THE FUTURE AND WILLINGNESS TO PAY

About a third (34%) of those who received a kill permit in 2010 have requested a kill permit in 2011.

- Among those who have not (yet) requested a kill permit in 2011, 81% say they would be likely to do so if they continue to experience approximately the same type and amount of crop or property damage that they had in 2010 (65% say they would be *very* likely to request a kill permit).
- Overall, a large majority of respondents (90%) would be likely to request a kill permit in 2011; this percentage is based on the number who have already requested a kill permit in 2011 combined with those who reported being either *very* or *somewhat* likely to request one pending further damage.
- The results also considered the percentages who would be likely to request a kill permit based on whether they were successful or unsuccessful killing deer or bear with their 2010 kill permits: 93% of respondents who were successful killing a deer and/or bear on their kill permit(s) in 2010 would be *very* or *somewhat* likely to request a kill permit in 2011, while 79% of respondents who were *unsuccessful* killing a deer and/or

bear on their kill permit(s) in 2010 would be *very* or *somewhat* likely to request a kill permit in 2011. (Note that those who were issued kill permits for both deer and bear were considered successful if they killed at least one of the two species for which they were issued permits.)

Overall, a little more than a third (37%) of those who received a kill permit for deer and/or bear are *not willing* to pay \$5 (the lowest hypothetical fee about which the survey asked). Otherwise, a further 18% are willing to pay \$5 (but not \$10), 12% are willing to pay \$10 (but not \$20), and a quarter (25%) of those who received a kill permit for deer and/or bear are willing to pay \$20 (the highest hypothetical fee about which the survey asked).

Appendix VI. Committee Members

Committee members in attendance

Dr. George Andreadis
Concerned Neighbor
Chesterfield County

Leon Boyd
Rocky Mountain Elk Foundation, Southwest Virginia Coalfields Chapter
Buchanan County

Gregg Brown
Suburban Whitetail Management of Northern Virginia
Fairfax County

Kirby Burch
Virginia Hunting Dog Alliance
Powhatan County

Dave Burpee
Virginia Bowhunters Association
Fairfax County

Kevin Damian
Virginia Association of Biological Farmers
Hanover County

Larry Faust
Lynchburg Police Department
Lynchburg, VA

Katie Frazier
Virginia Agribusiness Council
City of Richmond

Kathy Funk
Rocky Mountain Elk Foundation
Augusta County

Phil Glaize
Virginia State Apple Growers Association
Virginia State Apple Board
Frederick County

Michael Green
United States Department of Agriculture Wildlife Services – Aviation Safety
Prince William County

Terry Hale
Hale Hunt Club
Pulaski County

Nick Hall
Virginia Deer Hunters Association
Amelia County

Tex Hall
Virginia Bear Hunter's Association
Pulaski County

Mike Henry
Virginia Cattlemen's Association
Amelia County

Ricky Horn
Rocky Mountain Elk Foundation, Southwest Virginia Coalfields Chapter
Buchanan County

Robert O'Keeffe
Virginia Nursery and Landscape Association
Virginia Christmas Tree Growers Association
Floyd County

Eric Paulson
Virginia State Dairymen's Association
Rockingham County

Eric Powell
Fairfax County Animal Services Division
Fairfax County

Katie Register
Heart of Virginia Beekeepers
Prince Edward County

Jon Ritenour
Izaak Walton League of America – Harrisonburg/Rockingham Chapter
Rockingham County

Chris Stanley
TECO Coal – Clintwood Elkhorn Mining Company
Buchanan County

Wilmer Stoneman
Virginia Farm Bureau
Henrico County

Steve Sturgis
Virginia Department of Agriculture and Consumer Services

Dick Thomas
Virginia Vineyard Association
Amherst County

Keith Wilt
Western Virginia Deer Hunters Association
Rockingham County

Committee members not in attendance

David Blixt
Northern Virginia Airports -Wildlife Services
Prince William County

Alvin Estep
Western Virginia Deer Hunters Association
Rockingham County

Denny Quaiff
Virginia Deer Hunters Association
Amelia County

Reid Young
Concerned Neighbor
Henry County

Appendix VII. Committee Meeting Agendas & Summaries

Section Prepared by the Institute for Environmental Negotiation

Kill Permit Stakeholder Advisory Committee Virginia Department of Game and Inland Fisheries

Meeting #1

**June 14, 2011
4010 West Broad Street, Richmond, Virginia 23230
9:30 AM – 4:00 PM**

Background and Scope

The Virginia Department of Game and Inland Fisheries (DGIF) convened the Kill Permit Stakeholder Advisory Committee in response to a charge from the Virginia General Assembly (G.A.), contained in a letter on February 23, 2011 from Delegate Harvey B. Morgan who is Chairman of the Virginia legislature's Agriculture, Chesapeake and Natural Resources Committee. The letter discusses how Senate Bill 868 was tabled due to concerns raised while the bill was being deliberated. Specifically, the letter asks the DGIF to "convene a panel of stakeholders, including representatives from agricultural and hunting interests as well as agency biologists and concerned neighbors." The panel was charged with considering the following issues:

1. Is the issuance of kill permits done efficiently, and what steps can be taken to authorize such permits in a timelier manner?
2. Does SB 868 place significant stress on the various herds affected by this measure, and if so what, to what extent should biological considerations be a factor in the issuance of kill permits?
3. The panel was also asked to examine to what extent the bill would result in abuse of current hunting laws and if any provisions can be put in place to prevent abuse of the kill permit system.
4. Finally, it was requested that the panel examine other issues that may be affected by the bill.
5. The letter further requested that the DGIF submit this report to the G.A. by October 1, 2011.

After receiving this charge, the DGIF contracted with the University of Virginia Institute for Environmental Negotiation (IEN) to provide professional, independent design and facilitation for the stakeholder consensus-building process. The convening of a broad stakeholder group offers an unusual opportunity, causing the DGIF to broaden the scope of the committee's work to include the following:

6. Develop solutions that can be accomplished within the framework of §29.1-529, including steps that can be taken to authorize permits in a timelier manner and solutions that might require changes to the framework of §29.1-529.)

The DGIF worked with IEN to identify the groups and individuals specified in the G.A.'s charge, and also considered other stakeholders that had already demonstrated an interest in the topic of kill permits. Effort was made to balance the interests on the committee, while recognizing that, because the committee would be asked to operate by consensus, even a single representative for a particular interest would have equal power to contribute to and influence the outcome.

The IEN prepared a list of questions and points of information that should be communicated to invitees, and the DGIF proceeded to make the invitations by phone call followed by mail. If invitees knew they would not be able to make all five meetings, they were invited to bring an alternate who could step in during their absence.

Welcoming the Committee

Bob Duncan, Director of the DGIF, opened the meeting by highlighting the diverse group that had been assembled to tackle the difficult issues surrounding the state's kill permits. He noted that with an important challenge such as the kill permits, DGIF needs to be on the "other side of the table" listening to the concerns of the assembled stakeholders and the interests they represent. Director Duncan mentioned that no area of the Code of Virginia has been amended more, but he hoped that with the wide array of interests represented, the group would work together to find consensus. A consensus set of recommendations would hold great sway with decision makers in the Capitol.

After Director Duncan's introduction, David Whitehurst, Director of DGIF's Bureau of Wildlife Resources, recognized Conservation Police Officer Mike Minarik, Department biologist David Steffen, and Department staff member Frances Greenway, for the work they had done to help organize and prepare for the meeting. David Whitehurst further recognized the Institute for Environmental Negotiation (IEN) for facilitating the meeting, and Tom Beppler of Responsive Management for preparing the attitude survey regarding the kill permit process.

David Whitehurst noted that DGIF's role in the process would simply be to provide technical information. David reminded the stakeholders of the need to achieve consensus on the issue at hand, which is to create a fair and effective process that is acceptable to everyone for permitting the killing of animals that have caused damage. Whitehurst also let stakeholders know that the Department understands and appreciates that the schedule of meetings is demanding. He concluded by reviewing the charge and asking stakeholders to stay focused on this throughout the meetings.

After David Whitehurst's comments, the IEN facilitation team (Tanya Denckla Cobb, Karen Terwilliger, Kristina Weaver and Charlie Kline) led a round of introductions, during which they also provided background on the nature of IEN's work over its 31 years as an independent,

neutral third party. The IEN subscribes to professional mediator ethics and are experienced facilitators who serve the stakeholders in achieving consensus.

During the round of introductions, The committee members shared their name, what organization they represented, their favorite outdoor activity, and their hopes for the process. *(For a list of members, see Appendix A.)* In general their hopes for the process included working well together to find a fair solution with which all groups involved can live. **The process for issuing kill permits should include concerns for safety and consistency while balancing the needs of citizens, farmers and hunters, while remaining politically viable and easily understandable for all parties.**

IEN then reviewed the overall committee process, which would consist of five meetings over the summer, with the final meeting in September. *(See Appendix B for process overview.)* The first meeting agenda would enable committee members to learn about the kill permit process to bring everyone up to speed; to identify additional information needed to assist with informed decision-making; and to review the proposed stakeholder attitude survey that the DGIF would conduct and analyze in time for the committee's second meeting; and to develop a charter of ground rules, expectations about roles, and other requests for working together as a group. *(See Appendix C for meeting agenda).*

Questions were then fielded before the first Kill Permit 101 presentation.

- A member asked if issues regarding hunting seasons and wildlife management would be addressed, or if the process was going to focus only on kill permits. DGIF responded that the process should focus on the kill permit first but the Department would love to hear other ideas.
- A member wanted to know how the stakeholder committee would be fair without a representative from DGIF, who is a procedural agent for how the kill permit process is administered. DGIF responded by saying that these meetings will examine the process, and DGIF administrators will be able to provide information on the process and their roles. DGIF also stated that they might have informational deficiencies regarding certain topics, such as response time, among others. DGIF could put a staff member on the committee if the stakeholders want one.
- A member asked if Virginia's government is capable of administering the program with existing resources, and fixing the kill permitting process in a timely manner. The stakeholder also wanted to know if DGIF or anyone else involved, such as animal control, would be capable of striking the balance that stakeholders are looking for. Can the agency administer what the committee proposes? DGIF responded by saying that the issues must and will be addressed because the administration of the kill permits is a significant issue.
- A member commented that some of the other stakeholders might have already drawn conclusions as to what side of the fence they want to be on. The stakeholder didn't think that they have all the information they needed to choose a side. DGIF responded that the meetings are presentation heavy, specifically to make sure that all stakeholders are informed about the program. Additionally, they will be asking stakeholders to tell DGIF what other information they need at the end of the meeting.

Kill Permits 101 Part One

When the questions were wrapped up, David Steffen of DGIF introduced presentations that would cover the basic information regarding Kill Permits in Virginia, which they called “Kill Permits 101.” Steffen explained that DGIF’s role is to manage wildlife to meet the needs of the Commonwealth. For more specific information than presented here, please refer to DGIF for copies of the presentations’ slides. Presentations will also be posted on the project “Base Camp” site, to which all members will be given access.

The first presentation was by DGIF deer biologist Matt Knox. In his general overview of deer in Virginia, Knox commented on their recent, massive increase in population as well as their variance from county to county throughout the Commonwealth. He explained that the data used to measure the herd population is based on the absolute number of registered kills during hunting season. The goal of the deer management plan is to match the population of deer with the cultural carrying capacity of each county. Most counties wanted to maintain or reduce current herd size, except for Cumberland Plateau counties, which would like to see herd size increase. Regulations vary from county to county in order to meet the goals of each county. Knox stressed that Kill Permits were not used to meet population objectives. Knox also showed statistics on the amount of economic impact from deer in the Commonwealth, both in terms of damage to crops, property and vehicle collisions as well as in terms of revenue generated by hunting and wildlife viewing activities. This information was based on data gathered between 1996 and 2010.

Next, David Steffen presented information on bears. Steffen said that current estimates put the bear population at around 16,000 and rising. The current bear management plan is under review, but has population objectives determined by the public in a process similar to that of the deer management plan. Both lethal and non-lethal methods are recommended for dealing with problematic animals. These depend upon specific requirements, population objectives, and individual bear behavior (such as repeat offenders).

Next, Betsy Stinson, a District Biologist for DGIF, presented on human populations in Virginia and how they relate to the animal populations in question. She explained that Virginia has a rapid growth rate, especially in recent years where it has surpassed the national average. Population densities and growth rates vary widely across the state. In more urbanized areas, deer populations are managed by a variety of means including public hunting such as urban bow hunting, by sharpshooting or by public officials such as animal control officers. Methods used depend upon local conditions. Stinson also noted that the number of hunters has significantly declined over the past fifteen years, due in part to a lack of private land where hunting is allowed. The major age demographic for hunters is people in their mid-forties. Stinson also explained data that showed the damage caused by various animals on various crop types. A stakeholder asked if data presented on orchards represented only bearing acreage since a significant amount of damage occurs on non-bearing trees. DGIF responded that the data did cover only bearing-age orchards, but agreed that both bearing and non-bearing orchards suffered damage.

The meeting then opened to general questions on the first section of Kill Permits 101.

- A member asked how “abundance” was measured per county. DGIF responded it was by “buck kill per unit area,” averaged over three years. This gives an idea of density across Virginia. Ten year trends are also measured.
- A member inquired if there was a correlation between the decline in big game licenses and the increase in deer population over the last ten years? DGIF responded that the game population statewide has been relatively stable due to more kills per hunter, increased bag number, and increased season length, but that population change varies county to county. DGIF estimates that in the future the decline in hunters will be a huge factor in game population control in the future. The increase in posted “no hunting” properties has also caused a decline in hunter access to properties.
- In Southwest Virginia, a member noted, there has been a tremendous decline in deer numbers and that there is significant variation in population depending upon location, especially in areas such as along National Forest boundaries.
- A member asked if there was data on the number of posted “no hunting” properties, abuse of posted “no hunting” properties, or properties that selectively allowed hunting (i.e. – for owners and friends). DGIF responded that data is not available but that there are areas with significant decrease in hunting areas that have made it harder to control local deer populations.
- Bear population trends are based on harvest numbers. A member asked if the number of bear permits have increased dramatically and if bear population can be accurately measured based on harvest numbers? DGIF responded that harvest numbers fairly accurately represent the population increase.
- A member asked if deer density is based on absolute numbers in a county or on density per square mile. DGIF responded that it is per square mile in each county. The stakeholder then commented that the data should probably be adjusted to consider human population increase and how that has caused increased traffic fatalities amongst other damage.
- A member commented that the economic viability of agriculture is the basis for hunters being able to do their sport. The stakeholder wanted to know what the role of crop insurance was, how it works, and what the instance of crop insurance claims was. No answer could be given, and more information is necessary.
- A member asked if there was any way the hunting community could help alleviate crop and property damage. DGIF responded that Virginia has a very liberal deer system, so much so that it even requires hunters to kill does at some times. The stakeholder asked if there was a biological reason that the hunting season should not start earlier and if an earlier start date would do anything. DGIF responded that increased season length has not increased deer kills. Another stakeholder commented farmers would not like to see people hunting in or near their fields in the early fall, as harvest is still occurring. Another stakeholder asked why Virginia has one of the most liberal deer seasons and how do we gauge where we are comparatively. DGIF responded that the deer management plan itself offers many of these answers, although it does not provide specific per county information. The “hunting digest” can provide per county information.

Committee Protocols

After the part one of the “Kill Permits 101” presentations, the committee then worked on establishing its charter. IEN asked committee members what requests they have for each other, to ensure productive meetings, and also guided the committee through a series of questions concerning their expectations about participation, the possibility of appointing alternate representatives, and finally guided them through a discussion of consensus, its definition and how they could test for consensus. *For the Committee’s Draft Charter, see Appendix D.*

Questions were taken regarding the charter and committee organization and basic housekeeping.

- A member asked if this counted as an open public meeting or hearing. DGIF replied that they will contact their attorney and let the panel know.
- A member expressed concern that time would be wasted looking for consensus and that it would not be achieved and so no decisions would actually be made. The stakeholder argued that a majority vote would be better to make decisions. They were answered that if there were no consensus, then the weight of the committee’s recommendations would be greatly reduced, as individual out-voted stakeholders would likely take their argument to the legislature. Thus the whole exercise would end up back at square one. The legislature had sent the issue to the DGIF specifically to encourage stakeholders to seek and build a set of consensus recommendations.
- Two members asked if the committee was missing any key stakeholders that should be represented, such as concerned neighbors or mining interests. Stakeholders representing these and a variety of other interests spoke up. One member noted that the legislative charge specifically identified the stakeholders that were to be invited, and all of those are at the table. DGIF also commented that some organizations that were invited showed no interest in participating.

Kill Permits 101 Part Two

After the committee charter was established, DGIF staff resumed the “Kill Permits 101” presentations. This section focused specifically on the Kill Permits themselves.

Conservation Police Officer Mike Minarik started with an overview of Kill Permits. He stressed that permits are issued not as an extension to the hunting season but to reduce population in a very specific area to alleviate a specific problem. Kill permits are not hunting, sportsmanship is not a factor; instead it is to remove a pest. Weapons used do not have to meet hunting requirements, but are subject to local laws, ordinances, or other requirements. Kill permits are covered in Section 29.1-529 in the Code of Virginia. Twenty-seven changes have been made since the bill was passed in 1950. Minarik explained every paragraph of the code. He reminded stakeholders that changes to the system might require changes to the law since kill permits are within the Code of Virginia. (*See his slides for additional information.*)

Matt Knox then explained the current trends regarding kill permits. They have been increasing in recent years, mostly for deer, and most deer killed have been antlerless. Knox explained that nearly half (44%) of the permits issued result in no kills, and most had very few kills. A tiny number had very large numbers of kills per permit. Knox explained that most permit recipients (55%) only get kill permits once, and a small number get them very often and those that do are fairly concentrated geographically. Most high permit counties are not agricultural counties.

A member asked if DGIF can ask permit recipients to keep jawbones, etc. to help gather data. DGIF responded that they cannot require it, but biologists love that sort of data.

David Steffen provided information on bear kill permits. Half of the permits issued for bears are for corn crop damage. Three quarters of recipients only get one permit. *(For more specific data from the second section of the Kill Permit 101 presentations, please refer to DGIF for copies of the slides.)*

The committee then opened for questions on the second half of “Kill Permits 101.”

- A member sought clarification on non-lethal bear options. DGIF responded that bear are different from deer because DGIF likes to educate landowners to use methods that discourage bears from coming onto a property. DGIF will also use non-lethal conditioning methods.
- A member asked what the controversy with Kill Permits was about. Another member suggested that permits were not being issued in a timely manner and were not always adequate enough to solve the problem. The stakeholder thought that this was due to procedural issues. A third member commented that it would be helpful to have information on DGIF procedures, average response times, etc. DGIF responded that the process depends upon the type of kill permit, the location, reporting procedures, length of vulnerability for a crop (i.e. – season length), and other factors. Also, many counties are understaffed or have no staff that deal with kill permits. DGIF reminded stakeholders that it wants to hear what members recommend for improvements, and it will provide the technical advice to see if it is feasible. Changes can be regulatory, administrative or actual code changes. There will not be a magic bullet solution so a continuum of solutions will likely be necessary. Wildlife is a public good in Virginia and there are many different programs that can be taken advantage of to help come up with solutions.
- A member commented that time is money and that one weekend of damage by a pest could mean thousands of dollars lost and potential food safety issues from such things as deer feces.
- Another member commented that the administration of the kill permits needs to be more transparent and easier for those who need permits to access it.
- A member commented that elk are being restored in Virginia and need special consideration under the kill permit until their population is sustainable.
- A member commented that there should be an appeals process if they feel the response by the Department is inadequate for managing the pest on a property.
- A member asked if there is a system for determining the length of a permit and the number of kills allowed or if it was at an individual officer’s discretion. DGIF responded

that it is at the officer's discretion. A stakeholder commented that SB 868 had defined length of a permit to be for the *growing season* of the respective crop. These seasons are defined and can be applied consistently, and the committee might consider this option.

- A member commented that SB 868 did not include bee keeping in it as a crop or livestock. Currently, the state does not count honey bees as livestock, but the Internal Revenue Service does. Furthermore, the stakeholder commented that these varying definitions need to be considered as well as differentiating between hobbyists and agricultural producers.

Review of Proposed Attitude Survey

The DGIF has partnered with Responsive Management to design a survey to assess attitudes on kill permits. The DGIF was planning to conduct the survey to provide the stakeholder committee with helpful information, and it was seeking a review of the survey questions by the committee. The DGIF explained that by going to the permit holders with these questions it would shed light on what is wrong with the kill permit system. The DGIF also wanted to assess the general public's attitude towards kill permits with a general survey. The survey would be conducted by telephone and was estimated to take ten minutes at most to complete. This time limit would minimize the number of not-completed surveys. The permit holder survey would be sent to every holder from the year 2010, when around 2,700 permits were issued. The general public survey was to be sent to random numbers until nine hundred surveys would be completed. The random numbers were to be divided equally amongst five regions in Virginia to avoid a regional bias. The random telephone numbers would be purchased from a private firm and not taken from voter registration databases. Any caller could opt out of taking the survey.

After deliberation, the panel decided by consensus that there was no need for the general public survey and thus it was dropped. Reasons for dropping the survey included:

- Members expressed concern that people in urban areas would not know what a kill permit was and would likely not have an opinion. DGIF replied that surveys to the general public could help direct its education efforts.
- Members commented that the committee did not need information from people who didn't use or understand the kill permit system, as its focus was on trying to fix the kill permit system. However, if DGIF needs the survey, members said they could support it.
- A member commented that ignoring the general public's opinion could be troublesome later on in the process. The stakeholder wanted to know if the committee was representative enough of the general public to act as its voice. Another member replied that the issue at hand was a specific hunting and wildlife management issue; the general public might oppose the whole idea of kill permits instead of providing ideas and information to help the committee fix the problem. Other stakeholders agreed with this last view.

Other questions were raised regarding the surveys in general, as well as the permit holder specifically. The committee agreed that the permit holder survey would be useful and should be kept. Questions are summarized below.

- A concern was expressed that picking 2010 for the survey date would not be as accurate on attitudes due to the drought. Perhaps a more normal year such as 2009 could be asked about, in addition to or instead of 2010. DGIF replied that it would be harder to be accurate the farther back in time the survey tried to reach. Another member suggested that each year will be different and so 2010 should work fine.
- A member wondered if phone surveys would get an adequate response rate. Responsive Management replied that telephone surveys obtain the best response rate of any survey method; also, the survey team would call at multiple times of the day and week and would leave a message with a call-back number.
- A member sought clarification that tax dollars are not paying for the survey. Because DGIF does not receive general funds, the survey is essentially being funded by the sportsmen community. It is important for people to understand that this is not being funded by tax dollars.
- A member asked if there could be a question for those who received a permit but did not make any kills, asking why that was.
- A member requested a question about range of kills per permit instead of trying to get a permit holder to remember exact numbers. They also asked if it would be possible for DGIF to fill in the exact number from their records. DGIF reminded the panel that they record the number of animals killed, not the number permitted to kill.
- A member asked if there could be an open-ended question to ask why if someone rates their permit experience as poor. Responsive Management replied that they left that out in order to keep the survey to less than ten minutes.
- Clarification was asked for the permit survey regarding whether specific names of permit holders would be requested, or categories such as homeowner. Responsive Management replied that it would be categories.
- A member wanted to know why the survey was asking for details on the permit when it is already in the DGIF database. DGIF responded that it would be easier to work if it was all in one place.
- A member asked if a question regarding number of acres or hives damaged could be asked.
- Clarification was asked for regarding possible redundancy on the survey. Responsive Management explained that the survey starts by asking about permits in general and then narrows down to the most recent permit received. Questions may appear similar but there is logic to the design. Furthermore, the computer system will change questions based on previous answers. Another stakeholder asked if the distinction between permits in general and the most recent was necessary. Responsive Management explained that the distinction was necessary to assess attitudes between different types of permits issued for multiple different crops and/or animals. A stakeholder wanted to know if knowledge on different types of permits was necessary or if the focus should be on permits in general. They suggested that redundant questions be tagged for removal if more space is needed.
- A member was concerned that asking about kill numbers was not worthwhile since the point of the survey is to assess satisfaction with the system. DGIF replied that it could give insight as to inconsistency between areas and if satisfaction was correlated to kills

made. Another stakeholder commented that it could show differences between urban and rural areas and help answer questions that may not be obvious now. Another stakeholder commented that in the charge they are asked to consider herds, and kill information can help with that. They also stressed that the panel should focus on the charge.

- A member asked how the opinions of those who did not seek a permit due to dissatisfaction with the program would be assessed. They asked if the survey was necessary at all. DGIF responded that the survey was designed to help provide information for the committee to fulfill its obligations in the charge. If the committee did not deem the survey necessary, it could be dropped. This led to discussion over dropping the general survey. See above for comments.
- A member commented that the survey results should have a line that reads: ***“These results reflect only the views of those who participated in the program.”*** Multiple other stakeholders agreed with the idea and phrasing, and this was added by committee consensus.
- A member was concerned that the survey is only one tool to assess the satisfaction of current program participants. It does not imply dissatisfaction with the program or comment on its value. The stakeholder stressed that the committee not use the survey as its sole source of information. The stakeholder worried that the survey could be used at some point by the legislature to prove satisfaction or dissatisfaction with the Kill Permit process. The committee agreed that its members also represent significant knowledge that should be considered during the process, which is why they were selected for participation, and the committee did not intend to rely strictly on the survey.

Additional Information Requested

After the survey, stakeholders were asked to identify additional information that they would like in order to make a fully informed decision. These are listed below:

1. Does DGIF have information on permits not issued and why they were not issued?
CPO Minarik offered to poll fellow officers to find out.
2. Is there some way DGIF could give the committee five or six things that other states are doing with their Kill Permits that we’re not doing in Virginia?
3. Can we get the state’s definition of livestock and agricultural operations?
4. SB 868 – could the committee have a brief presentation about it, without rehashing the battles over the Bill. Various members of the committee expressed strong sentiments that it would be important to “move on” and put the General Assembly battle behind. Any explanation of the Bill should be a simple matter of explaining the specific elements of the bill without attaching names and battles to it.
5. Are there others on the committee who would like or should be given equal air time? Another member was suggested. This member stated that his organization’s opposition was due to the process not the substance of bill. He is concerned that if we get into a history of how the battle was waged it will do damage to future consensus. He would like to avoid addressing the bill unless there are overarching remaining questions so as not to reignite the battles of the legislature. A stakeholder wondered what would

happen if the bill was re-examined and the panel liked it. IEN responded that the committee's charge is broader than just the bill. IEN also noted that while some time may be given to an explanation of SB868, every other member of the committee will also be given time to express the issues of importance to them.

6. The committee desires data on the number of permits requested versus the number of permits issued. Also, does DGIF have data on people who got permits and did not make kills; did they pursue a permit the next year?
7. Do permits have kill number extensions? Is that tracked? What crops? How many of those have been issued?
8. Do any of these information requests put a real burden on CPOs? Can we know what sort those are? Can Minarik tell us what those are?
9. Can online access to all documents be created?
IEN will attempt to establish a "Base Camp" project to which all members will be given access.

Prior to adjourning, all members were asked to send any additional concerns about the survey to Dave Steffen by 5 P.M. the next day: June 15, 2011.

Dave Whitehurst explained that the next meeting is the same day as the DGIF board meeting. The committee will meet two buildings over. Parking will be in lower parking lot.

He also provided the answer to an earlier question, answered by the Department's attorney: with the Freedom of Information Act and public meetings requirements, the Department does not need to advertise these meetings, but if someone asks for the information the DGIF must give it to them. Also, the public may come to these meetings but does not have to be allowed to participate. Email traffic between stakeholders is not public, but emails to and from DGIF is public. It is unclear where communication with IEN falls into these requirements.

The committee's next meetings are:

- **July 12, 2011**
- **August 2, 2011**
- **August 17 (and possibly 18), 2011**
- **September 20, 2011**

Questions or concerns may be directed to Charlie Kline, IEN at: cbk5da@virginia.edu, or by calling (434) 924-1970.

APPENDIX A:

Committee members in attendance

Dr. George Andreadis
Concerned Neighbor
Chesterfield County

Leon Boyd
Rocky Mountain Elk Foundation, Southwest Virginia Coalfields Chapter
Buchanan County

Gregg Brown
Suburban Whitetail Management of Northern Virginia
Fairfax County

Kirby Burch
Virginia Hunting Dog Alliance
Powhatan County

Dave Burpee
Virginia Bowhunters Association
Fairfax County

Kevin Damian
Virginia Association of Biological Farmers
Hanover County

Larry Faust
Lynchburg Police Department
Lynchburg, VA

Katie Frazier
Virginia Agribusiness Council
City of Richmond

Kathy Funk
Rocky Mountain Elk Foundation
Augusta County

Phil Glaize
Virginia State Apple Growers Association
Virginia State Apple Board
Frederick County

Michael Green
United States Department of Agriculture Wildlife Services – Aviation Safety
Prince William County

Terry Hale
Hale Hunt Club
Pulaski County

Nick Hall
Virginia Deer Hunters Association
Amelia County

Tex Hall
Virginia Bear Hunter's Association
Pulaski County

Mike Henry
Virginia Cattlemen's Association
Amelia County

Ricky Horn
Rocky Mountain Elk Foundation, Southwest Virginia Coalfields Chapter
Buchanan County

Robert O'Keeffe
Virginia Nursery and Landscape Association
Virginia Christmas Tree Growers Association
Floyd County

Eric Paulson
Virginia State Dairymen's Association
Rockingham County

Eric Powell
Fairfax County Animal Services Division
Fairfax County

Katie Register
Heart of Virginia Beekeepers
Prince Edward County

Jon Ritenour
Izaak Walton League of America – Harrisonburg/Rockingham Chapter
Rockingham County

Chris Stanley
TECO Coal – Clintwood Elkhorn Mining Company
Buchanan County

Wilmer Stoneman
Virginia Farm Bureau
Henrico County

Steve Sturgis
Virginia Department of Agriculture and Consumer Services

Dick Thomas
Virginia Vineyard Association
Amherst County

Keith Wilt
Western Virginia Deer Hunters Association
Rockingham County

Committee members not in attendance

David Blixt
Northern Virginia Airports -Wildlife Services
Prince William County

Alvin Estep
Western Virginia Deer Hunters Association
Rockingham County

Denny Quaiff
Virginia Deer Hunters Association
Amelia County

Reid Young
Concerned Neighbor
Henry County

APPENDIX B:**Kill Permit Stakeholder Advisory Committee:
*Overview of the Process***

Thank you for agreeing to be a part of the stakeholder committee charged with evaluating the potential impacts of proposed changes in Virginia's kill permitting! Your input in this process is critical and has very real potential to shape future policy.

Meetings Overview

Our series of five meetings will progress through several key stages:

Meeting 1 (June 14): Introduction to one another, to the issue, and to the consensus process. This meeting will involve a few presentations on the kill permit issue and your charge as a committee. You will have the opportunity to comment on a Kill Permit Survey draft, ask questions, and ask for more information to be supplied. We will also develop a "charter" for our work together.

Meeting 2 (July 12): Moving from understanding the issue to brainstorming solutions. You will see the results of the Kill Permit Survey and develop a deeper understanding of the perspectives of others on the committee. We will shift into a brainstorming process and begin to identify areas of common ground.

Meeting 3 (August 2): Moving from brainstorming to a consensus process. You will continue to work on areas of common ground, and develop a range of possible recommendations. You will begin to identify recommendations that appear to be most promising and able to meet the interests of various stakeholders. The committee may elect to task small subcommittees to work on refining specific recommendations.

Meeting 4 (August 17, 18): During this key decision-making meeting, the Committee will strive to build consensus on recommendations for consideration by the General Assembly. Depending on whether the process has benefited from small committee input, this meeting may require two days.

Meeting 5 (September 20): VDGIF will present the final draft report, and you will have the opportunity to offer feedback.

Facilitation and Consensus

The meetings will be facilitated by a three-person team of professionals based at the Institute for Environmental Negotiation (IEN) at the University of Virginia. During your first meeting, the facilitators will further explain the concept and process of consensus, which includes the following:

- Everyone can live with the final agreements without compromising issues of fundamental importance;

- Individual portions of the agreement may be less than ideal of some members, but the overall package is worthy of support;
- Participants will work to support the full agreement and not just the parts they like best;
- Individual participants who might be skeptical of working with opponents or those they don't know are reassured by having effective veto power over any decisions;
- Group members seek to satisfy the needs of all participants;
- Everyone's views are given real consideration;
- As a practical matter, decisions with broad-based support are more likely to be implemented.

APPENDIX C:**Virginia Department of Game and Inland Fisheries
Stakeholder Advisory Consensus Committee on Virginia's Kill Permit System**

***Facilitated by the University of Virginia Institute for Environmental Negotiation
(www.virginia.edu/ien)***

Meeting #1

June 14, 2011

DGIF Headquarters, 4010 West Broad Street, Richmond

9:30 *Welcome/ Introductions*

- (10) Welcome, Review General Assembly Charge and Broader Departmental Charge *by Bob Duncan, David Whitehurst*
- (40) Introduction
 - *Name, organization representing, hope for this process, favorite outdoor experience*
- (10) Overview of the Process, IEN Role, Questions *by Institute for Environmental Negotiation: Tanya Denckla Cobb, Karen Terwilliger, Kristina Weaver, Charlie Kline*

10:30 *Kill Permits 101: Part A*

- (30) Presentation *by DGIF staff*
- (30) Discussion

11:30 *Lunch*

12:00 *Committee Protocols*

- Establishing Groundrules
- Explanation of Consensus

1:00 *Kill Permits 101: Part B*

- (30) Presentation *by DGIF staff*
- (30) Discussion

2:00 *What other information is needed?*

2:30 *Review Attitude Survey*

- (10) Overview of goals, survey process, and formulation of survey *by Dave Steffen*
- (60) What have we missed? What other information do we need?

3:40 *Next Steps*

4:00 *Adjourn*

APPENDIX D:**Kill Permit Stakeholder Committee Charter**

The stakeholder committee agreed to the following principles on how it would conduct its process.

Representation

- Stakeholders should strive to make all five meetings.
- Stakeholders should choose an alternate if they cannot make one or more meetings. They are responsible for briefing their alternates on the proceedings. DGIF should be informed in advance as to whom this will be. Alternates will be allowed to participate fully, but votes are limited to one vote per organization.

Responsibilities of Representation

- Stakeholders are expected to communicate the committee's progress and proceedings with the organizations that they represent.
- They are also expected to seek the opinions of the organization or constituency they represent.
- If they are representing an organization with members, they are expected to represent that organization's views, not their own personal opinion.

Communication Between Members

- People should state their name and affiliation.
- No one should call anyone unless previously agreed.
- Business should not be conducted by email and emails should not be reply to all.
- If a stakeholder wishes to opt out of sharing their contact information they must email the IEN Intern Charles at cbk5da@virginia.edu. IEN will set up a listserv so that contact can be maintained while emails addresses are kept private.
- All emails should start the subject line with "Kill Permit."
- Contact should remain within this group and should be minimal.
- DGIF should provide information relevant to meetings in a timely fashion so that stakeholders can take the information to the groups they represent. It was agreed that this means that DGIF should disseminate information at least a week in advance of a meeting.

Communication With The Media or Others

- If a stakeholder is approached by the media or others outside of a meeting, they will refer questions to the DGIF, and also make it clear that their comments are their own personal opinion.

Decision By Consensus

Recommendations and decisions will be made by consensus. Consensus for the group will mean:

- Everyone can live with a proposal without compromising issues of fundamental importance.
- Individual components of an agreement may not be ideal but overall the package is worthy of support.

Any committee member may call for a test of consensus at any time. Consensus will be tested using a three-level gradient of agreement:

- Three means a stakeholder fully supports a decision.
- Two means they have questions and concerns but can live with the decision.
- One means that they have too many questions and concerns and need more discussion because they cannot support a decision. Consensus is thereby blocked.
- Members who cannot support a decision may also step aside on that issue, providing they are still willing to support the final package proposal.

Discussion Guidelines and Requests

- To save time, stakeholders should agree with a comment, not restate it.
- Cell phones should be silent. People will excuse themselves to take calls outside.
- Stakeholders should be brief in making points.
- One person should speak at a time and should be recognized in order to speak.
- People should speak respectfully and should not make derogatory comments.
- Meetings shall be a safe place for all perspectives.
- There is no such thing as a bad idea.

Kill Permit Stakeholder Advisory Committee
Virginia Department of Game and Inland Fisheries

Meeting #2

July 12, 2011
4010 West Broad Street, Richmond, Virginia 23230
9:30 AM – 4:00 PM

The meeting started with recognition of the panel's work up to this point. The panel was reminded of the charge and DGIF's expanded committee objectives (see Appendix A) as well as the committee charter. It was noted that DGIF and the panel shared a great deal of information with each other after the first meeting. The day's agenda was reviewed and the day's goal of brainstorming ideas and determining areas for future work was explained. In order to facilitate group decisions regarding issues to tackle in the coming weeks, the 1-2-3 system of consensus was reviewed (see Appendix B).

SB 868

The meeting moved forward with a presentation on the Commonwealth's Senate Bill 868 by Wilmer Stoneman. Please note that this section records his opinions on SB 868. Stoneman had been asked by the panel at the first meeting to give a presentation on the contents of SB 868, its origin, and how it relates to the panel. Stoneman noted that related documents to his presentation were:

- The Kill Permit Authorization Sheet,
- The current code that covers kill permits (COV 29.1-529),
- The Senate version of SB 868.

Stoneman reviewed the different sections of the current law. He further explained that the main goals of the bill were to:

- Add elk to the kill permit system;
- Expedite the kill permit process;
- Make kill permits more systematic in their application;
- Clarify eligibility for agricultural authorization;
- Allow flexibility for landowners or representatives to allow others to exercise kill permits without specifying individual shooters' names;
- Improve data collection and the use of data;
- Prohibit the sale of kill permit authorization;

- Add a 'sunset clause' to the kill permit code to require review after two years of SB 868's passing;
- Call for immediate phone check of killed animals which would help generate real time data; and
- Remove hunting requirement for in between kill permit requests to help with suburban kill permit issues.

While elk have historically been classified by the Commonwealth as deer, they were added to SB 868 because of a recent species differentiation. Kill permits need to be changed to reflect the new attitude towards elk. Clarifying eligibility for agricultural authorization requires clear definition of agriculture and distinction between agriculture and other similar practices, like gardening. Currently, according to Stoneman, DGIF has limited data on kill permits. One intention of SF 868 is that better and more data will improve safety, service, tracking and identification of abuse within the kill permit system.

Stoneman also took time to explain the state's definition of an agricultural operation (COV § 3.2-300). According to this definition, to be considered a farmer an individual must receive a gross income of at least \$1,000 from an agricultural operation, as reported on IRS Schedule F. According to DGIF language, those who qualify as farmers according to this definition are entitled to receive requested kill permits without undue delay.

The remainder of the presentation focused on the differing sections of the bill. The powerpoint presentation can be found on Basecamp.

Questions and comments on the SB 868 presentation:

- A panel member commented that bees are an animal and honey is a crop, as defined by the USDA, while the COV defines bees as a crop.
- One panel member cited an anecdote: two foals were killed by a bear but the farmer could not get a kill permit because horses were not considered livestock under Virginia tax code, despite the agricultural code defining them as livestock. Stoneman commented that the "Right to Farm" (found in the COV §3.2-300) definition is typically relied on for pests.
- It was asked whether current code provides the option to issue a permit if requested when damage has occurred. Stoneman shared his belief that this is the case. He also explained that he would like to see a tiered system, which allows for immediate options for landowners depending upon the pest animal and damaged crop.
- A comment proposed that the fundamental issues with SB 868 were consistency on DGIF's part, and in particular failure of DGIF to react in a timely manner. Stoneman commented that if DGIF officials were directly contacted, action was much more

immediate than if a non-DGIF person was contacted first. Stoneman believes that what is needed is a “one-stop-shop” solution for the kill permit system.

- A panel member commented that, when starting certain agricultural operations, it can take up to ten years to earn a profit and get the tax basis authorization. Stoneman agreed that this is a very difficult issue, especially where two or fewer acre farms support the farmer’s main livelihood. He commented that these situations will require adaptation of the law and kill permit system.
- It was asked if a property owner can hunt year round on his or her own property. DGIF responded that, in Virginia, this is allowed only for rabbits and squirrels. Other states do allow unrestricted hunting on private property year round.
- A comment stated that there is a whole class of people not covered by kill permits: non-residential farmers, farmers under the \$1,000 IRS limit (such as home farmers), or beginning farmers starting a farm, orchard or apiary.
- A panel member commented that, currently, there is no neighbor input on the issuance of kill permits. Is there consideration that wildlife is everyone’s property and that kill permits inhibit the rights of neighbors? Stoneman replied that subsection F allows for complaints. He also argued that, if real time reporting was adopted, it would allow for more accuracy in reporting abuse and logging complaints.
- There was concern expressed that it can be difficult to balance the needs of wildlife watchers who love watching deer with farmers who need to protect crops. It was suggested that this issue may be resolved if the ‘watchers’ helped to offset damage costs.
- A panel member wondered why farmers do not plan ahead for possible future damage, including finding out ahead of time who to contact to get a kill permit. The responsibility should be on farmers to know who to contact after damage has occurred. Stoneman opined that the information was not readily available until very recently.
- A panel member asked that other drafts of SB 868 be provided to help with clarification. Stoneman responded that the bill used to be very short, but over time as many different public interests have emerged the issue has become much more complicated. In response, the legislature has drafted the bill so that it is separated by sections, compartmentalizing information for ease of access.
- It was commented that, when the kill permit process has been in jeopardy this has significantly impacted municipalities and their animal control programs.
- It was asked whether there is a memorandum of understanding between DGIF, the USDA, and the State Department of Agriculture that discusses responsibility for kill permits or even addresses kill permits at all.

- A comment suggested that SB 868 seems like a hunting bill with added features. Why could this not be a hunting program? Stoneman replied that this seems to be an issue of contention, with concerns of abuse.

Information Requests from Meeting One:

Information requests from the first meeting were examined. Many were readily explained. Others would be included in presentations given throughout the day. See Appendix C for further detail.

DGIF gave a presentation regarding information requests from the first meeting. A copy of the powerpoint can be found on Basecamp.

Questions and comments on the presentation are included below:

- DGIF commented that kill permits are often used as a contact point to get farmers into the Damage Control Assistance Program (DCAP), and so they are not issued when the farmer chooses the DCAP option.
- DGIF commented that when kill permits are requested for bear damage investigation discovers that the damage was often not cause by bears.
- DGIF commented that there can be “controversy within DGIF” regarding kill permits. This controversy is limited to internal processing differentiations (e.g. officers are limited to forty hour work weeks, and some counties use email or electronic permit forms while others use paper). In short, DGIF is aware of and working to address the internal variance across the state.
- It was asked whether a kill permit would not be issued if a landowner did not allow hunting on his or her property during the prior year. DGIF responded that this was accurate.
- It was asked if CPOs saw any laws and regulations in the system as “absurd”. What aspects do CPOs want to change? DGIF responded that, when the code deals with specific “can and cannot do” language it gives CPOs no leeway. Also, internal processing for a give situation differs depending upon specific officers or supervisors.
- A panel member asked for clarification of the distinction between commercial operations and food plots. DGIF responded that some people establish food plots to attract wildlife . Typically this is to either attract deer or enhance their diets for superior growth.
- It was noted that there are volunteers who often work alongside CPOs. A panel member wanted to know how they volunteers are selected. It was further noted that local ordinances supersede some state issues and, in the experience of the commenter, volunteers are not always aware of local ordinances when they issue kill permits. DGIF responded that the complimentary work force (volunteers) does issue significant

numbers of permits. All volunteers are given all available training, but they are not always as well supervised as would be desired.

- It was asked whether a revised bill could reference another separate section of the COV. DGIF responded that this could happen.
- It was asked whether spotlighting was allowed and whether weapons were restricted by a kill permit. DGIF replied that spotlighting was allowed but weapons were restricted depending upon local ordinance.
- It was asked when deterrence was used instead of issuing a kill permit. DGIF responded that it depends upon the situation and that deterrence is not required, but is only presented as an option for landowners.
- A panel member commented that he had seen some “seven month a year” hunting properties not allowed to have kill permits for the rest of the year because of “safety reasons”. DGIF responded that they had not personally experienced this but would like relevant information. The panel member said he could provide information.

Permit Holder Survey

Mark Duda from Responsive Management gave a presentation on the results of the survey of kill permit holders listed in the 2010 database. The final calls for the survey were finished on July 10th and analysis was started the next day. Analysis is not yet complete, but Duda described preliminary findings and promised a full report (to be uploaded on Basecamp once available). Responsive management also accessed DGIF’s permit database and added pertinent internal kill data to the information garnered by the survey. A copy of the powerpoint presentation given during the second meeting will be available on basecamp.

Questions and comments regarding the survey are below:

- Data on the average and median number of days it took for initial response as well as the total average time it took to get a kill permit were presented. Discussion about time frames occurred because panel members thought the two time frames were sequential and additive. Duda and DGIF cleared up the misconception (it does not take seven days total) and offered reasons (including scheduling issues with the landowner) why it might take about two days to make initial contact and about four days total to issue a kill permit.
- It was noted that there was a very high positive response rate indicating significant satisfaction with the system. A few panel members questioned the need to change the system, given these data. Responsive Management replied that it needs to continue analyzing the data. According to Duda, the most obvious issue appears to be a lack of hunting skills on the part of permittees. A stakeholder commented that the high number of kill permits for shrubs could mean that permits are being granted to small-plot residential homeowners who may not have hunting experience.

- A commenter noted that bear kill permits have carcass use restrictions. According to anecdotal information, bear kill permit holders have historically coveted trophies. The panel member expressed that it would be interesting to see if there has been a decline in kill permits for bears as regulations have increased.
- A panel member wondered if high satisfaction ratings were misleading, as only those who received permits were surveyed. The survey did not cover those who had not received a permit.
- A commenter noted that the data seemed to show a working system. Other than adding elk, concerns seem to be those of lobbyists, not permit users.
- It was asked how much crops are worth in dollars and how much is lost in damage on an annual basis.
- A commenter stated that the data shows satisfaction with users, but that the panel should look as well at those who either did not get a permit or did not know how to access the system.
- A panel member commented on age demographic data. The powerpoint slide highlighting age trends showed similar age demographics to those of hunters and farmers in Virginia. Farmers and hunters are getting older, and it was commented that this trend has frightening implications.

The Role of DGIF and the Committee

In the first meeting, the committee asked that the role of DGIF be clarified. David Whitehurst commented that DGIF would provide only technical assistance and information as requested. DGIF could also provide an assessment, when asked, of the ability of the agency to carry out certain proposed policies. If the committee prefers, DGIF could have a seat at the table although this is not preferred by the Department. A panel member commented that, if procedural issues within the agency need to be adjusted, someone from DGIF should be present and participating in the discussion.

Building Knowledge

The charge was reviewed along with the expanded DGIF objectives (see Appendix A). These should be used to help identify and prioritize issues for the committee to tackle. In particular, this meeting is designed to support panel members in identifying issues areas that are most important, as well as issues that are the easiest to address. Issues identified from comments in the previous meeting were listed (see Appendix D for the list). It was asked that stakeholders examine this list and contemplate any changes or additions. Comments and questions about the issues list are detailed below:

- It was suggested that the panel has already covered many of the issues and that some, such as herd size, are more appropriate for DGIF to address.

- There was concern that the survey is being used as the only source of information. Some constituencies have said that 2010-2011 have been better than the past three or four years. It was asked that the panel keep this in mind when making decisions.
- A commenter stated that, regardless of severity, there are still problems with the kill permit code/system, and this panel has a unique opportunity to improve the situation – especially for the agricultural community.
- Comments suggested that kill permits have been abused, especially through the hunting of trophy bucks. Abuse of the system is a significant problem for certain constituencies.
- It was noted that the wording used in the regulations and legislation of the kill permit system is a problem. At some points, the language allows for an interpretation that only damage to fruit trees and commercial property could merit a kill permit. This needs to be rectified along with specific wording that spells out the safety dimension of permits. Language also needs to cover municipalities as a separate and unique context.
- A panel member commented that there is a need to improve DGIF procedures and other internal issues such as modernization, the availability of agents, and communication. DGIF responded that they are open to anything that can help improve the process.
- It was suggested that one way to solve the larger problems is to find creative solutions to building DGIF's capacity (staff and other resources).
- A panel member admonished that compromise is necessary to find a solution that will work for the General Assembly.
- A panel member commented that the Virginia Elk Management Program is still in its infancy. The goal of the program is to return a mismanaged and extirpated animal to the state. Special consideration in the kill permit system needs to be given to elk. Non-lethal management methods would be preferred.
- A panel member commented that local ordinances are very confusing when it comes to kill permits, firearms and hunting. Does DGIF coordinate with local municipalities? Is there a central location where this information can be found? DGIF responded that it is complicated. The website municode.com has most local jurisdictions' ordinances. The COV and Regulations of Virginia also have relevant information. Because kill permits are not hunting, hunting ordinances do not apply. Firearms regulations do apply and these are found in the DGIF regulations book.
- Local governments currently decide what hunting method is permitted for hunting deer. As far as safety concerns with local governments are concerned, why are local hunting methods not the same as those for kill permits?
- Can the panel look at a process for those who get multiple permits in one year or in multiple years? Is there a way to streamline this to reduce the resource needs of multiple permits?
- Are there any facts or statistics on abuse in the kill permit system?

- Katie Register conducted a survey of beekeepers throughout Virginia. A total of 115 responses showed significant support for kill permits. It was noted that beekeepers in other states get state support to put up electric fences. Why does this not happen in Virginia?

100 Beekeepers-- their opinions about kill permits for bears

From: Katie Register

Date: Mon, 11 Jul 2011 at 3:16pm

Hello all,

After our first meeting, I decided that I would like to gather opinions from other beekeepers so I could better represent them as we work on the Kill Permit task force.

I wrote a survey on SurveyMonkey.com, and invited beekeepers from around the state to comment. I stressed that this was NOT an official poll, it was just to gather information about how VA beekeepers feel about the topic of Kill Permits for bears that damage bee hives. I also provided beeks (as we call each other) with links to the proposed bill and the current law. Attached are comments from the first 100 beekeepers who took the survey (since I used the free version of SurveyMonkey, only the first 100 answers were retrievable). I was surprised at how many beeyards are not behind electric fences (76%), but at \$400 to \$800 per fence, it is understandable. 78% of beekeepers agreed with the statement "All Beekeepers should be given a permit after an attack" and 57% supported long-term permits.

Survey of beekeepers in Virginia regarding bears and kill permits June-July 2011

Number of YEARS you have kept bees (100 responses)

1-2 years	37 %
3-5 years	28 %
6-10 years	14 %
11-20 years	4 %
21-30 years	8%
31-40 years	3%
40+ years	6%

Number of HIVES you have currently (100 responses)

1-2	36 %
3-5	25 %
6-10	17 %
More than 10 =	22 %
(11, 11, 12, 15, 16, 19, 20, 20, 22, 26, 28, 30, 30, 35, 39, 40, 42, 50, 65, 80+, 150, 175-200)	

Number of Bee Yards (96 responses)

1-2	71
3-5	17
6-10	7
Other	1 (25 bee yards)

2. Do you consider yourself a "hobbyist" or a "professional/commercial" beekeeper? (100 responses)

Hobbyist =	84%
Professional/commercial	12%
Other = Hobbyist for now, planning to become commercial	4 %

3. Do you have electric fence(s) around your hives? Please answer "Yes" "No" or "Some of my bee yards have electric fences" (99 responses)

Yes =	17 %
No =	76 %
Some =	5 %
Other = Not yet but soon	1 %

4. If you HAVE had a bear attack your beehives, please answer the following. If you have NOT had a bear attack, please skip this section.

4. If you HAVE had a bear attack your beehives, please answer the following. If you have NOT had a bear attack, please skip this section.

What year was the attack? (24 Responses)

1998
1999
2003
2005
2009 (4)
2007
2008
2010 (7)
2011 (8)

Other answers:

Yes
Two attacks in 2009 and 2011 (counted in the tallies above)
Two attacks in 1998 AND 2010 (counted in the tallies above)
Two attacks in 2010 2011 (counted in the tallies above)
LAST 3 YEARS

Did you contact the VA Department of Game & Inland Fisheries (DGIF)? (24 Responses)

Yes- 12
No- 14
N/A- 1

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Did you ask for a Kill Permit from DGIF? (24 Responses)

Yes - 0
No- 14
Yes but not given- 1
Handled themselves- 1
N/A- 2

How long was the permit good for? (for example, 2 days) (15 Responses)

- One month
- 2 weeks
- 30 days
- 6 months
- 4 months
- 30 days
- 14 Days
- 90 days
- 2 days
- (8 people replied "N/A" to this question)

Was a bear killed as a result? (19 Responses)

- No- 9
- Yes- 5
- Not yet- 2
- N/A- 5

Did the DGIF representative give you any advice or instructions? (18 Responses)

- No- 7
- Yes- 4
- N/A – 6
- Not much- 3

5. If a beekeeper has had their hives attacked by a bear, do you think that a Kill Permit should be given to protect bee hives from further attacks from bears on the same property? (put X in the box(es) that you agree with. You can check more than one box and you may also write a longer comment if you wish.)

- | | |
|---|---------------|
| Yes, all beekeepers should be given a permit after an attack | 76.8 % |
| <ul style="list-style-type: none"> • Other- if requested • I think a decision like this should be left to the keeper. No one wants their hives to be destroyed but when bears attack it is my understanding they will continue to return • No bee keepers should protect their hive before the attack • Yes, but depends on the amount of damage • Beekeepers within 200 miles should be allowed a permit • All beekeepers should be given a permit after an attack • SHOULD NOT NEED TO GET PERMIT JUST HANDLE • No opinion • Just put up an electric fence • Without a time limit, basically for as long as they own bees • Once a bear finds hives he will come back to that spot • Yes, but only one permit per beekeeper if they don't have any preventive measures in place, such as an electric fence. • It should be before an attack if the bear has been sighted. | |
| Just professional/commercial beekeepers should receive permits. | 11.1% |
| <ul style="list-style-type: none"> • Details- but only if it is truly threatening their safety, mortgage, etc - | |

No, never.	11.1%
Yes, but the permit should be good for just a few days.	11.11%
<ul style="list-style-type: none"> • ONLY if the damage has been of a certain amount • Only if steps are taken to protect the hives 	

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Yes, beekeepers who have had damage should be given long-term permits (not to exceed six months as proposed in the amended law.)	57.6%
<ul style="list-style-type: none"> • Other- a few days is not enough. Bears don't visit that often • Details- if peanut butter on electric fence does not work • Short term permits should be enough • The bear will take a while to get • Doesn't the new law say 12 months? The longer the better! • My beehives cost the same as a professional 	

6. What else would you like to say about honeybees and bears? If you have read the current law and the proposed changes to the law, please share your thoughts here.

COMMENTS

1. Bear damage should be reimbursed to the Professional/Commercial beekeeper
2. I think that the potential for damage to honeybees is increasing constantly. I have a neighbor (who lives a mile away from me) who brought a picture of 3 bears that was taken with a wildlife camera. My understanding is that an electric fence is the only protection you can offer for the bees but where my yard is makes it difficult for me to put one up. I have always felt that nature should be given some protection from mankind but with honeybee populations already decreasing everywhere the bee's welfare should be considered as well. I have other neighbors with dogs and I have two labs myself and I think that the dogs are the reason that I have not had a problem with bears and I don't know how long that will work for my situation. I am interested in the methods of keeping bears away from hives. Thanks you for contacting my association and allowing me to give input.
3. Bears have become "outlaws" through the activities of humans. We have taken away their habitat and their means of acquiring sustenance. We made our beds, so to speak, and now we are trying not to lie in them. There must be other means of co-existing, rather than killing everything that gets in our way.
4. Shoot the bears!
5. Only the large males i have had problems with

6. Beekeepers are responsible for protecting their yards before the bear enters an apiary. The bear is doing what is natural and that is looking for food. If someone wants to kill a bear on their own property without a permit that is their business, but they should realize they are responsible for the situation and should also be responsible for the solution without killing bears. Electric fences!
7. All livestock, farmers and beekeepers should be allowed to protect their investments from predators.
8. The permit should be the last resort. After other attempts to deter the bear have failed
9. Changes are limited to the killing of bears, etc. There should be provisions for non-lethal control of nuisance animals and compensation to property owners for damage.
10. The bear pop. Will grow we need to do a better job
11. What happen to bear damage bill and monies for damage???
12. If all preventative measures have been taken and the bear(s) cannot be relocated, then the beekeeper should have the option of short term permit.
13. Electric fences are maybe 50% effective. I built an enclosed shed for my hives
14. We have used a kill permit on deer and would not hesitate to ask for one for bear.
15. If a bear is on your property they are not just a threat to the bees, they are then a nuisance and a hazard to your family.
16. With electric fences, I feel I have done what I can to protect my hives. If I have an attack, then I should be able to protect them any way possible.
17. (Get the bear before the bear gets your hives)
18. I don't believe nuisance bears should be tolerated in our communities. They can be a significant danger to people and property.
19. I am a beekeeper with all of my bees on my own land. I have 150 acre, mostly wooded and next to a larger track of woods known to have bears. I don't even own a gun, but it seems that if someone has their bees set up like I do, bears are a constant threat. This law seems only reactive. I don't hunt, but I thought that if you see a bear in your yard, you kind of have to handle it right then.
20. Of all the permits that have been issued, how many bear have been killed? Permits should be issued to prevent continued depredation, but not for revenge for what's already been done. The Game Department is offering easier access for Kill permits and that is not the solution to our problems.
21. Beekeepers should have to take ameliorating acting, such as putting up fences or such before any thoughts of killing the bear is entertain but I would tend to be against just shooting the bear otherwise.
22. I think that if a bear is in the process of destroying hives, it should be legal to kill the bear immediately to prevent further damage.

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23. Cut the bears some slack for now! It was a mess when I got attacked by a large male, but I and most of my bees survived.
24. Kill permits should be issued for bears that damage hives the same way that permits are issued for deer that eat the garden.

25. If a bear is a problem and damage is evident it should be destroyed without a need for a permit. One should be able to prove damage to justify the end if needed. Bears are hard to catch in the act and waiting on a permit or a short-term permit does not get it done. A beekeeper should be able to take care of the bear and turn it in so the dgif knows what's happening and that be the end of it
26. Bears were here first. Up to us to hot fence in and protect the bees and to protect wandering individuals from entering the yards.
27. Bears like honey so it's a natural occurrence and should be left alone unless the beekeeper is truly a commercial operation
28. The changes sound good. I hope that the revision will pass.
29. Because of the increase in the number of bears, long-term kill permits should be given to beekeepers to protect their valuable bees.
30. The bears around my place are afraid of my gentle, elderly Labrador.
31. With all the bears returning to old habitat in VA, it is increasingly necessary for beeks to be able to protect their bees and investment. (NOTE: "Beeks" is what beekeepers call themselves.)
32. It is unfortunate that nature is unable to self regulate. Consequently, responsible wildlife management MUST take actions that cull the herd.
33. The bear population is doing well on it's own; the bees need our help!
34. If farmers can obtain kill permits for deer for damage to crops, there's no reason Beekeepers shouldn't be able to do the same.
35. You should not need a permit after an attack.
36. I think that the beekeeper needs to continue to try different things and be issued a kill permit to give him time to try these different things. We killed a bear but soon after another appeared. I think as one bear leaves an area another will occupy. Do we just continue to kill them? Our electric fence has been successful so far.
37. Something has to be done. Bears may come back two or three times and then disappear for several months. The permit needs to be immediate and not take two or three weeks to assign. A designee to kill the bear that is willing to set out at the hives is an imperative.
38. Bears will be bear and shooting one will not prevent another "attack". Use electric fencing!
39. "Representative" should show authorization from owner in writing
40. Bears here are mostly migrating through. They have been spotted locally. None have bothered any of my hives so far. They have no protection except by distance. I see no need for a long-term permit.
41. Dogs near the hives are a wonderful deterrent for all wildlife.
42. None
43. Bears have been sighted by neighbors but none have bothered our hive. I wouldn't like to think I was helpless to protect my hive or myself!
44. Do not kill the bears. They are looking for food. We do not have the right.
45. I am going too protect my property no matter what!!!!
46. If the bears come despite efforts to keep them out, I believe beekeepers should be given a kill permit. Otherwise, I wouldn't kill one.
47. Once they come they won't go away and they are in no endangered
48. Bears can (and do) have serious negative impacts on local beehives. A few bears can wipe out many hives. However, I do not believe that the killing of bear(s) that attack beehives will have a substantial impact on VA's bear population.
49. I want to shoot before the attack happens
50. THESE ANIMALS CANNOT COEXIST ON THE SAME PROPERTY
51. Beekeepers should be allowed to legally kill any bears in the act of raiding their hives, instead of waiting for a permit!!!
52. I just moved my hives last night due to bear tracks seen near the hives.

53. Bears win every time, and just like deer, the season needs to be expanded
54. If you have bear damage, you get one kill permit for a long enough period of time to get the offending bear. But only one permit per beekeeper if they don't have an electric fence. If they do have an electric fence, then they shouldn't be limited by the number of kill permits allowed.
55. If bears are threatening my beehives, but have not yet attacked, I would like the right to protect my property, up to and including a Kill Permit
56. Beekeepers should be allowed to kill a bear to protect their hives
57. I would like to see bears become a "varmint" just like foxes, coons, crows etc to the farmer "beekeeper". A typical fence cost about \$400 at each location, so it's very expensive to build at multiple locations. If a permit is given "after" an attack it should be permanent like a Damage permit

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for deer. Also the Conservation Police Officer should NOT hold the authority to issue or not to issue a permit at their discretion, it should be a "shall issue" law with a short issue time of less than 24 hours.

58. I am now in an area on the northern neck where we do not have bears. However I used to have bees in Madison Co where there are bears. I am considering putting some hives back up there. Having grown up on a farm in Madison, we had problems with wild dogs killing sheep. In such a case the dogs were killed immediately if possible. On one instance a pack of wild dogs killed over 100 sheep in one night.
In my opinion, beekeepers should be allowed to do whatever necessary to prevent damage.
59. Being part of a camera trap wildlife survey we know we have a lot of bears here (The Plains, VA). In fact they raid a neighbors garbage cans not 200 feet from one of our bee yards. But with electric fences at both yards we have not had a problem. All of the beekeepers I know who have had bear problems were not using electric fencing and I can't help but feel we need to expect bears as a reality with beekeeping and act appropriately. Maybe education is a better solution than shooting bears. I hope you will convey this opinion for me to your advisory committee.
60. Bees are in trouble, and the bear population is healthy and growing. I think beekeepers should be able to have a permit in hand, and not wait until the day after an attack to get a permit. You can lose a lot of hives in one night, so waiting can cost you a great deal.

Survey created on SurveyMonkey.com by Katie Register, June 2011. Beekeepers from around the state were invited to take the survey. 115 beekeepers responded, but only the first 100 respondents were counted and summarized above.

- DGIF commented on a few agency issues and considerations:
 - Baiting in cities and towns has no single policy within the agency.
 - Current kill permit code is limited in what it covers. It could be expanded to cover topics as varied as beekeepers, turkeys, ecosystem damage, disease or tick implications and other non-agricultural issues.
 - What landowner, community or personal responsibilities are there for controlling damage in advance of lethal options? What role does this play in issuing kill permits?

Issue Breakout Group Summary

After discussing and adjusting issues, the committee was asked to rank issues based upon what each individual thought were the most important and what would be the easiest to resolve. Each panel member had four votes for "most important" and four votes for "easiest to resolve". They were not allowed to vote more than once on any issue. Appendix D has vote tallies next to each issue. The top three issues that were voted for as "most important" and "easiest to solve" were highlighted. Following this, the panel was divided into three separate groups to

brainstorm solution ideas for addressing each issue. Below are thematized summaries of solutions proposed in the small group discussions.

Committee Ideas and Options for Addressing Most Important Issues

1) Preventing Abuse of the Kill Permit System

Increase DGIF Capacity

- Use civilian CPOs
- Have Point of Contact for smaller district size to increase response capacity
- Increase DGIF manpower to handle response
- Improve response time to abuse reports by developing a 24 hr emergency response line- dispatch

Consistency

- Develop clear definition and language for permit limits, allowances for permit
- Change wording from SHALL to MAY to allow for CPO discretion to better determine valid need
- Develop consistency between CPOs across the state on how the permit system will be implemented and enforced
- Kill Permit System information and abuse info and consequences needs to be communicated consistently to all permittees
- Develop consistent Standard Operating Procedures including clear policy and protocols, training
- Develop set of standards and guidance on species and crop damage thresholds for all staff, enforced by employee performance/evaluation system

Require Validation

- Require CPO to contact neighbors prior to issuing a permit to better determine if info on potential permittee and situation. (others cautioned about biased neighbors or requiring agreement from all neighbors- i.e. N VA Municipality had this requirement but removed it from the permit because of the neighbor disagreement potential)
- Investigate, confirm the actual culprit animal/species before issuing permit
- Require/validate evidence that planted acreage is actually harvested to address food plot planting

Improve KP System Implementation

- Develop a more timely reporting system
- Require animals to be checked at time of kill to feed the database and allow easier detection of potential abuse
- Make the KP system as simple and straightforward as possible- develop an easier process

- Explore division of labor/responsibility within agency/bureaus (wildlife and Law Enforcement)
- Develop an appeals process
- Deny all future permits and prosecute fully once violation occurs
- Require CPOs to investigate “founded “ complaints
- Investigate and document abuse-confirm that it is actual abuse and not just a disgruntled neighbor
- Deny all future permits and prosecute fully once violation occurs
- Abide by more specific local ordinances (time and method of kill allowed)
- Balance legitimate use and abuser so that it doesn’t encroach on legitimate use

2) Meeting Farmers’ Needs in a Timely Manner

Increasing DGIF Capacity / Changes to DGIF Staffing Policies

- Suggestion that a kill permit staff position be created – one individual to handle issuing and policing.
- Suggestion that there be a Central Coordinator whose role it is to ensure 24 hour response to request (“response” would involve, at a minimum, acknowledging receipt and efforts to set up a time for a visit, etc).
- Suggestion that a specific appeals process run through a Central Coordinator.
- Suggestion that timeliness be included as part of employee review/evaluation as a way of raising personnel standards.

Increasing Collaboration for Implementation

- Suggestion to have a “team approach” to issuing kill permits with coordination among institutions (for example, Wildlife Division, Law Enforcement, Volunteers, and Localities)
- Suggestion to cultivate better communication/coordination between police and conservation officers.

Communications/Technology

- Suggestion that documentation of damage be sent by phone/email (technology)
- Suggestions to create online applications and streamline communication
- Suggestion that DGIF create an automated system for requesting kill permits. The system would have pre-recorded information about users. The number and length of permits would be determined by a site visit only for the first request. Follow up requests would not need a site visit.
- Suggestion that there be a central, state-level number that people can call to be referred to local numbers.
- Suggestion that improving communications and ability to contact DGIF will help people report problems with timeliness or rejection of request.

Responsibilities / Differential Treatment of KP Users

- Suggestion for a tiered response (ie – Emergency vs. Regular response), which recognizes that “one size does not fit all.”
- Suggestion that an individual with a “clean record” be given a set number of kills without a investigation.
- Suggestion that, within the same year, an individual can renew for a second permit without visitation.
- Suggestion that users of the system must meet certain standards, as in the voting system. For example, former felons could be denied.
- Suggestion that there be an initial 24 hour leeway (with limited number of kills and limited timeframe) to shoot – this is a way of addressing the concerns of producers like beekeepers, who may not have time to wait.
- Suggestion that people be given the authority to shoot without a permit if one is not issued in a pre-determined timely manner. Penalize DGIF for lack of timeliness. Suggestion that agribusinesses preregister with DGIF, attaining an ID number that will help expedite the process.

Other

- Suggestion that there is the option of allowing “shoot on sight” if an animal is in the act of causing damage.
- Do we need to consider changing the language of the code on this issue?

3) Consistency in the Permitting Process**Consistency in Definition**

- Suggested having a consistent definition of agriculture for kill permit purposes.
- Suggested a consistent standard for measuring legitimate damage for kill permit issuance.
 - Should standards vary for commercial, public or residential interests?
- Suggested defining other animals than deer, elk and bear that can be allowed for kill permits.
- Suggested to create a system for determining number of kills per permit based upon animals involved, acreage and type of crop, and local conditions.
 - Potentially remove kill limits and instead focus on solving the pest problem qualitatively.
- Suggested creating due diligence requirements for landowners to undertake before being able to receive kill permits.

Consistency in Application

- Suggested finding ways to make on the ground application of the system more consistent

- Suggested creating consistent timelines for DGIF to respond to a request.
- Suggested that a consistent and straightforward method for appeals needs to be created. The timeframe for appeals should be quick, as in around 24 hours.
- Suggested that consistency is an in-house issue for DGIF to fix internally.
- Policies should still account for local conditions.
- CPOs still need to be able to use their discretion.

Consistency in Information

- Suggested ease of access to information
 - Who should be called to start the process should be easily accessible.
- Suggested that a central control should be created. Duties should include:
 - Reviewing appeals
 - Oversee local control
 - Coordinate the process between different agencies at different scales (state, local, federal)
- Suggested that DGIF create a written policy for kill permits including:
 - A “how to” guide for receiving a permit
 - Online access
 - An outline of the entire permitting process
 - Explicit information on state laws and regulations

Consistency in Safety

- Suggested defining standards for what constitutes a permit denying safety issue.
- Could alternatives be put in place to permit denials based on safety – such as using professionals (e.g. – Animal Control Officers, Conservation Police Officers, nuisance trappers) to carry out a permit safely?

Committee Ideas and Options for Addressing Most Easily Resolved Issues

4) Improve How to Contact DGIF

Improve Response Capacity

- Establish a central Point of Contact
- Hire a coordinator (FTE) for oversight of KP program (implementation, enforcement, response, appeals)
- Have central 24-hr phone # in Richmond which then calls local CPOs (dispatch)
- Hotline (automated)
- Develop and disseminate a Central Directory (if FTE not possible)

- Work through sheriff's offices

Improve Communication and Information Dissemination

- Develop prominently displayed and easily accessible information on
 - website,
 - yellow pages
- Distribute information to agriculture community through organizations' memberships
- Provide information to agricultural extension agents
- Develop more accessible, user friendly website information for KP process

5) Data Collection Needs for Future Decision Making

Collection Methods / Technologies

- Implement the phone check system and/or online system and mandate reporting "without undue delay."
- Switch to an electronic system.
- Desire for an ability to go online and see a registry of who in an area has been issued a kill permit (name, phone number, address). Suggestion that this would greatly increase accountability to neighbors.
- Suggestion that data be captured as part of an appeals process that runs through a Central Coordinator.
- Suggestion that a Central Coordinator manages the entire process and is capable of looking for inconsistencies/abuses in the system that may be reflected in the data (similar to a Freedom of Information Act coordinator).

Data Needed

- Use a system that allows for gathering data by zip code.
- Collect D Map Data. Jaw bone data mentioned.
- Ask DGIF what needs the Department has in terms of data collection.
- Suspect that the main needs are for knowing "who, when, and where."
- Overall need is to move from anecdotal to quantitative data in decision-making.
- It would be helpful to collect data on how many permits are requested vs. how many are issued.
- It would be helpful to know how many are denied, and why.
- It would be helpful to see a longitudinal trends analysis that looks at population changes over time (animal populations in relation to human populations, for example; what was it like in the 1970s compared to today?).
- Desire for data on what other, nonlethal options agribusinesses have.
- Need to know how many kill permits are re-issued.

- Desire for data to reveal, particularly in residential areas, where there may be duplication in permitting (for example, neighbors who both receive permits for the same nuisance animal). Related issue is a need to prioritize farmer over resident needs where resources are limited (“crops over shrubs”).

Resources

- Concern raised that there may not be adequate resources for a true database system.
- Suggestion raised that resources may come from volunteers, such as student interns.

Other

- It was pointed out that if reporting is expected, then an absence of data flags possible abuse of the system.
- Need a more clear definition of damage.

6) The Use of Baiting**Safety Issue**

- Suggested that baiting should only be used if it is for safety reasons
- Safety issues that allow baiting should be defined differently in agricultural and non-agricultural areas.
- Suggested baiting should be done only by professionals such as Animal Control Officers, Conservation Police Officers and nuisance trappers.

Next Steps

It was suggested that the group create sub-committees to tackle issues and craft draft proposals on small teams before the next meeting. This would potentially speed up the meeting process and help achieve consensus faster. The sub-committees would be free to choose how they would work together and would post information on Basecamp prior to the third meeting, leaving time for the rest of the panel to review each proposal. The sub-committees would use the charter to help guide their behavior and decision-making.

The sub-committee idea failed to achieve consensus support. The group developed an alternate proposal that larger, more diverse sub-committees (with DGIF or IEN staff included) be established at the end of Meeting 3. The group decided to table a consensus test on this counter-proposal until the next meeting.

Comments and questions regarding sub-committees are below.

- Will sub-committees be facilitated? No.

- What is the objective of the sub-committees? Develop draft proposals for addressing issues, which will be brought back to the whole panel for development and consensus testing.
- There was concern that voluntary sub-committees may be without direction and not able to achieve anything useful that reflects the larger group. Sub-committees could potentially harm consensus unless there are rules and other mechanisms that require everyone to participate in this way.
- It was suggested that each of the different interest communities draft their particular desires and the group could go over them item by item.
- Sub-committees need to be larger, more diverse, and more structured in order to be effective. Issues need to be worked out more before smaller groups can tackle them.
- It was asked whether the panel's focus might be kept on SB 868 and restricted to identifying problems in its language. IEN reminded the panel of the greater charge and the scope beyond the bill.

Information Requests for the Next Meeting

- Is there an official dataset for actual investigated abuse? This would be helpful even if it is just an 'empty' set of data.
- Is the same amount of DGIF resources spent on agricultural and commercial versus residential kill permits? Especially since there are almost exact equal numbers on issue permits for these groups.
- Can the panel get the exact information on bear damage issued permits versus killed bears?
- Is there any anecdotal evidence from deer or bear biologists on abuse of the kill permit system?

Appendix A:**Kill Permit Study Objectives**

A stakeholder panel and VDGIF staff will collaborate to pursue specific objectives related to: (A) the current kill permit system (per §29.1-529) and (B) proposed changes to the kill permit system (per tabled SB 868). Some objectives specifically address questions posed by the House Agriculture, Chesapeake, and Natural Resources Committee (*House Committee charge*) and other objectives focus on a more comprehensive look at the current kill permit system. The objectives will be:

A. Existing Kill Permit System (per §29.1-529):

1. To identify issues and problems with the current kill permit system.
 - a. Among the issues identified will be to determine if the issuance of kill permits is done efficiently (*House Committee charge*) and according to law.
2. To propose solutions to these issues and problems.
 - a. Solutions that can be accomplished within the framework of §29.1-529.
 - i. Among the solutions proposed will be to identify steps that can be taken to authorize permits in a more timely manner? (*House Committee charge*)
 - b. Solutions that might require changes to the framework of §29.1-529.

B. Proposed Changes to the Kill Permit System (per tabled SB 868):

1. To determine if SB 868 would place significant stress on the various herds affected by this measure? (*House Committee charge*)
2. If SB 868 places significant stress on herds, to determine the extent that biological considerations should be a factor in the issuance of kill permits? (*House Committee charge*)
3. To determine the extent that SB 868 will result in abuse of current hunting laws? (*House Committee charge*)
4. To determine what provisions can be put in place to effectively prevent abuse of the kill permit system under SB 868? (*House Committee charge*)
5. To identify other issues affected by SB 868? (*House Committee charge*)

Appendix B:

Definition of consensus:

- You can live with the proposal and not compromise issues of fundamental importance
- You can support the overall package though individual parts of it may be less than ideal
- You will work to support the full agreement, not just the parts you like best

Testing for consensus

3 fingers = Full support

2 fingers = You have questions/concerns but can live with it and support

1 finger = You have too many questions/concerns: cannot support or live with it; blocks consensus

[0] = [All of the above assume that final signature of agreement may also need to consult with organization, but [0] may be used if you cannot give *any* indication of support without consulting constituencies]

Appendix C:

Virginia Department of Game and Inland Fisheries
Stakeholder Advisory Consensus Committee on Virginia's Kill Permit System
Facilitated by the University of Virginia Institute for Environmental Negotiation
 (www.virginia.edu/ien)

Meeting #2

July 12, 2011

DGIF Headquarters, 4010 West Broad Street, Richmond

9:30 Welcome/Introductions

Institute for Environmental Negotiation: Karen Terwilliger, Kristina Weaver, Charlie Kline

- (10) Welcome, quick Introductions
- (10) Review Committee Charge, Committee "Charter", where we are in the process, and today's agenda
- (30) Review information requests (see bottom), Q/A

10:30 Building Knowledge About the Issues: Part A

Review Results of Survey of Permit Holders

- (25) Presentation by Mark Duda, *Responsive Management*
- (20) Discussion
 - Questions for clarity, concerns
 - Committee interpretations and perspectives of survey results
 - Identify/list issues raised by survey

11:15 Quick break**11:25 Building Knowledge About the Issues: Part B**

Learning about committee stakeholder issues

- (15) Quick presentation on core issues of concern in SB868, which precipitated the work of this consensus-committee, *Wilmer Stoneman*
- (10) Q/A
- (40) Identifying remaining issues, "Round Robin" for all committee members

12:30 Lunch *(short break and continue with working lunch)***1:00 Building Knowledge: Part B, continued**

- Further discussion/*Round Robin*, to identify and list all additional issues

1:30 Prioritizing Committee Issues

- Questions, clarification of list of issues
- Prioritization:
 - Most important issues for committee to resolve before September
 - Easiest issues that committee should tackle first

2:20 Quick break**2:30 Developing Ideas for Ways to Address Issues**

- (10) Silent generation of ideas
- (60) First brainstorming/developing ideas for solutions for *top 2 or 3 easiest and most important issues*. *Two options:*
 - A: Take one topic at a time, and record and shape/amend ideas through *Round Robin*; this is more deliberative, where everybody hears everybody else, and perhaps preferable for that reason.
 - B: Take two or three topics – have people rotate to each station (facilitated) and build ideas there. This is more energizing and faster, but also a little messier in that we need to sort through and combine ideas afterwards.

3:40 Reviewing Next Steps

- Moving the committee forward faster with subcommittees?
 - Review *most important* issues to resolve:
 - Are people willing to work on subcommittees to develop ideas to present at next meeting? (only 2 to 3 people on a subcommittee, one subcommittee *per key issue or group of issues*, people should reflect diverse perspectives)
- Do members request other/additional information for next meeting?
- Future meeting logistics (back to Board room or this one?)

4:00 Adjourn

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Information Requests

- Clarification of role of DGIF on the Committee (*IEN – discuss today*)
- An information portal including all documentation from the meetings and before the meetings, i.e. - electronic copies of all slides, mailings, etc. (*IEN – established basecamp*)
- Role of crop insurance in claims (*DGIF - Jamie*)
- Why does VA have the most liberal policies in the U.S. Also, what is the per county situation? Damage v. population. (*See Hunters Digest, and DGIF/Dave Steffen will briefly address*)
- Data on Kill Permits - what is in the database? (*DGIF/Dave Steffen*)
- Names and organizations of committee members and alternates (some of this information was circulated during the meeting) (*IEN handout*)
- Acreage for the few 100+ & 400+ kills Kill Permits (*DGIF/Dave Steffen*)
- Info on permits from Matt Knox (asked by Eric Paulson, may need to clarify what exact information he wants with from him). (*DGIF/Dave Steffen*)

- Does DGIF have information on permits not issued and why they were not issued? Minarik said he could poll fellow CPOs and find out. (*Survey*)
- Is there some way DGIF could give us 5 or 6 things that other states are doing with their KP that we're not doing in VA? (*DGIF/Dave Steffen & Jamie*)
- Can we get the state's definition of livestock & agricultural operations? (*DGIF/Mike Minarik*)
- Want to know # of permits requested v. # of permits issued. In cases where people got permits and did not make kills, did they pursue a permit the next year? (*Survey*)
- Do permits have kill # extensions? Is that tracked? If so for what crops? How many of those are issued? (*Answer: No*)
- Do any requests put a real burden on CPOs? Can we know what sort those are? Can Minarik tell us what those are? (*DGIF/Mike Minarik*)

Appendix D:

**DGIF Kill Permit Panel
Meeting 2
Preliminary List of Issues
(Drawn from first meeting)**

- Safety concerns (for farmers, neighbors, others)
- Consistency of permitting process
- Meeting the needs of farmers in a timely (rapid) manner to ensure economic viability of the crops
- A simple, easily understandable permitting process
- Transparency of administration of kill permit process
- Appeals process for kill permits
- Staying focused on the G.A.'s Charge and DGIF's broadened scope
- To what extent should biological considerations be a factor in the issuance of kill permits?
- Preventing abuse of the kill permits
- Relationship to hunting seasons and wildlife management
- Resources for effective administration of kill permit
- Enabling hunters to help reduce herd pressure leading to crop damage
- Fall-back options if permit doesn't resolve the problem
- Food safety (protecting crops from feces contamination)
- Special or different criteria for elk
- Aligning definitions to cover all beekeepers (commercial and hobbyist)
- Data collection needs for future decision-making about permits

From Meeting 2 Flip Charts.

Votes for *important issues* = "xI"

Votes for *easiest issues* = "xE".

Votes are presented in this manner: Issue (xI, xE)

- New Orchards and Schedule F (2I, 1E)
 - Group under \$1,000
 - Gross not covered
- Recourse for Neighbors (3I, 1E)
- Contacting DGIF (0I, 11E)
- Permit Details (2I, 0E)
- Agricultural Definition and Link 3.2-29 (3I, 1E)
- Language Code: Deterrence vs. Shall Issue KP (2I, 3E)
- Permit Denial for Safety (0I, 4E)
- Need to Fix What is Not Broken (4I, 0E)
- Wording that Covers Municipalities (2I, 1E)
- Carcass Disposition (1I, 3E)
- Safety Concerns (3I, 2E)
- Consistency of Permitting Process (7I, 1E)

- Meeting Farmers' Needs in a Timely Manner (7I, 1E)
- Simple, Understandable Process (2I, 2E)
- Transparency of Administration of Process (3I, 3E)
- Appeals Process (0I, 2E)
- Stay Focused on General Assembly's Charge & DGIF Broader Scope (2I, 0E)
- To What Extent Should Biological Considerations be a Factor in Issuance of KP's? (0I, 0E)
- Preventing Abuse of KPs (11I, 1E)
- Relationship to Hunting Seasons & Wildlife Management (1I, 0E)
- Resources for Effective Administration of KPs (4I, 1E)
- Enabling Hunters to Help Reduce Herd Pressure (0I, 3E)
- Fall Back Options if KP Does Not Solve Problem (1I, 0E)
- Food Safety (Feces Contamination) (0I, 0E)
- Special/Different Criteria for Elk (4I, 4E)
- Aligning Definitions to Cover All Beekeepers (Commercial & Hobbyist) (1I, 2E)
- Data Collection Needs for Future Decision Making About KPs (0I, 9E)
- Reestablishment of Elk (6I, 4E)
- Local Information Gap – State Coordination & Volunteers & Municode.com (1I, 0E)
- Streamlining Process for Multiple Permits (2I, 2E)
- Use of Baiting (2I, 8E)
- Species not Covered (1I, 3E)
- Expand KP Potential (Natural Resources, Health & Safety) (2I, 5E)
- Personal Responsibility for Damage (3I, 2E)

Appendix E: List of Attendees (23)

Dr. George Andreadis, Neighboring Property
Owner
Chesterfield County

Dage Blixt, Wildlife Services – NOVA
Airports
Prince William County

Kirby Burch, Virginia Hunting Dog Alliance
Powhatan County

Leon Boyd, Rocky Mountain Elk Foundation,
Southwest Virginia Coalfields Chapter
Buchanan County

Gregg Brown, Suburban Whitetail
Management of Northern Virginia, Fairfax
County

Hershel Carter, Virginia Cattlemen’s
Association
City of Petersburg

John Crumpacker, Virginia State Dairymen’s
Association

Kevin Damian, Virginia Association of
Biological Farmers, Hanover County

Alvin Estep, Western Virginia Deer Hunters
Association, Rockingham County

Larry Faust, Lynchburg Police Department
Lynchburg, VA

Katie Frazier, Virginia Agribusiness Council
City of Richmond

Kathy Funk, Rocky Mountain Elk Foundation

Augusta County
Terry Hale, Hale Hunt Club
Pulaski County

Nick Hall, Virginia Deer Hunters Association
Amelia County

Tex Hall, Virginia Bear Hunter’s Association
Pulaski County

Ricky Horn, Rocky Mountain Elk Foundation,
Southwest Virginia Coalfields Chapter
Buchanan County

Michael Lucas, Fairfax County Animal
Control Officer, Fairfax County

Robert O’Keeffe, Virginia Nursery and
Landscape Association, Virginia Christmas
Tree Growers Association, Floyd County

Eric Paulson, Virginia State Dairymen’s
Association
Rockingham County

Katie Register, Heart of Virginia Beekeepers
Prince Edward County

Jon Ritenour, Izaak Walton League of
America – Harrisonburg/Rockingham
Chapter
Rockingham County

Wilmer Stoneman, Virginia Farm Bureau
Federation
Henrico County

Reid Young, Neighboring Property Owner
Henry County

Members Not Able to Attend (10)

Dave Burpee, Virginia Bowhunters Association
Fairfax County

Ed Bickham, Virginia Bowhunters Association
Fairfax County

Phil Glaize, Virginia Applegrower's Association, Virginia State Apple Board
Frederick County

Mike Henry, Virginia Cattlemen's Association Amelia County

Donna Pugh Johnson, Virginia Agribusiness Council
City of Richmond

Denny Quaiff, Virginia Deer Hunter's Association
Amelia County

Chris Stanley, TECO COAL – Clintwood Elkhorn Mining Company

Steve Sturgis, Virginia Department of Agriculture & Consumer Services
Northampton County

Dick Thomas, Virginia Vineyard Association
Amherst County

Keith Wilt, Western Virginia Deer Hunter's Association, Rockingham County

Department of Game and Inland Fisheries

Mike Minarik, Jaime Sajecki, David Steffen, Betsy Stinson, David Whitehurst

UVA Institute for Environmental Negotiation

Karen Terwilliger, Kristina Weaver, Charles Kline

Appendix F:Technical Information Requests of DGIF from Committee

- ❖ To determine if SB 868 would place significant stress on the various herds affected by this measure? (House Committee charge)
- ❖ To determine the extent that SB 868 will result in abuse of current hunting laws? (House Committee charge)
- ❖ Data on bear damage -- how many KPs are issued vs. bears killed
- ❖ Anecdotal information about abuse from deer and bear biologists
- ❖ Official data on actual investigated abuse (requested by Wilmer - even if "empty set" of data)
- ❖ Is there mention of KPs in USDA memos?
- ❖ Data on the value of peanut and soy crops and the cost of damage
- ❖ Data on division of CPO resources between ag/commercial and residential
- ❖ Data on satisfaction levels by region/district
- ❖ Municode website as well as links to Code of VA, Regulations of VA, firearms ordinances in DGIF reg book

Request (from Kirby Birch) for information on bear carcass restrictions. He noted anecdotal information that people are using KPs to search for trophies because their are fewer and less enforced restrictions. He would like to see whether data support this view.

**Kill Permit Stakeholder Advisory Committee
Virginia Department of Game and Inland Fisheries**

Meeting #3

**August 2, 2011
4010 West Broad Street, Richmond, Virginia 23230
9:30 AM – 4:00 PM**

Welcome, Introductions & Review of Key Issues/Ideas

Before the meeting began, Dave Burpee gave DGIF Executive Director a belt buckle to commemorate the 70th anniversary of the Virginia Bow Hunters Association and to thank DGIF for all of its support throughout the years.

It was noted that Delegate Harvey Morgan, Chairman of the Agriculture, Chesapeake and Natural Resources Committee, will attend the next meeting to briefly discuss the committee's charge.

IEN opened the meeting with an overview of the remaining process and a recognition that, while the panel was entering a challenging consensus building phase, much had already been accomplished. In previous meetings the panel had identified issues, reviewed pertinent background information, and generated ideas for improving the kill permit process. The goal of this third meeting was to evaluate and assess the identified ideas for improving the system. IEN reviewed the panel's charter (Appendix A), the definition of consensus (Appendix B) and the charge and associated responsibilities (Appendix C). There was a round of introductions and then the meeting turned to presentations in response to information requests from the second meeting.

Information Requests from the Second Meeting

DGIF reviewed information requests from the second meeting. A copy of the presentation is available on basecamp. The presentation covered the following topics:

- deer and bear damage;
- anecdotal evidence of kill permit abuse;
- bear carcass restrictions – the main takeaway being that it is still too early to tell how this will affect kill permits;
- data on value and cost of damage of corn, peanut, and soy crops;
- official data on actual investigated abuse;
- division of Conservation Police Officer (CPO) resources – time spent on agricultural versus commercial or residential permits (time spent varies widely depending upon the situation, but at an average of two hours per kill permit issued);

- ordinances, municode.com, the Code of Virginia (COV), Regulations of VA, firearms ordinances in DGIF regulation book;
- data satisfaction levels by survey broken up by region.

The following questions were posed after DGIF's presentation:

- Concerning hunting for money paid for trophies: What is the fine range for abuse of kill permits by hunters?
 - DGIF Response: Anywhere from \$2,500 (most common) to sometimes \$5,000-10,000 (more anecdotal value).
- Did the survey include a question aimed at gauging satisfaction levels with speed of kill permit issuance?
 - DGIF Response: A question gauging time of issuance revealed an average of 2 days for a response and 4 days total to permit in hand. The survey did ask about satisfaction with response time, and results are in the report on basecamp.
- According to anecdotal evidence, which problems are most severe?
 - DGIF Response: We do not have data on this, but anecdotal evidence suggests that trophy buck killing was a big issue before kill permits disallowed most antlered deer kills.
- Because part of our charge is to strengthen the system to prevent abuse. It is important to know concrete information on violations and responses. We should know this before we strengthen this system to the point of being too restrictive. Is there a method for dealing with this? What are the tools for dealing with violations?
 - DGIF Response: If a kill permit is requested for an invalid reason, it will not be issued. Often actions are not illegal, but may not be motivated by a legitimate reason. For example, an individual may seek a permit in order to get a trophy, not to protect crops.
- Is there a way to quantify abuse? Are DGIF's current methods enough? Does the department need more tools and strategies to combat abuse? Does DGIF need more authority to not issue a kill permit?
 - DGIF Response: We have certain controls in place to prevent abuse. We have to issue a kill permit every year unless there is a valid reason not to. Prior game law violators cannot be issued a permit.
- There was a comment from a panel member who testified before the state senate on buck killing and kill permits. After the senate's decision, there was most likely a significant reduction in abuse in the form of buck killing. It is hoped that baiting (people growing food to get a kill permit to hunt out of season) is deterred by law enforcement.

- The code currently says that, if you have violated the system, you cannot get a kill permit. Violations are tracked, but one member asked if the DGIF could track them specifically as kill permit violations? Also, a member expressed the view that anecdotal evidence is not enough to change a law. Outlying events happen with all laws and one or two should not force a change in a law that otherwise works.
 - DGIF Response: We have a new coding system that tracks violation types. This just started and will begin tracking within a year. This is still in the development phase.
- There was a comment regarding the 2010 law change impacting carcasses. This law was changed specifically for bear trophies. The problem is that these are minimal punishments (a class three misdemeanor is basically a slap on the wrist). Also, DGIF lacks manpower to cover all lands. Bear kills out of season is an ongoing issue. Elaborate investigation of complaints of illegal bear kills is not possible. The law will not be able to enforce such regulations as well as it should.
- A participant suggested that the wording “shall issue” be replaced with “may issue” to give officers the right to decide based on specific situations. Also, it was expressed that State Bill (SB) 868 would not allow a CPO the chance to investigate before a person shoots an animal, thereby hindering a CPO’s ability to do his or her job.
- Information request – how many trees define an orchard? Would a planting of seven trees be considered baiting?
 - DGIF Response: Common sense prevails. The definition depends on whether or not trees are planted for commercial purposes; i.e. if fruit is sold the trees are considered commercial. Officers do not go to Internal Revenue Service rules and regulations, but rather make their own judgment as to purpose of trees (both at present and as planted for future economic benefit).
- Is a kill permit violation a violation of hunting and trapping?
 - DGIF Response: This depends on context, but it can often be tied into a violation depending upon the situation.

DGIF Presentation on House Committee Requests for Technical Information

DGIF presented on the House Committee’s charge requests that the DGIF considered to be technical in nature. In addition to the prepared presentation, DGIF will post a document outlining its conclusions in relation to aspects of the charge (see Appendix C and DGIF presentation on basecamp).

DGIF presented technical information related to the potential influence of SB 868 on the relevant herd populations. This information is summarized in brief. Please see DGIF’s presentation on basecamp for a more thorough review. According to the presentation, bears

can be significantly affected by a more liberal kill permit system due to their large range, attraction to localized food sources, and very slow reproductive rate.

The influence of a kill permit system on the deer herd is relative, depending upon the locality in question and the cultural carrying capacity. The largest impact would likely be on private property and public relations (e.g. – permitted kills could impact local hunting, especially if antlered deer are allowed to be taken).

The kill permit system could significantly influence the elk herd and would have a major role in the restoration efforts of the department, especially in southwest Virginia.

The panel posed these questions following the presentation:

- Is there a “magic” cultural carrying capacity for bear and deer?
 - DGIF Response: This is why we have the deer and bear management plans. Cultural carrying capacity is based on how many animals people can accommodate. It is a concept that asks, “what do people want?”, and is thus a moving number based on a variety of factors. The kill permit process is harder for DGIF to control than hunting season as far as population control is concerned.
- What was the intent of section 8 of SB 868? Would antlered deer restrictions be taken out of agricultural provisions? There is concern about hunters who perceive use of kill permits as a taking of *their* antlered deer by a neighboring farmer. If this is also the attitude of the department, this could be a problem because animals are the property of the Commonwealth, of all Virginians.
 - DGIF Response: The comment referenced here was an attempt to portray the perspective of hunters, who are often considerably invested in the sport through money spent. The ownership comment signaled by the word “their” helps to illustrate the conflict.
- Request for clarification: There are deer and bear management plans, and there are maps that show—county by county—whether population should decrease, increase or remain stable. Given that, is the primary method for management the regulated hunting season? It seems like implementation of SB 868 would liberalize killing and could have detrimental effects on population targets.
 - DGIF Response: Yes, the hunting season is the primary method. Yes, SB 868 liberalization could significantly impact population and catalyze shifts in the management paradigm, which could supersede cultural objectives. It could also be beneficial in some cases. Some counties have difficulty managing deer herds due to local conditions; in these cases liberalization of kill permits may be a good thing.

- Black bear mortality is additive not compensatory. At what point does it become additive?
 - DGIF Response: Other sources (non-human) of mortality are minimal. In Virginia, the primary cause of death is humans. If a bear is killed, population growth is reduced. By contrast, killing of deer actually stimulates recruitment as produce larger broods and as more food resources become available. With deer, the more you kill, the more you have to kill.
- We have received considerable information on management plans for deer and bear. DGIF also has an elk management program, but we have not yet been given this information. SB 868 as currently written could devastate the elk population in southwest Virginia. Only seventy-five animals are being reintroduced. We cannot overlook them.
- Due to the fact that elk are so limited in quantity and area, there appears to be no need to have kill permits for elk at this time. Hunting season should control them. Elk herds do not seem to be located in large agricultural operation areas. It is not necessary to have them in kill permits.
- The committee chose not to send out the kill permit survey to residents. There is concern about the documentation of information we have not received. What would resident survey information have been used for? To supplement cultural carrying capacity for animals involved? How old is this cultural carrying capacity information?
 - DGIF Response: Cultural carrying capacity for deer was set in 2006, and updated in 2008 as well as 2010. The bear plan is currently under revision. Elk are under restoration.
- Elk were specifically included in the kill permits because they had been considered deer previously.
 - DGIF Response: Elk are part of the deer family, and so they are part of the deer season and would be treated similarly for kill permits.
- Would DGIF then issue a kill permit if one was requested for elk?
 - DGIF Response: We would have to under current code.
- Elk also have the option to be relocated under current code. Members suggested that the the department should be given discretion to differentiate between deer and elk.

Assessing Ideas & Finding Common Ground

IEN introduced and reviewed a spreadsheet that summarized the committee's issues and their ideas to address those issues (see Appendix D). It was created as a way to organize their ideas generated in Meeting 2, and to assist the committee in its next stage of evaluating ideas towards the eventual creation of recommendation proposals. It was emphasized that this document was a rough draft, and ideas and issues may need to be combined, moved, etc. The panel was given time to read the document and then moved on to examine each section in

turn. IEN prompted participants to assess what is missing, what is doable, and what is not possible. Consensus tests were allowed, but not considered by IEN to be necessary at this stage. IEN noted that DGIF's role was especially important in helping the panel determine which proposed actions would be achievable. Other ideas that need to be on the table could also be addressed. The panel's decisions and edits can be seen in the revised spreadsheet (see Appendix E). Discussion of the major spreadsheet themes is detailed below.

Consistency

"Shall" to "May"

There was much discussion about the issue of changing wording in the Code of Virginia (COV) that requires DGIF to issue a requested kill permit. Some panelists suggested that, by replacing "shall" with "may," DGIF may have needed discretion to deny permits. Others expressed concern that this change could lead to abuse of power by CPOs. DGIF clarified that, currently, the code only requires DGIF to issue a permit for commercial agriculture requests, and thus DGIF can refuse to issue permits under a number of circumstances. Discussion on the issue covered several points, including:

- The current "shall" wording protects those who request permits from any bias in implementation.
- Changing the COV to change "shall" to "may" could be difficult and could potentially hamper the panel's work.
- It could be easier to allow DGIF more leeway in determining issuance by changing the agency's standard operation procedures (SOP), rather than by changing language in code.
- Adding the "may" wording could allow groups to intervene in the permitting process—even groups that are completely opposed to kill permits on a fundamental level.

Consensus Test: A test for consensus was called, with a proposal to eliminate the "shall to may" recommendation. Consensus was achieved with unanimous full support.

Change the Code of Virginia or Make Changes to Standard Operation Procedures?

The panel discussed the merits and challenges of two different approaches to affecting change: changing the COV, or making recommendations for changing the agency's SOP. If the COV was changed, some members of the panel argued that, if the stakeholders recommended a COV change, this could jeopardize its other recommendations. In short, the committee's recommendations may be stalled. DGIF suggested the alternate possibility that this stakeholder committee may have power to make structural changes in code without serious repercussions. Other panel members argued that it may be easier for change to manifest through adjustments in DGIF SOP. Furthermore, COV changes that prove to be ineffective or difficult would be rigidly encoded in law, whereas SOP changes could be adjusted more easily over time. Some panel members pointed out that there are some concerns that have not yet been addressed by the panel. These issues could require changes to the COV, and so work at the level of code should

not be ruled out until all issues have been discussed. DGIF commented that they want to know what needs to be fixed in the kill permit system. The report they will file with the General Assembly would ideally focus on the outcomes desired by the panel.

What should the panel recommend to DGIF?

Significant discussion was held as to what exactly the panel needs to recommend to DGIF. The amount of detail was the main concern. DGIF asked that the panel work on a broader scale with recommendations such as “get information to the public in a more efficient manner,” and then allow the agency to determine how to take that recommendation forward into policy. DGIF discussed the possibility that the department may decide internally what path of change (SOP or COV) is most expedient. Committee members expressed concern, however, that if the panel gave vague recommendations to the agency that the resulting policies may not be what the panel intended. **A panel member requested that DGIF ideas for implementing panel recommendations be communicated back to the panel at the final September meeting. DGIF agreed that this meeting would be a time for the panel to review DGIF suggestions for moving panel recommendations forward, as articulated in the final report.**

Kill Permit Standard Operation Procedures and Consistency Document

Stakeholder Kirby Burch introduced a draft set of recommendations regarding SOPs (see Appendix F). The author stated that this document was a working draft which he had put together that morning as a way to help move the committee forward in its discussions by giving it something specific to discuss.

24 Hour Response Time

Stakeholders discussed the proposal’s recommended 24 hour required DGIF response time. Some liked the idea of a required timeframe, but suggested that 24 hours, though a desired goal, was too difficult to mandate as policy. An upper limit of 48 hours was argued to be more reasonable. It was also suggested that different response times could be created for each species. Finally, there was concern that there was no statement as to what would happen if a permit was not received within the given time limit. Would or should failure to respond within the time required allow for an automatic permit issuance?

Automatic Re-Issuance

The issue of automatically re-issuing permits received significant attention. Several stakeholders argued that that DGIF should have discretion as to whether or not it would need to conduct a site visit for subsequent requests. It was believed that, because this is a SOP rather than a COV issue, DGIF would be able to use discretion. A panel member was not comfortable with the use of the word “require” in the proposal, arguing that this would force DGIF to issue a permit (especially with an automatic issuance system). This individual was concerned that this requirement would hinder DGIF’s ability to respond to changing local conditions or complaints of permittee abuse. DGIF reminded the panel that a permit must always be issued if damage

has occurred to a commercial agriculture operation, unless certain preconditions exist. Changing this requirement would mean the COV would have to be changed.

It was asked how recipients would receive their second permit, electronically or via email? DGIF responded that right now there was a pilot program in the Northern neck that allowed CPOs to automatically issue permits electronically if they saw no need for a subsequent inspection.

The duration of a kill permit was also brought into question around the issue of re-issuance. It was suggested that, for multiple issuances within one year, no field visit be required for extensions. Another comment proposed that kill permits be valid for the entire growing season with automatic re-authorization up to a certain number of kills. After that number is reached, a visit should be required.

It was commented that there should be no immediate issuance of any kill permit for a first time request, or in cases where there are previous law enforcement or other violations or previous kill permit complaints about the requesting party. A comment expressed discomfort with an automated permit issuance system for any previous permit holder: it would be better to have visits required at a *minimum of every other year* because local conditions can change. There seemed to be significant concurrence with this idea.

Appeals Process & Complaints

An appeals process was proposed. According to the proposal, the process should be enacted in as little as twelve hours if DGIF sees reason to deny a permit. It was suggested that the appeals process would accommodate those who were denied as well as concerned neighbors. It was suggested that a feedback loop be created so that complaints will not be lost in the system.

Kill Permit Kill Limits

Some panel members wondered why kills on permits were limited. It would make more sense to allow a permit to go for as long as is needed, without limiting the number of kills. It did not appear to some to be cost effective to issue more than one permit per year for one permittee. Due to the localized range of deer and the season's length, this would help farmers without infringing too much on hunters or herd size. DGIF responded that, for some areas, unlimited kill numbers and growing season length permits would be an appropriate policy. In other areas, limits were necessary due to conditions and the need for consistent re-evaluation in order to satisfy a larger community than just the landowner. No guidelines currently exist for this and it is left up to the discretion of the on-site CPO. It was mentioned that, in areas where the deer management plan targets the herd for reduction, limits and inspections should not be necessary for kill permits. Another panel member disagreed, arguing that inspections should still be necessary for safety reasons.

Elk

A panel member suggested that, for elk, it would be much easier to change policy via the SOP instead of the COV. DGIF replied that it could be possible to do this via the SOP, but if code

changes are necessary that can also be done. A panel member noted that, in Wise County, elk and deer are already separated and this could be a useful precedent.

Other Issues & Comments

- It was asked if commercial agriculture could be defined more fully to protect beekeepers and those who are starting an orchard, etc.
- It appeared from discussion that DGIF is already starting many initiatives on the list, and seeing them implemented across the state would be good.
- Regarding consistency, a panel member commented that, in dealing with wildlife issues, consistency is not always achievable. Flexibility is necessary, and a “cookie cutter,” template approach does not always work. Flexibility is already built into CPO roles. The committee should refrain from becoming overly prescriptive, in recognition that some decentralization is necessary.
- DGIF clarified that the department has the discretion to not issue permits on areas smaller than five acres, areas that lack commercial agriculture, or in residential areas for safety reasons. Those are the agency’s “may” areas as already understood and practiced.

Capacity

Increasing DGIF Staff

The idea of creating a central coordinator position and adding staff specifically for kill permits was discussed. There was concern that this would not be possible due to budgetary issues. Currently, a coordinator exists and deals with kill permits, although not exclusively. The panel wondered if the existing coordinator is able to commit sufficient time exclusively to kill permits. Panel members believed that DGIF should retain the discretion to determine if they need new staff. The panel decided to re-write this topic to simply ask DGIF to centrally administer the kill permit program. DGIF replied that it would be financially difficult to create more staff positions, but the agency has been looking at centralizing administration. DGIF noted that it has not yet centralized the kill permit system. The agency should assess the need for centralization and will consider suggestions made by the panel. A panel member asked whether there would be any advantage to DGIF were the panel to recommend to the GA that additional hiring resources be given to the department. DGIF responded that this could be a helpful recommendation.

Further discussion examined why centrally administering the process was important to the panel. Having a single focal point for review of all discretionary actions by the agency would help minimize disparity in the administration of policy across the state. However, panel members also believed that regional qualities should still inform local implementation of policies. Answers to wildlife problems do not have the same management solutions in all localities. The idea of budgetary concerns was also brought to the fore. It was reminded that, currently, the agency has the authority to charge for non-agriculture kill permits but does not in practice do so. One panel member replied that levying a fee for kill permits could be

burdensome to those raising products for sale because it only furthers the financial loss caused by a pest animal. DGIF responded by explaining that they are a special fund agency. Demographics that play into this fund have changed. People who receive kill permits do not necessarily pay into DGIF by getting hunting licenses, despite this having been the case historically. **The agency said that it could look into charging for residential permits. Furthermore, the agency stated that it could look into centralization but also should examine the integration of processes throughout the kill permit system.**

Timeliness

Timeliness in the issuance of kill permits was another capacity issue that received significant discussion. In previous meetings, the idea of including timeliness of response to kill permit issues was brought up as a way to evaluate DGIF staff. The hope was that this would encourage staff to act more quickly in response to permit requests. DGIF responded that timeliness is already part of employee review, but not specifically for kill permits. This general review of an issue without specifically applying it to kill permits is the same for many other issues, such as contacting landowners. Based on this information, the panel decided to eliminate this issue.

Other Issues

The panel discussed a number of additional ideas regarding capacity. They are detailed below along with committee decisions.

- Professionals, such as sharpshooters, carrying out kill permits when there are safety issues. Panel chose to remove this idea as DGIF clarified that it already occurs.
- A 24 hour hotline is already on the issue list. Removed to reduce redundancy.
- Panel chose to remove the idea of using data to investigate abuse as it was deemed to be redundant and already covered by the idea of creating a feedback loop.
- Creating smaller districts probably will not happen. The panel chose to eliminate associated language from the spreadsheet document.
- Improving coordination has already been covered and has been removed due to redundancy.

Efficiency

Additional Species

Significant discussion occurred regarding the addition of pests other than deer, elk and bears to the kill permit system. Overall, there was concern that adding additional species would add controversy to the process and possibly hinder the uptake of other committee recommendations. Currently, DGIF can write permits for additional animals under certain conditions, e.g. permits for airports can use the general term “wildlife”. The agency noted that it would appreciate the flexibility to write permits for other species since they are significant problems, but acknowledged that this could create additional issues. Given the airport example, it was considered that permits could be issued for particular situations as opposed to particular species. Some panel members argued that anything too general could kill the process as

interest groups that represented other species could try to kill the legislation required to make COV changes. The panel decided to just focus on the species named in the charge (deer, elk and bear) but would like to have it noted that other species can be a pest problem. This issue can be examined in the future if necessary or if the panel decides to alter the COV.

Additional relevant discussion is detailed below:

- It was noted that some animals, such as geese, are federally regulated and permits for them can be acquired through federal agencies.
- It was requested that DGIF inform the panel at the next meeting as to what species they would like to see added.
- Currently, the political climate is not favorable for changes to the code that could foster opposition to the panel's recommendations. This is due to the legislature's imminent elections and recent redistricting. This pressure could give opposition groups additional power.
- Representatives for groups that deal with other species, such as the National Wild Turkey Federation, are not currently involved in the panel. Adding them at this point could have negative consequences.
- Currently, some agriculture groups are receiving significant damage from species not listed on the charge, e.g. vineyards receiving turkey damage. It was asked of DGIF if there was a way to address this without altering the COV. DGIF responded that this had been done previously for muskrats and other species under certain conditions, and the agency could explore situations that could allow special permits. These permits would not necessarily have to be kill permits.

Data Needs

The panel decided to request from DGIF what data they want the agency to capture. DGIF stated that they already collected the data that it needs, but would like to know what information the panel would like to see. Additional types of data the panel requested are:

- Data on kill permits issued versus permits requested.
- Permits denied and the reasons for denial.
- Violations that occur relative to permit life, by permittee.

Other Issues

A number of other ideas regarding efficiency were discussed. These are detailed below along with committee decisions.

- Local ordinances should be left to localities due to the unique conditions of each area. Creating ideal ordinances would be a waste of the committee's time. DGIF commented

that CPOs account for local conditions due to their knowledge of local areas and act accordingly. The panel decided to remove language about local ordinances but keep the idea that the process should account for local conditions and allow CPOs to use their discretion. The final report should note that CPOs already do this and should continue to do so.

- The idea of “zero tolerance” for violators of the kill permits was removed since it conflicted with CPO discretion and could have adverse consequences.
- 1st and 3rd boxes of the increase efficiency section are the meat of the issue (see Appendix D).
- The DGIF division of labor section speaks to the integration of process. This topic should be rolled into the centralization and integration recommendation.
- Baiting should only be used at a CPO’s discretion and only for safety reasons. DGIF agreed and stated that this was already policy. The panel wanted this elaborated in the SOP.
- Safety concerns, in general, should be a guidance recommendation to CPOs via the SOP.
- Information about kill permit alternatives due to safety reasons is already on the agency’s website.
- The immediate checking of killed animals was an idea designed as a trade off because it would get DGIF more data while giving agricultural interests more leeway. DGIF responded that, from the agency’s perspective, immediate checking was not necessary.
- Clarification was asked regarding creating a tiered response system for different animals, acres and crops. A panel member wanted to know if “animals” meant pests or livestock. It was clarified that “animals” refers to pests, but that the definition of crops should be clarified to include livestock.

Communication

Online Access to Information

Significant time was spent discussing online access to kill permit information and applications. The advantages of online communication are;

- Easy and quick access to DGIF resources.
- A central online location would make the process timelier.
- Would allow a two-way data flow.
- Would allow applicants and permittees to send pictures or other information regarding damage.
- Could generate long term savings after the initial investment for a Computer Automated Dispatch (CAD) system.
- A kill permit guide could be made available, including non-lethal options for pest control, at minimal cost.

- Easy access to non-lethal methods could reduce the need for kill permits.
- For subsequent applications an online system could allow for automated permit authorization after a primary inspection.
 - This could expedite future permit issuances.

General discussion was also raised regarding an online system. It was emphasized that an online system should not be used in lieu of a physical inspection. Also, it was proposed that permit fees could be imposed to offset the establishment of an online system's cost. There was concern that pictures and data sent online to DGIF would not be verifiable. It was clarified that the online system should only be for applications for permits, not issuance of permits. It was argued that an online system may not increase the rate of response because an inspection would still be necessary.

Telephone Access

The merits of a central telephone system were also discussed. An 800 number was seen as being significantly cheaper than an online system. It was suggested that there would be very little difference in application response time with a telephone number versus an online system because a physical inspection would still be necessary. Additionally, many constituents who would use a kill permit do not have internet access. A telephone system also allows for a personal touch that an automated online system does not have. DGIF's tele-check system is currently in use. DGIF advised that both online information and a telephone system would likely be beneficial, but both would require significant resources and costs to establish.

Kill Permittee Directory

An idea to have a directory of recipients of kill permits was on the spreadsheet document. The idea was to have this directory publicly available online. This would enable neighbors to monitor what is happening around their properties regarding kill permit activity. This original idea received significant criticism. Groups did not want this information easily available to the public in an online format. In the current system, residents can call DGIF and request information because of their rights on FOIA. It was noted that, currently, publicly posted information like this is not available for hunters during hunting season. The panel called for a test of consensus regarding this and two other issues.

Test for Consensus

Test to drop kill permittees directory for public online access, remove community input for kill permit issuance, and throw out yellow pages information (as a central location to find DGIF's contact numbers).

Votes:

Fully support – 21

Support with some questions, concerns – 0

No support – 2

Consensus was not achieved. The first concern was that neighbors do want to know when someone adjacent to their property will be shooting and why. DGIF commented that they currently recommend to kill permit holders that they call their neighbors and let them know before they commence shooting. However, a panel member noted that no 800 currently number exists to allow individuals to easily discover who has a kill permit. Another concern was that in suburban areas, adjacent property owners of a recipient should be notified of the issuance by the CPO or DGIF. An idea to encourage notification was that if a neighbor informs agency dispatch of abuse or non-notification of a kill permit, this could be sent to an appeals process that is sent to the kill permit program coordinator. This could help reduce non-notification and other issues and help to improve permittee behavior in relation to their neighbors. Additionally, there could be a system to generate automatic notification of kill permit issuance based on a concerned neighbor entering his or her address into a DGIF database. A third idea was to simply require permittees to notify neighbors when they are issued a permit. However, it was brought up that this could be difficult in areas where a farmer has multiple tracts with multiple neighbors per tract.

A final compromise idea was to create a kill permit directory central database that could be accessed through a central number. All kill permits would be in the database. An interested party could call and ask if there is a kill permit issued near them based on 911 addresses. Information given back would be able to specifically identify a permit holder in some manner. It was noted that any data in a database such as this would have to be provided if it was requested due to legal requirements. There was a second test of consensus based on this new proposal.

Consensus Test: Eliminate yellow pages, eliminate requirement for community input as a prerequisite for kill permit issuance, eliminate online permittee directory and replace with a centralized database accessible by a centralized number. Consensus was achieved.

Votes:

Fully support – 18

Support with some issues – 5

No support – 0

General Communication

Some general ideas regarding communication were examined. They included:

- Transparency needs to be a goal of communication efforts.
- Allowing pre-registry of agribusinesses can reduce costs and improve timeliness.
- Information needs to be publicized and made more readily available.

- DGIF commented that its CAD system will be online soon and will feature efficient dispatch to multiple area officers with the basic information required for a site visit. However, a user will have to know the local dispatch telephone number.
 - There was concern that the dispatch number is hard to find. It is difficult to find on the agency's website and on the agency's iPhone app.
- If CPOs were tasked with gathering community input, this could lead to public hearings and result in delays and costs for kill permits, as well as possible "Not-In-My-Backyard" actions.
- Some panel members clarified that the issue around timing is not so much the response to a request, but the time to receiving a site visit.
- DGIF emphasized that, according to the survey of users, there is currently a high level of satisfaction with communication from DGIF. Members of the committee indicated that their concern is also with those who have not received permits and were not included in the survey, and whose views are therefore not represented by the survey.
- Comments suggested that communication solutions will be easily implementable if the committee asks DGIF to build on its current system and not create a new one.
 - The agency agreed, asking the panel to not spend too much time on design, but instead to communicate any general changes it would like to see to the system.
- It was requested that DGIF provide the panel with its concerns about the communication component of the process. DGIF responded that the communication strategy should include not only DGIF and local and state entities as coordinators, but that stakeholders groups (agricultural, hunting and other interests) should inform their members and organizations about kill permits and where information is available.

Assess Remaining Ideas

The remaining issues still need to be assessed:

- New orchards: a definition of agriculture needs to be included for starting agricultural operations;
- Aligning definitions to cover beekeepers & tackling IRS schedule F;
- Personal responsibility for damage;
- Recourse for neighbors;
- Resources for effective administration of KPs such as more game wardens;
- Wording that covers municipalities;
- Food safety (fecal contamination, especially for vegetable crops);
- Enabling hunters to reduce herd pressure;
- Carcass disposition;

- Fallback options if kill permit does not solve problem;
- Expand kill permit potential for natural resources, health, safety, etc.; and
- Proposal to add possibility for kill permits in January for agricultural damage (pre-emption).

Next Steps

IEN emphasized the importance of work between this meeting and Meeting 4 to develop draft proposals for recommendations. The panel suggested that a draft of potential SOP recommendations be created and reviewed by stakeholders from various positions. It is important that drafts reflect discussion by the panel, and be posted on basecamp for review, comment, and editing by all members of the committee prior to the next meeting. Point people who volunteered to take leadership on this effort are:

- Katie Frazier offered to draft an initial set of SOP recommendations.
- Kirby Burch offered to contribute significantly to a draft of SOP recommendations and to provide leadership for creating draft recommendations in all issue areas.
- Kathy Funk offered to draft recommendations regarding elk issues.
- Dage Blixt and Mike Lucas offered to draft recommendations regarding residential issues.
- David Steffen and Mike Minarik offered to participate actively in the drafting process as DGIF technical experts.

It was asked whether DGIF currently has procedures in writing regarding standard operating procedures. DGIF commented that they do not, but they are willing to look at process related issues and put together a description of how the department might realistically improve process, including: administration, communications, and on the ground application of policies. DGIF can provide a better picture of what can be done to streamline the situation.

The panel decided that, rather than potentially requiring a second consensus-building meeting, it prefers to resume at 8am on the morning of August 17th, and to work until the recommendations are complete.

Appendix A: (see other summary appendices)

Appendix B:

Definition of consensus:

- You can live with the proposal and not compromise issues of fundamental importance
- You can support the overall package though individual parts of it may be less than ideal
- You will work to support the full agreement, not just the parts you like best

Testing for consensus

3 fingers = Full support

2 fingers = You have questions/concerns but can live with it and support

1 finger = You have too many questions/concerns: cannot support or live with it;
blocks consensus

[0] = [All of the above assume that final signature of agreement may also need to consult with organization, but [0] may be used if you cannot give *any* indication of support without consulting constituencies]

Appendix C:**Kill Permit Stakeholder Committee Charge**

Charge Item	DGIF	Panel	Notes
1. Identify issues & problems with the current kill permit system.	X	X	Overarching charge from DGIF.
2. To propose solutions to these issues & problems.	X	X	
3. To determine if the issuance of kill permits is done efficiently & according to law, and what steps can be taken to authorize such permits in a timelier manner. (House Committee Charge)	X	X	
4. To determine if SB 868 would place significant stress on the herds affected by this measure. (House Committee Charge)	X	x	DGIF will share its assessment with the panel as a way to inform and receive additional perspectives from the panel.
5. If SB 868 places significant stress on herds, to determine the extent that biological considerations should be a factor in the issuance of kill permits. (House Committee Charge)	x	X	Should be addressed by panel because it is value based. However, significant public guidance is already established in the Deer and Bear Management Plans (to be summarized by DGIF). Technical review & comments will also be provided by DGIF staff.
6. To determine the extent that SB 868 will result in abuse of current hunting laws? (House Committee Charge)	X	x	A largely technical issue that should be covered by DGIF. DGIF will share its assessment with the panel, and seek insight and opinions from the panel.
7. To determine what provisions can be put in place to effectively prevent abuse of the kill permit system? (House Committee Charge)	X	X	
8. To identify other issues affected by SB 868? (House Committee Charge)	X	X	

Appendix D: Cross Tab Document

		Preventing Abuse of KP System	Meeting Farmers' Needs in a More Timely Manner	Consistency in the Permitting Process	Improve How to Contact DGIF	Data Collection Needs for Future Decision Making	Use of Baiting
Increase Capacity	Create a Central Coordinator position to help administer the KP program. Duties could include managing a central appeals process in a timely manner, creating a central directory for the system, & managing KP data.		X	X	X	X	
	Improve DGIF manpower by increasing the number of Volunteer CPOs & Staff, creating KP only staff positions, & working with sheriffs.	X	X		X	X	
	Create a 24 Hr hotline to manage permit requests & report abuse.	X	X		X		
	Improve coordination both internally in DGIF & externally with other agencies & localities, & create smaller districts with specific points of contact.	X	X	X			

	Include timeliness as a factor in staff reviews		X				
	Utilize data when investigating abuse.					X	
	Allow for safety concern KPs to be carried out by professionals						X

		Preventing Abuse of KP System	Meeting Farmers' Needs in a More Timely Manner	Consistency in the Permitting Process	Improve How to Contact DGIF	Data Collection Needs for Future Decision Making	Use of Baiting
	Develop standard operating procedures to improve CPO consistency, define safety standards, define permit allowances, create thresholds for crops & species, create ways to measure damage, create emergency & regular response standards, define agriculture for KPs, & establish standards for KP denial.	X	X	X		X	X
	Change the wording of SHALL issue a KP to MAY issue a KP.	X					
	Communicate KP & abuse information to permittees.	X					

		Preventing Abuse of KP System	Meeting Farmers' Needs in a More Timely Manner	Consistency in the Permitting Process	Improve How to Contact DGIF	Data Collection Needs for Future Decision Making	Use of Baiting
Communication	Create online applications, KP guide, damage documentation, documentation on non-lethal options & a KP permittee directory.		X	X	X	X	
	Create an easily accessible central number that can act as a switchboard to local numbers, provide for documenting damage, & disseminate information about non-lethal options.		X	X	X	X	
	Improve coordination of KPs between DGIF & local & state entities as well as with agricultural extension offices & agricultural industry organizations.		X	X	X		
	Require CPOs to gather community input before issuing a permit.	X					
	Create an automated permitting system.		X				
	Put KP info in the Yellow Pages				X		

	Preventing Abuse of KP System	Meeting Farmers' Needs in a More Timely Manner	Consistency in the Permitting Process	Improve How to Contact DGIF	Data Collection Needs for Future Decision Making	Use of Baiting
<p>Create a simple & straightforward KP process. This could require a tiered system for animals, acres, & crops when determining KP issue. Also, it could require immediate checking of animals, develop an appeals process, require CPO investigation of complaints, create consistent timelines for DGIF & for reporting (with penalties for failure to follow), & uniform standards for permittees (similar to voting standards), & define other non-elk, deer, bear pests.</p>	X		X			
<p>Account for local conditions by creating more specific local KP ordinances & retain CPO ability to use discretion.</p>	X		X			
<p>Validate information before issuing KPs, including; harvesting of crops to address food plots, confirming the</p>	X		X			

pest animal before KP issue & adherence to due diligence requirements for landowners (to be created).						
Examine DGIF labor divisions.	X					
Establish zero tolerance policy for violators.	X					
Streamline the permitting process by allowing applicants with clean records to receive a KP without an investigation, remove requirement of a second site visit for a renewal within the same year & allow agribusiness to pre-register with DGIF.		X				
Allow for initial 24 hour leeway for shooting, shooting on sight if damage is occurring, & the authority to shoot if a KP is not issued in a timely manner.		X				
Examine if a change of language in the code is necessary.		X				
Create safety standards & alternatives such as having professionals carry out KPs, & using baiting only for safety reasons.			X			X

<p>Ask DGIF what their data needs are. Collect data including; locational data, D Map & jaw bone data, data on KPs issued versus requested, KPs reissued, data to compare human & animal population changes & KPs over time.</p>					X	
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New Orchards & Schedule F	Recourse for Neighbors	Permit Details	Ag Definition & Link 3.2-29	Code Language (Deterrence v. Shall)	Permit Denial for Safety
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Aligning definitions to cover all beekeepers (commerical & hobbyist)	Streamline process for multiple permits	Species not covered	Personal responsibility for damage	Simple, understandable process	Safety Concerns
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Appeals Process	Resources for effective administration of KPs	Local Information gap - state coordination, volunteers, municode	Recourse for neighbors	New orchards & schedule F (group under \$1,000 & gross not covered)	Need to fix what is not broken
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Wording that covers municipalities	Food Safety (fecal contamination)	Transparency & Administration of process	Relationship to hunting season & wildlife management	Enabling hunters to reduce herd pressure	Carcass disposition
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Fall back options if KP does not solve problem	Special or Different criteria for elk	Reestablishment of Elk	Expand KP potential (natural resources, health & safety)
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Appendix E: Updated Cross Tab Document

		Preventing Abuse of KP System	Meeting Farmers' Needs in a More Timely Manner	Consistency in the Permitting Process	Improve How to Contact DGIF	Data Collection Needs for Future Decision Making	Use of Baiting
Increase Capacity	Create a Central Coordinator position to help administer the KP program. Duties could include managing a central appeals process in a timely manner, creating a central directory for the system, & managing KP data.		X	X	X	X	
	Improve DGIF manpower by increasing the number of Volunteer CPOs & Staff, creating KP only staff positions, & working with sheriffs.	X	X		X	X	
	Improve coordination both internally in DGIF & externally with other agencies & localities.	X	X	X			

		Preventing Abuse of KP System	Meeting Farmers' Needs in a More Timely Manner	Consistency in the Permitting Process	Improve How to Contact DGIF	Data Collection Needs for Future Decision Making	Use of Baiting
Increase Consistency	Develop standard operating procedures to improve CPO consistency, define safety standards, define permit allowances, create thresholds for crops & species, create ways to measure damage, create emergency & regular response standards, define agriculture for KPs, & establish standards for KP denial.	X	X	X		X	X
	Communicate KP & abuse information to permittees.	X					

		Preventing Abuse of KP System	Meeting Farmers' Needs in a More Timely Manner	Consistency in the Permitting Process	Improve How to Contact DGIF	Data Collection Needs for Future Decision Making	Use of Baiting
Communication	Create online applications, KP guide, damage documentation, documentation on non-lethal options & a KP permittee directory (see summary for notes).		X	X	X	X	
	Create an easily accessible central 800 number that can act as a switchboard to local numbers, provide for documenting damage, & disseminate information about non-lethal options.		X	X	X	X	
	Improve coordination of KPs between DGIF & local & state entities as well as with agricultural extension offices & agricultural industry organizations.		X	X	X		
	Create an automated permitting application system.		X				

		Preventing Abuse of KP System	Meeting Farmers' Needs in a More Timely Manner	Consistency in the Permitting Process	Improve How to Contact DGIF	Data Collection Needs for Future Decision Making	Use of Baiting
	Create a simple & straightforward KP process. This could require a tiered system for animals, acres, & crops & livestock when determining KP issue. Also, it could require immediate checking of animals, develop an appeals process, require CPO investigation of complaints, create consistent timelines for DGIF & for reporting (with penalties for failure to follow), & uniform standards for permittees (similar to voting standards).	X		X			
	Account for local conditions & retain CPO ability to use discretion.	X		X			

Validate information before issuing KPs, including; harvesting of crops to address food plots, confirming the pest animal before KP issue & adherence to due diligence requirements for landowners (to be created).	X		X			
Examine DGIF labor divisions.	X					
Create safety standards & use baiting only for safety reasons.			X			X
Ask DGIF what their data needs are. Collect data including; data on KPs issued versus requested.					X	

New Orchards & Schedule F	Aligning definitions to cover all beekeepers (commercial & hobbyist)	Personal responsibility for damage	Recourse for neighbors	Wording that covers municipalities	Expand KP potential (natural resources, health & safety)
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Food Safety (fecal contamination)	Enabling hunters to reduce herd pressure	Carcass disposition	Fall back options if KP does not solve problem	Special or Different criteria for elk
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Appendix F:**Kill permits**

DGIF will develop written Standard Operating Procedures to will ensure consistent application of the following:

1. Request to be handled by Central dispatch.
2. If complaint was first time, a DGIF staff person or volunteer would be dispatched within 24 hours, if agreeable to land owner, for inspection and establishment of permit conditions.
3. Subsequent requests for deer damage of commercial activity would immediately be issued an authorization permit number that would authorize immediate kill. The permittee would be required to state that hunting had been allowed on their property during the previous hunting season.
4. Subsequent requests for bear damage of commercial activity would require that a DGIF staff person or volunteer would be dispatched within 24 hours, if agreeable to land owner, for inspection and establishment of permit conditions. The permittee would be required to state that hunting had been allowed on their property during the previous hunting season.
5. DGIF will respond in a timely manner to non-commercial requests.
6. A telephonic reporting system will be developed to capture data necessary to ensure adequate animals are being harvested as appropriate and identify systemic problems which need correction. This reporting system and the Central Dispatch will support an appeal process that is available to permit holders and the public.

**Appendix G:
List of Attendees (25)**

Dr. George Andreadis, Neighboring Property
Owner
Chesterfield County

Dage Blixt, Wildlife Services – NOVA Airports
Prince William County

Kirby Burch, Virginia Hunting Dog Alliance
Powhatan County

Leon Boyd, Rocky Mountain Elk Foundation,
Southwest Virginia Coalfields Chapter
Buchanan County

Gregg Brown, Suburban Whitetail Management
of Northern Virginia
Fairfax County

Dave Burpee, Virginia Bowhunters Association
Fairfax County

Stephen Ellis, Virginia Department of
Agriculture and Consumer Services
Richmond, VA

Kevin Damian, Virginia Association of Biological
Farmers,
Hanover County

Katie Frazier, Virginia Agribusiness Council
City of Richmond

Kathy Funk, Rocky Mountain Elk Foundation
Augusta County

Phil Glaize, Virginia Applegrower's Association,
Virginia State Apple Board, Frederick County

Terry Hale, Hale Hunt Club
Pulaski County

Tex Hall, Virginia Bear Hunter's Association

Pulaski County

Mike Henry, Virginia Cattlemen's Association
Amelia County

Ricky Horn, Rocky Mountain Elk Foundation,
Southwest Virginia Coalfields Chapter
Buchanan County

Michael Lucas, Fairfax County Animal Control
Officer
Fairfax County

Robert O'Keeffe, Virginia Nursery and
Landscape Association, Virginia Christmas Tree
Growers Association, Floyd County

Eric Paulson, Virginia State Dairymen's
Association, Rockingham County

Earit Powell
Fairfax County

Denny Quaiff, Virginia Deer Hunter's
Association
Amelia County

Lindsay Reames, Virginia Farm Bureau
Richmond, VA

Katie Register, Heart of Virginia Beekeepers
Prince Edward County

Jon Ritenour, Izaak Walton League of America –
Harrisonburg/Rockingham Chapter
Rockingham County

Dick Thomas, Virginia Vineyard Association
Amherst County

Gail Young, Neighboring Property Owner
Henry County

Members Not Able to Attend (12)

Ed Bickham, Virginia Bowhunters Association
Fairfax County

Hershel Carter, Virginia Cattlemen's Association
City of Petersburg

John Crumpacker, Virginia State Dairymen's Association

Alvin Estep, Western Virginia Deer Hunters Association,
Rockingham County

Larry Faust, Lynchburg Police Department
Lynchburg, VA

Nick Hall, Virginia Deer Hunters Association
Amelia County

Donna Pugh Johnson, Virginia Agribusiness Council
City of Richmond

Chris Stanley, TECO COAL – Clintwood Elkhorn Mining Company

Wilmer Stoneman, Virginia Farm Bureau Federation
Henrico County

Steve Sturgis, Virginia Department of Agriculture & Consumer Services
Northampton County

Keith Wilt, Western Virginia Deer Hunter's Association
Rockingham County

Reid Young, Neighboring Property Owner
Henry County

Department of Game and Inland Fisheries

Mike Minarik, Jaime Sajecki, David Steffen, Betsy Stinson, David Whitehurst, Matt Knox, Bob
Duncan

UVA Institute for Environmental Negotiation

Tanya Denckla Cobb, Kristina Weaver, Charles Kline

Kill Permit Stakeholder Advisory Committee
Virginia Department of Game and Inland Fisheries

Meeting #4

August 17, 2011
4010 West Broad Street, Richmond, Virginia 23230
9:30 AM – 5:00 PM

The meeting opened with the Institute for Environmental Negotiation (IEN) thanking the committee for its active involvement between meetings, especially since many stakeholders had checked with their constituencies for feedback. The opening was followed by a round of introductions. The charge from the General Assembly (GA) was reviewed as well as the expanded charge from the Department of Game and Inland Fisheries (DGIF). There was a brief review of the group's progress towards accomplishing the charge. Essentially, all but the last two items on the list (see Appendix A) had been achieved.

Appendix B: Kill Permit Study Consensus Points. Looked at what panel had agreed to up to this point, on a meeting by meeting basis.

Comments and questions regarding the current status of the charge's objectives are highlighted below.

- It was questioned if there had been formal consensus votes on all of the achieved objectives. In particular, it was questioned if consensus had been achieved on not trying to change the Code of Virginia (COV). Concern was expressed, since making the code "off limits" was seen as potentially premature and unnecessarily taking a key tool for improving the kill permit situation off the table.
- IEN clarified that there had been a statement of principle that the committee preferred not to change the code unless it was necessary to do so.
- A panel member clarified that the particular consensus the group had made regarding the COV was to not change language in the code from DGIF "shall" issue a permit to "may" issue a permit.
- It was noted that the Farm Bureau would not be able to support a document from the panel that fully prohibits a change in the COV.
- It was asked if the discussion over the code could be tabled until a specific issue which requires the committee to recommend a code change comes up. With the understanding that the issue would be revisited, the committee agreed to move forward.

IEN went over the definition of consensus (Appendix C), committee charter (Appendix D) and reviewed the agenda for the meeting (Appendix E). It was noted that the final report from the panel will be written by DGIF based upon the work done by the committee. Much of the day's

work was to focus on the specific proposals by the sportsmen and agriculture groups as well as the recommendations of the elk supporters and neighboring landowners. Additional proposals could also be discussed as they arose. In general, the group was to examine the issues, attempt to identify the underlying problem that a strategy is trying to solve, provide any other necessary justifications for the strategy, and then check with DGIF to determine if the strategy is practically feasible or not.

Committee Report

The committee report outline was briefly discussed prior to delving into the specific group recommendations. The outline was reviewed (see document on basecamp).

Comments and questions regarding the overall report format:

- Since deer and bear management plans are outlined in the report, can the elk management plan also be outlined in the report background with the other species plans? General agreement was noted.
 - DGIF noted that elk can be separated from deer internally by the Department and a COV change was not necessary for that.
- It was asked if there was a way to identify that it is in good faith that the panel would like solutions to be regulatory, but if DGIF determines it necessary, a code change can occur? **Wording or discussion regarding this issue was asked to be included in the report.**
- A panel member requested that a flipchart be set up to record any issues the committee identified that could require a code change.

Agricultural Proposal

The committee agreed to begin its work by focusing on the proposal submitted on basecamp by the agricultural community, which was in essence a proposal for standard operating procedure recommendations (see basecamp for document). The sportsmen felt that the agricultural proposal was very similar to their own, and felt they could note differences along the way.

The agricultural community quickly reviewed their document and their justifications. The agricultural community had met as a group and felt that their proposal accomplished what it had been asked to do by the committee, and drew mostly from issues discussed previously by the committee. They noted that they felt their proposal gave a lot of concessions in order to hopefully accomplish their key goals.

Deer

The agricultural group's proposal regarding deer is justified as follows. The key issue is to ensure that all who experience damage problems are able to access the kill permit system in a timely manner. If they're not able to obtain a timely response, people should be able to file appeals with the DGIF director, and the appeals process needs to be expedited to ensure that the damage problems are actually addressed. Pre-registration of farmers with DGIF staff would help expedite the process and allow for more efficient central contact not only for kill permit

processing but also to help disseminate information about non-lethal options or other non-kill permit methods.

It was important to the agriculture community that farmers get a response from DGIF immediately, within a reasonable time period such as twenty-four hours, or find another mechanism to quickly address damage problems. It was also important to them that kill permits be issued for an entire growing season. This would reduce the bureaucratic load of the kill permit system and allow farmers to get relief from damage more expeditiously. Additionally, the agricultural community would like to have, after the initial inspection and issuance, subsequent requests in a single year issued automatically. It was noted that the initial inspection is critical but subsequent inspections can often delay the process and do not always add much new information.

The agricultural community also offered to require immediate telephonic reporting of animals killed by farmers to the DGIF. The agricultural community saw this as a significant concession that will help prevent abuse of the system.

Bear and Elk

For bear and elk, the agricultural community noted some distinct differences as compared with recommendations for deer. Particulars can be found in the agricultural proposal on basecamp. Broad justification of these differences is highlighted below.

The agricultural community expressed a belief that the time frame of response is very important. While the community understands that non-lethal methods are preferred, farmers still need a rapid response time. If the response time is not rapid, farmers need to be able to deal with the problem quickly. This was the justification for the one elk, three bear minimum for kill permits. For non-lethal methods, the animals need to be tagged so that repeat offenders can be identified.

The agricultural community reemphasized that the telephone reporting of kills would be the same for deer, bear and elk. It also noted that it would like the same methods for dealing with subsequent requests to help expedite the process.

Agricultural Proposal Comments, Questions, Suggestions and Discussion

The following comments, suggestions and questions were made over the agricultural community's proposal.

Agency Response Time

- A 24-hour time frame seemed unreasonable to some panel members; 48 hours was suggested instead.
- For 24-48 hours response times, it was noted that the panel had agreed at its previous meeting on 48 hours. The agricultural community agreed, but wanted to propose 24

hours for consideration. It asked if the recommendation could be changed to business days instead of hours?

- DGIF acknowledged that this recommendation is designed to encourage faster responses, but the agency is concerned that it may not be able to meet the 48-hour or 2-business day deadline in all cases due to a variety of issues. This will be rare but it will happen.
- Regarding comments on business days, a concern was noted that if the problem hits a holiday weekend, there could be five days before a response is required. Two business days is therefore not reasonable.
 - DGIF responded that CPOs work seven business days a week. Forty-eight hours is reasonable, but there is worry that the agency would have to take a negative performance action against an employee if 48 hours was not met. CPOs are very busy and have to schedule ahead of time. In 98% of cases there will be a response in less than 24 hours, but that 2% will require flexibility which needs to be built into the plan. There needs to be an element of trust that DGIF will meet your needs. Currently DGIF does not receive many complaints about failure to issue kill permits in a timely manner. Some are received, but the agency is working to cut that down. This is a priority for DGIF.
 - IEN noted the reoccurring themes that farmers are requesting that their needs for a kill permit be met in a timely manner, and that the DGIF is also requesting sufficient flexibility for unforeseen events such as staffing issues.
 - It was noted that the original State Bill 868 had “without undue delay” and not an hours limit.

Appeals

- DGIF commented that, instead of going to the director, appeals should go to the “director or his/her designee” as the director is not always available.
- For the appeals process, the committee would like DGIF to develop a consistent, standardized way for appeals or other problems to be reported. This could help DGIF figure out if a regional problem exists or could otherwise be used to help with supervisory issues.
- There was concern that daily reporting of kills is of no benefit for legislative review or biological necessity. With an automated dispatch system and an appeals process, this might offer a system that works for neighbors as well as agricultural operators. Such a system could meet many of the panel’s concerns. Daily reporting and the necessary new system to support it would be an unnecessary financial burden to DGIF.

- Regarding the proposed telephone reporting system: this system is already in place for reporting kills during the hunting season via a push-dial system. Can this be incorporated into KP system? It would help with CPOs and enforcement.
 - DGIF Response: it could be very costly to set up.

Bear

- Bears have become a significant problem for agriculture and other groups in some parts of the state, especially near national parks.
- Strong objections to the agricultural community's bear section of the proposal were voiced. Namely, based on DGIF presentations, it appears that a three bear minimum on a kill permit could potentially severely damage the breeding population.
- It was suggested that bear kills should be linked to the bear management plan. Local carrying capacities should help drive kill permit limits.
- Stronger language regarding non-lethal controls should be added. Kill permits are not the solution in all cases for bear.
- For bears specifically, non-lethal methods have been proven to work, but it may be hard to tag a bear if dogs, etc. are used. DGIF may not have resources to pursue bears that are chased away. It is not reasonable to require DGIF to immobilize every bear. A member suggested the DGIF should be trusted to do its work.
 - There is a 15 to 45-day limit to harvesting a bear after it has been tranquilized because the drugs can pass from bear meat to humans.
 - The agricultural community commented that it did not expect every animal be relocated. But asked if the effort to relocate a bear is undertaken, that the animal be tagged. The community understands that it may not be possible to tag bears that are chased.
 - In order to tag an animal, you have to tranquilize something and this can cause dangerous situations if the animal is then shot and consumed. This is an issue that needs to be looked into.
 - From bears and beehives, if bears are tranquilized and tagged, how can it be determined if it is the same bear returning? It sounds very expensive and time consuming to figure that out. The three strikes rule does not work for beekeepers as it is too expensive and too much work.
 - There needs to be some process to make sure there are not repeat offender animals.
- For some non-lethal tactics, some tools such as, "bangers" and "poppers", cannot be accessed anymore because a user would need a federal bomb permit. Some non-lethal tactics are becoming harder to use.
- Bears have been increasing significantly in number around Shenandoah National Park.

- For bear population variations, the panel is asking for variation and discretion. Dealing with bear has always been an imperfect process, but DGIF is getting better at it. The panel needs to reach consensus on these issues so the issue does not have to be argued in front of the state legislature again.

Deer

- It was suggested that deer kill limits on a permit be linked with deer management plan objectives. Local carrying capacities should help drive kill permit limits.
- There was concern with the 15 minimum deer killing comment, especially because of the potential influence on herd health and the kill permit influence on cultural carrying capacity and management plans.
- Intent of proposal regarding 15 deer minimum: if a permittee achieves 15 kills and needs more they have to ask for more. The agricultural community does not want a permit that specifies less than 15, and intends that the permit holder is able to kill *up to and including* 15 deer. The permit holder is *not required* to kill all 15 deer.
 - It was requested that this section be reworded to clarify this point.
 - DGIF commented it has issued permits for deer for the growing season or for special cases where landlords are not the farmers and have specific agreements with farmer tenants. Basically, the agency needs the discretion to deal with local conditions.
 - To clarify – the proposed 15 limit is for commercial agriculture and not residential permits.
 - Is there a need to blanket entire state with same standards or can biologically based management plans work? Each species in each area needs separate standards depending upon the needs of the locality. This is the same regarding the importance of non-lethal options as well as kill limits.
 - It is important to look at big picture of this and ensure it will not hinder localities with certain conditions. Making things too standardized can tie the hands of localities, especially municipalities.
 - At the beginning of the recommendations, there should be a statement like “the deer (or elk or bear) management plan should inform issuance of permits” as a policy guiding statement.

Defining Farmers

- A panel member commented that they were uncomfortable with using tax filing to define them as a farmer. Giving out tax information was not only private information, but it was not known if Conservation Police Officers (CPO) are trained in tax documentation.

- The agricultural community responded that this was one method for not having to specifically list the shooter. The community wants flexibility to determine who will carry out the permit.
 - It was commented that this could create enforcement issues as people could potentially sell the right to carry out a kill permit.
- It was recommended that better wording be chosen for defining farmers.
- Support was voiced for a definition that defines bees as livestock and honey as a crop. These have been requested to be in any definition of agriculture.
- For the points that define farmers, do farmers need to meet one or more of these requirements? Needing more than one would help prevent kill permits for food plots designed to lure problem animals.
- Proof should be changed to make sure it specifies things such as ‘bills and receipts’ are for commercial operation.

Elk

- Stronger language regarding non-lethal controls should be added. Kill permits are not the solution in all cases, especially for elk in restoration areas.
- If elk are tranquilized, the Rocky Mountain Elk Foundation (RMEF) wants the opportunity to move the animal.
- Non-lethal methods should be thought of as one tool in the tool box. That way killing would not be the first and only option. Due diligence needs to be done to mitigate damage before killing becomes the option. Especially for elk since the herd is being reintroduced.
- By making operating instead of code changes, it will be easier to change regulations regarding elk more easily once their situation changes.

Inspections and Subsequent Permit Issuance

- It was reinforced that if a kill permit has been previously issued based on an onsite inspection, the department should have the discretion to reissue subsequent permits without inspection.
 - Telephone-only issuance was not liked by some panel members.
 - The importance of an initial inspection for the first issuance was often voiced by panel members.
- Inspections by volunteers need to be done by properly trained volunteers.

Other Issues

- Previous CPO explanation of the nearly completed online dispatch system will meet the committee’s recommendations for automatic dispatching. If this system can take into

account or solve committee recommendations, a whole new system is not needed and should not be developed.

- DGIF commented that it is glad that the group is driving towards consensus. The agency understands that to achieve consistency it will need standard practices. The agency does need discretion within that process. DGIF is trying to stay out of the discussion so that interest groups can reach consensus. But DGIF will need to see which panel recommendations are feasible or not.
- A stakeholder noted that the process has been dominated by three entities, and the stakeholder hoped to hear from other people.
- A panel member stated that they understand that there is animal damage to agriculture, but the member speculated that there is more from weather. They do not want to see a 'kill first, verify later" system. That could create a year-round hunting season on a property. There should not be a continued ability to kill without DGIF regulating the process.

Neighboring Property Owners' Proposal

A stakeholder representing neighboring property owners noted that he had consulted with upward of twenty different groups in Virginia, and was bringing their recommendations to this panel. The following comments, suggestions and questions were made about the agricultural community's proposal:

Abuse

- Neighbors represent the largest constituency in the group: the non-hunting private citizen. While some neighbors do not want any animals killed, they are a minority. Most people understand that there is an overabundance of some animals, particularly deer. Since abuse is a problem in the kill permit system and is expected to increase; abuse is the major concern of neighbors. There is very little hard data on abuse as most evidence appears to be anecdotal.
- Abuse of the kill permit system is handled with a small fine and misdemeanor. The neighbor constituency would like to see increased power for DGIF to prosecute abuse and have more punishments in civil court.
- There needs to be a site on DGIF's homepage for filing complaints about abuse.
- The system of allowing spotlighting for kill permits is very flawed and neighbors would like to see this corrected. It should be easy to report and curtail flagrant violations.

Carcass Disposition

- Carcass disposition in kill permits is a waste. Is there an alternative to having to destroy carcasses from kill permit kills? Can the panel find a solution so that this waste does not occur?
 - The code currently allows for human consumption.

- Can the panel insert language that recommends donation of meat?
- As a food safety issue, the panel should not want spoiled meat going to the public as a donation.
- It was also noted that Hunters for Hungry is not a year-round operation as it operates only during the hunting season. Requiring meat donation would not help.

Notification of Neighbors by Permit Holders

- An informed public may help curb abuses in system. Notifying neighbors helps achieve this. Required notification should be for *non*-commercial agriculture permits only. If failure to notify neighbors occurs, the permit should be revoked.
 - It is common sense that DGIF should prioritize commercial over residential.
- Neighbors need to be notified of shooting, to avoid abuse. Additionally, this will help improve neighbor relations with permit holders.
- This is a tough issue when the situation means dealing with people who are not very reasonable. It would be better to have DGIF recommend notifying neighbors, but not require it. There could be serious safety issues just due to notifying neighbors. People can already call in and request this information from DGIF.
- Lynchburg put in a requirement for notification several years ago. The city had to stop it because of things like retaliation and client problems in urban areas. The city had more problems of retaliation and safety when notification was required as opposed to now when it is optional.

Urban Public Safety Issues

- Public safety should be considered for issuance of permits, specifically including location of buildings and schools, shapes and sizes of property, and local ordinances.
- Local law enforcement should have notification of KP issuance, especially since they get the calls of shots fired or are often the first to respond to abuse calls.
- The proposed 300-foot buffer between properties is arbitrary but based on a DGIF article regarding hunting in residential areas.
 - Safety measures like the 300-foot distance are already in the code. If people are doing something in an unsafe manner, they are probably already in trouble according to code or local ordinances.
- For paragraphs two, three and four regarding urban areas, these probably will not work in an urban area. Notification can have negative results in these areas. A 300-foot distance will not work either. It is too big and will eliminate many urban kill permits. A policy like this would not work because it is a one size fits all policy that is not appropriate in many areas.

- A representative of the Lynchburg Police Department offered to give information on how these sorts of issues can be a problem.
- Kill permits in Lynchburg are issued based on safety, not size. The city has sharpshooters on very small properties who can shoot because it is safe due to topography. Others are just bad areas to shoot safely.
- For kill permits in Lynchburg, the city's dispatch knows of all properties that have kill permits so when the police department get calls regarding kill permit shots, they take the appropriate response. Lynchburg does not know if all localities do this since it is not required. Lynchburg does it for safety reasons. Creating a model to this effect would help. Lynchburg is in a special situation as the city writes permits instead of DGIF. This internal process makes it easier for notification.

Other Issues and Comments

- DGIF commented that, regarding response times and animals allowed per permit, the Department would like to remind the panel that 44% of deer kill permits over the past 15 years had no kills. Very few had more than ten kills. DGIF also commented on similar rates for bears. Methodology needs to separate those who have had permits previously from those who have not (i.e. – first time requests vs. reissued permits).
 - Both the agricultural and sportsmen proposals do separate out the first time requests from reissued permits. For reissuance, except for in special circumstances, DGIF workload can be cut by a significant amount by not requiring revisits. That should enhance response times.
 - Response to DGIF from the panel: does DGIF want to leave discretion in hands of the agency for kill limits, or did it want the panel to make a recommendation?
 - DGIF: The comments on statistics of kill permits were made to help clarify the issue. The panel should make a recommendation.

Delegate Harvey Morgan

Delegate Harvey Morgan, who issued the charge to the committee, came to speak to the panel regarding their work. Harvey Morgan is the chair of Agriculture, Chesapeake, and Natural Resources Committee. Delegate Morgan praised the uniqueness of the study group and their commitment of time and effort to their charge. He stressed the importance of the relationship between landowners and hunters as well as between the public and the Department of Game and Inland Fisheries. Delegate Morgan stated that he would like the panel to solve the problem so that the General Assembly would not have to tackle it. This is even truer if the panel can work out more of the issues behind the scenes; once a bill is in the legislature the desired effect of legislation can become elusive. Working out compromises in panels such as this one helps the process move towards a common end more easily. Delegate Harvey Morgan thanked the committee for their time with such an important issue.

Bob Duncan, Director of DGIF, spoke to Delegate Morgan. He noted that regulatory, administrative, and possibly legislative remedies will have to be used to solve the problem. Duncan asked if this group, with all the effort and different interest groups, reaches a consensus and needs legislative remedies, how would it be received?

Delegate Morgan commented that when he worked with corporate interests on other legislative committees, processes were much more dispassionate. This kill permit committee is made up of real people who represent themselves and their constituencies on meaningful, passionate interests. If a group like this can reach consensus with legislative remedies, it helps a bill fly through the legislature in most cases. Delegate Morgan noted that he prefers to avoid working on the code, but if a bill is needed and the panel has consensus, the bill should do well.

Drafting the Committee's Proposal

After significant discussion on the various group proposals, the committee decided to go through the agriculture group's proposal and use it as a base from which to draft the full committee's proposal.

Every item was examined for acceptance by the committee and the proposal was edited in real time.

The final document can be found on basecamp.

The following comments, questions and discussion emerged regarding the committee's proposal:

Determining Commercial Agricultural Operations

- Adding "as appropriate" for line 2 regarding statutory regulatory guidance helps give department the discretion to choose what works best.
- Item 1: proof of agriculture lines has too much specificity. What is needed is to document the sale of agricultural products. Fundamentally, CPOs can generally determine easily if property is commercial or not. For specific evidence, adding "sufficient" would work to describe times when proof is necessary and help give as much as is needed to determine if it is a commercial agriculture operation. The basic concern the panel wants to address is to help determine outliers regarding food plot issues.
- Strike Schedule F for defining agricultural operations, tax information is private and not necessary.
- Add evidence to allow more than just paper documents for determining farming.
- Add interpretation that for this program, bees are livestock, honey is a crop.

Appeals and Complaints

- The panel would like a statistical tabulation of complaints, appeals and other concerns. The panel wants to use case management language for this. That way, this information can tracked and help deal with future legislative or other issues.
- Appeal time needs to change to: without undue delay. This is because the people are administrators and not CPOs, who would take care of appeals and are not available all the time.
- Is it clear that appeals are in writing? Do we need this part in better wording? Can an appeal be verbal or by telephone?
 - DGIF commented that there needs to be a written record for an appeals process. Email would suffice. DGIF does plan to create a new communication process.
 - How about verbal notification followed by written request?
 - Would like people to note that DGIF is developing this system. The panel wants to make sure its recommendations do not conflict with this system.
 - Verbal notification does not help keep a written, permanent record. Can the panel leave this to DGIF and let them come up with their policy? The panel agreed on this point.
- Should there be parameters for verbal/written notifications of appeals? Other than without undue delay?
 - DGIF would like to know what is considered a timely response by the panel? What is considered undue delay? If DGIF denies a KP, it is documented immediately and a superior is notified of denial. So if there is an appeal, the process will already be in place with documentation already started. Thus, DGIF can most likely immediately respond.
- The panel wants to note that this appeals process currently is for agricultural operators. The panel should keep in mind that there are also non-agricultural kill permits as well. The standards do not have to be the same. The department needs to have a process for dealing with both commercial interests and the general public. Especially since this is a permit there needs to be a legal process.
- DGIF commented that because this is a permit, there is a case decision. Decisions made by the agency that determines if a party is within the law or not. Conceivably, an appeal of an agency decision could end up in court. As part of this you will want a pretty firm written process. As far as an appellate process goes, you want a written appeal and a written response. As far as a time frame for this is concerned, the panel can come up with whatever time frame they want but it may require a bill or regulations.
 - Do other laws dictate how an appeal has to occur?

- DGIF commented that it depends. If this goes to the GA, the sky is the limit. If it is under existing law, it depends as well. Please give us a recommendation and we will try to see what we can do to make it happen.
 - The panel may be able to request an appeals process takes place but not dictate the terms of it.
 - DGIF commented that the agency is exempt for certain things from the Administrative Process Act (APA) The agency does not know about this permit appeal in particular.
 - Can the panel just frame it that this is an optional process of appeal? Is the agency allowed to have an informal appeals process?
 - DGIF replied that it will depend upon the appellant. They can choose an informal appeal or a court appeal.
 - Can the committee agree to have the department develop a formal appeals process that may have X components? The panel is in agreement, but wants to review the final language at the next meeting. Stakeholders can work with DGIF and each other to get this working.

Determining Valid Shooters

- The panel needs to address flexibility of a landowner to determine the actual shooter for a kill permit. There should be documentation of who shoots afterwards. Shooters should be licensed. There is a complaint that this is a private, exclusive thing – how can the process include a hunter who wants to come forward and help a permittee?
 - The process could require written permission to hunt from the owner. This could help prevent abuse.
 - A permittee could call DGIF to add that person.
 - DGIF commented that some officers do this. It is not standard. Any solutions need to find out how deal with issues such as if the CPO that issued the permit is unavailable.
 - Can permits be made easy to amend?
 - Can permits have the landowner as the only name on the permit? Allow them the discretion of who shoots.
 - DGIF replied that naming the shooters helps the agency have a picture of what is going on, for instance DGIF will know who is shooting if it receives complaints of abuse. DGIF wants to know who has that permission.
 - If someone on a permit causes a problem with a neighbor, it will be possible to find out who has specifically caused the problem. The landowner may not even know what has happened.
 - Names can be added very easily at any time and this is already done.

- If people are not listed on permit there is a huge potential for abuse. If people are on permit there is a paper trail.
- The concern exists that this is a private system that does not let hunters help solve the problem.
- For residential kill permits, landowners want to know exactly who is going to be shooting on a neighbor's property.
- Having shooters listed would protect landowner from liability.

DGIF Response in a Timely Manner

- The sportsmen community stated that they cannot support an automatic harvesting of animals if there is no response by DGIF within 48 hours of a request.
 - Sportsmen want DGIF to do an inspection before any first time issuance. Subsequent issuances do not necessarily need an inspection based on CPO discretion.
- DGIF commented that they could foresee landowners avoiding DGIF for 48 hours in order to harvest without a permit.
- Urban areas would experience safety problems if landowners were allowed to automatically start harvesting after 48 hours.
- The panel would like a recorded complaint system and appeals process in case DGIF does not respond in a timely manner.

Telephonic Reporting

- It was asked if DGIF's current deer checking program for the hunting season could be implemented for kill permits without significant cost. DGIF replied that it costs fifty cents per call but is free on the internet. There would also be a \$15,000-\$20,000 startup cost at minimum. DGIF also stated that they do not need a daily report on kills.
- It was asked if a centralized, electronic database could be added. DGIF replied it could be.

Elk and Bear

- It was clarified that chase seasons only stop kill permits for the species associated with that chase season. Some kill permits are not issued when there is no hunting season for other issues, including that there can be no more real potential to damage specific crops.
- For non-lethal methods, a caveat was added that every reasonable effort should be made to have an animal tagged.
- Minimum limits for elk and bear kills on a permit were changed to be in alignment with the animal's management plan.

- The sportsmen community stated that they do not want automatic renewal of permits for elk and bear like the one for subsequent permits for deer. Renewal in each circumstance should be at the discretion of DGIF for elk and bear.
- Outside of the elk management area, non-lethal methods are preferred, but repeat offenders can be harvested at the rate of one elk per permit.
- There were objections to entire growing season permits for elk and bear by DGIF and the sportsmen community. Year-round or long season crops that are associated with “growing season permits” could significantly alter the bear population.
 - Concerns from the agricultural community were that elk and bear can damage crops in more ways than just consumption. Also, bears can do a large amount of damage and a longer permit period will help farmers avoid more damage.
 - DGIF discretion should be used depending upon the stage of the crop, intent of the crop and type of damage done, etc.
- The community in the elk restoration area still needs recourse; all non-lethal methods must be exhausted before an elk can be killed, but if all non-lethal methods have not been successful it should be up to CPO or RMEF personnel to remove the offending animal. It is the agency’s and RMEF’s responsibility to restore the area. Finding volunteers from RMEF will not be a problem. An elk has to be taken by someone who knows how to do testing required by game commission. Outside of restoration area, the RMEF would prefer a CPO or RMEF personnel but if non-lethal options have been exhausted and staff cannot be found, the elk community reluctantly agrees that the landowner or agent can take the animal.
 - It would be preferred that this be left to the discretion of the issuing CPO.
 - It was asked if the landowner could harvest biological data in a timely manner?
 - DGIF commented that it would be much harder to get the proper samples.
 - The elk management area was created for a reason. Outside of the area, it should be considered (assuming protocol data collection is created) that the landowner will deal with the animal.
 - Can the panel ask DGIF to create guidelines regarding the data collection and killing of elk?
 - The way that “non-lethal methods should first be exhausted” is worded can be an issue. How about “all non-lethal methods practical be exhausted” so you don’t have to spend excessive amounts of money in order to remove a problem elk?
 - “RMEF or CPO” wording causes some discomfort to the panel due to RMEF working outside game commission. “DGIF staff or their agent” would be better as it would allow authorization of authority.

Subsequent Requests for Kill Permits

- The requirement for hunting in a previous season is appropriate for most agricultural operations, but not for all permits. Land that is able to be hunted on must be hunted on before a kill permit can be issued for it. The panel decided that this comment needs to be included in their recommendations.

Abuse

- It was noted that the panel does not want volunteers to investigate abuse.
- The panel asked DGIF if a complaint section for kill permits was feasible on the DGIF website.
 - DGIF responded that this would have to be explored as it could create an increased workload or otherwise change workflow and agency logistics. If the panel recommends it, the agency will consider this option.

Other Comments, Questions, Discussion

- The neighboring property owners representative withdrew the recommendation for paragraphs two, three and four as they feel this is not the time and place to address these issues.
- Education for landowners that do not allow hunting or kill permits on tenant-farmed land needs to be encouraged. The panel believes that it is easier for the Department to educate this sort of landowner than it is for lessees. DGIF stated that this may not be entirely realistic.

Building Consensus

After revising the document through discussion, the panel moved on to testing for consensus on this newly drafted proposal (see basecamp). The panel asked DGIF if the agency could tell the panel how realistic the draft proposal document was in terms of implementation. DGIF commented that to do so would require more people from the agency than were currently at the meeting. The panel's concern was that the document represented carefully crafted negotiations between the sportsmen, agricultural and other communities. If the document is realistic, the panel will be happy with it, but if DGIF cannot keep the document significantly intact, consensus may not hold. In order to avoid having to recreate a new document at the next meeting, the panel asked if a smaller subcommittee could be created from the panel to vet the document with DGIF staff in time for the last meeting of the stakeholder panel. DGIF agreed that this was a good idea. IEN noted that the last meeting is designed for review of the committee's final report and proposals documents; there may not be sufficient time for initiating new proposals that require long discussions and building consensus, but if the panel wants to re-open its consensus decisions at that meeting, the process will have to be figured out.

A panel member wanted clarification as to who writes the report; the panel or DGIF? DGIF stated that the agency is responsible for the report to the General Assembly and it will reflect the consensus of the panel. The panel wanted DGIF to be part of the process because if the document needs to be changed considerably by the agency, the panel may no longer support it. DGIF support and advice during the proposed subcommittee meeting is especially important to the panel as it can help the panel determine what is feasible and what is not. With DGIF's advice on feasibility, the panel can change ideas that were not sound into recommendations that are reasonable. DGIF stated that it welcomes the opportunity to have representatives help forge the document. In sum, the panel would like to have their consensus document vetted by DGIF to note agency concerns while working with a number of representatives from the panel.

Some stakeholders commented that DGIF had originally been charged with writing the report. The agency now has what it needs from the panel, and there may not be enough time for an intense investigation by DGIF into the panel's proposals. Opposing concerns were voiced that leaving the report with unrealistic proposals could set up all of the panel's work for failure. DGIF needs to be on board in order for this process to be effective.

DGIF wanted the panel to note that the agency is still committed to making whatever progress it can with the panel. The agency reinforced that it would not have been appropriate for DGIF to add opinions as a group member early on in the process as their role is technical, providing feasibility feedback and background information. The agency stated that it has purposely tried to avoid expressing opinions, as that is the panel's role.

There was some opposition to creating a smaller subcommittee from the panel as it would be better to have the whole panel work on the report recommendations with DGIF. DGIF commented that the document needs to be created quickly and that it will still be available for input by the entire committee on basecamp and at the last meeting.

An idea was proposed prior to testing for consensus. This idea was proposed to be added as an area for DGIF to explore separately from the panel's work. The stakeholder wants DGIF to look into creating a program that could either replace or run parallel to the kill permit program. This proposed program would create a hunter and farmer matching system that pairs farmers with hunters to help manage wildlife on a property. It was suggested that the hunters pay into the program and that this payment goes in part to DGIF and part to the farmer. Payment would depend upon the species, sex and other criteria of the animal being harvested. The stakeholder reinforced the idea that this proposal is only for DGIF to consider and not part of the panel's recommendations.

Consensus Vote

The panel decided to test consensus on the document that it had edited throughout the morning (see basecamp). The committee was determining whether it had achieved consensus on the proposal as a whole package, with the understanding that it would have an opportunity to review final language at its final meeting, as well as an opportunity to discuss revisions proposed as a result of the "groundtruthing" effort by the subcommittee meeting with the

DGIF. Consensus was achieved with votes of twenty-one members in full support and four members supporting with some reservations.

Subcommittee

After achieving consensus on the document the panel had drafted, the stakeholders discussed the formation of a subcommittee to iron out the document with DGIF. Volunteers for the subcommittee included:

Wilmer Stoneman

Donna Johnson

Kathy Funk

Larry Faust

Jimmy Graves

Mike Lucas

Keith Wilt

DGIF told the panel that this subcommittee and the department do not have the authority to violate any points on which the panel had achieved consensus. The committee is simply to be technical in nature. Furthermore, DGIF stated that it wants to be transparent throughout this process and will not knowingly violate anything that the group has created. In order to accommodate travel and distance issues, the agency said that it could accommodate people telephoning in to the subcommittee meetings. DGIF also stated that its report will only go forward with the panel's consensus proposals.

The panel noted how useful basecamp is as a tool for keeping the larger panel informed of subcommittee actions in advance of the September 20th meeting. It can help keep the panel informed throughout the process. Basecamp could also allow the subcommittee to avoid face-to-face meetings if they are not necessary.

Other comments and concerns regarding the formation of a subcommittee are documented below:

- It was noted that DGIF's report is based on the panel's recommendations.
- A panel member stated that they may not have time to work with a subcommittee but wanted to, so that the subcommittee is well represented in order to maintain the balance of the larger group and to avoid a reworking of the groups already consensus tested ideas.
- There was concern that the more people on the subcommittee, the more time it will take to accomplish anything. The hope is that a small subcommittee will have delegates representing each of the major interests of the panel who can be trusted to act on behalf of the group.
- There was concern that this could lead to another full panel meeting that would be difficult to have happen due to time and budget constraints.

- It was noted that the subcommittee's role would be to help prepare the panel for the final meeting based on conversations with DGIF over the report in a similar manner to how the panel's proposals were made. The subcommittee is not being designed to circumvent input, but to help DGIF get to a conclusion with the committee's support.

In sum, the subcommittee is tasked with maintaining the intent of the larger panel's guidance. Furthermore, there is interest in face-to-face meetings, but all interested parties could attend via telephone or otherwise participate via basecamp.

Consensus Vote

Consensus on having a subcommittee was achieved with votes of nineteen in full support and five supporting it but with reservations, and one member choosing to stand aside from voting to let consensus happen. It was noted that there could be those who want to be on the subcommittee but are not present at this meeting. Those panel members will have to be informed of this decision.

Report Outline and Additional Issues

IEN had prepared a potential outline for the report to the General Assembly. It noted that this was a draft based on discussions and comments of the committee prior to this meeting. The panel went over this document to make sure that it was what the panel wanted and that it was up to date with their decisions made during the meeting today.

The following discussion, questions and comments were received over this document:

- It was asked what the point of the document was. If it is just a list of ideas the panel reviewed and concerns of panel members, some points should stay. If it is the panel's official recommendations, then some things need to be removed.
 - It was noted that there should be a wish list or additional recommendations section that does not necessarily have panel consensus, but that DGIF should keep in mind as concerns.
- Clarification was given that DGIF does have the authority to train volunteers to examine damage for kill permits. However, DGIF noted that they are increasing volunteers and staff, but the agency may not have the money to increase staff for kill permits only. Furthermore, it is not a good idea to have volunteers investigate abuse as it could become a criminal investigation. Currently, DGIF works with sheriffs and police. DGIF would like to see the panel keep the recommendation to increase volunteers, but having them investigate abuse is not a good idea.
- For communicating abuse and kill permit information to the public, it was noted that this is a general education effort. Currently, DGIF provides information on those topics on the back of a permit, but the panel would like to see material or a system to educate potential permittees, create a pre-application education system, increase general public

information and/or have information for general farmers. The panel also wants a better presence and understanding of kill permits in DGIF literature and on the website.

- For allowing hunters to reduce herd pressure, the following idea was suggested; where management plans show a need to reduce herd pressure, additional weeks could be added to the firearms season. This is not a specifically kill permit solution, but it could enable hunters to reduce herd pressures.
- It was noted that safety standards are good for the panel to address, but that it is up to CPO discretion and the agency to set those.
- Stakeholders commented that data collected by DGIF should be designed to provide information that could help reduce legislative tinkering with the kill permit program in the future. Biological data collected needs to be left to the agency's discretion.
- It was noted that some municipalities have special relationships with DGIF. The panel does not want to compromise these relationships and keep municipalities from meeting their needs.
- A panel member observed that the kill permit should be expanded to cover issues such as health and safety, as bean and other edible crops can be seriously affected by animal feces according to federal food safety guidelines.
- It was noted that currently there is little evidence or data regarding abuse. There needs to be a system created to measure abuse.

Spotlighting

- It was suggested that spotlighting is a safety issue.
- DGIF clarified that spotlighting is a violation that is not tolerated by anybody in the sportsman or hunter community. It is illegal to use spotlighting during hunting, but kill permits are intended to get rid of a problem animal. A light can be used under kill permit guidelines for deer. Often this helps farmers who only have time at night to take care of the pest problem and thus it can be a boon to farmers. Thus, spotlighting is a critical tool for wildlife management.
- It was noted that spotlighting is very much abused in the system and a panel member stated that they wanted it to be disallowed in the kill permit system. This is especially the case if spotlighting is used to kill antlered deer or other trophy animals. While it is a valid tool, improper use of spotlighting is abuse.
- It was noted that killing trophy deer on a kill permit is a violation of the permit regardless of spotlight use.
- Spotlighting improves safety at night with kill permits as it allows for better target identification.
- It was noted that individual permits can have restrictions on them dictating use of illumination and times that the permittee is allowed to shoot.

- It was noted that bow hunters cannot hunt after dark.
- There was discussion regarding punishment for abuse of kill permits especially regarding the use of spotlights to kill trophy bucks. It was noted that strong punishments would be ideal but sometimes landowners are not in direct control of those carrying out a kill permit on their property. Therefore, only a violator and not the landowner should be punished.
- It was noted that spotlighting is fundamental for safety in urban areas.

Herd Stress

- A panel member commented that DGIF findings regarding herd stress were under the assumption that antlered bucks would be killed indiscriminately under SB 868. The panel member noted that that was not and is not the case. Under the panel's current recommendations, it is not believed that animal stress will come close to DGIF's predictions.
- DGIF clarified that SB 868 lacked significant inspection and control of permit issuance, did not set numbers for kills and had no antlered deer controls. Such a significant liberalization of the system could significantly stress deer herds. The agency noted that there will be less impact if those elements are not in kill permit system revisions.
 - **A panel member asked that this be included in the report to show the difference between the panel's recommendations and SB 868.**
- It was asked that DGIF give the panel an estimate of the impacts of the panel's recommendations on the herds. This is especially important since that was asked of SB 868 in the charge.
 - It was asked why the panel is bothering with dissecting SB 868 at this point in the process.
 - It is necessary to complete the General Assembly's charge with due diligence and inform the GA about SB 868's potential impacts.
- It was stressed that everything is predicated on management plans that are based on biological considerations. This is very important to the panel as stakeholders. Following the guidelines of management plans allows the consideration of biology as well as other factors such as cultural carrying capacity and economic considerations.

Other Issues Relating to SB 868

- A stakeholder commented that there is a lack of funding for DGIF, especially for law enforcement.
- SB 868's purpose and the purpose of any future legislation was and will be determined by any implementation done by DGIF. SB 868 was recommended because of concerns regarding DGIF implementation. The more panel recommendations that are implemented, the fewer issues with the kill permit system that will arise.

- A panel member wanted it to be noted that the kill permit system was not broken, but needed to be tweaked and refined.
- There is a feeling that the introduction of elk to Virginia caused a lot of the rumbling that led to SB 868. SB 868 did not specifically spell out the conservation of elk.
- It was noted that, initially, SB 868 looked like it gave a carte blanche to kill whatever causes damage. Now the panel has come to understand the intentions better and this process has helped the panel's understanding and concerns.
- A panel member made the following summary points "we are in a better place than we were five months ago. 868 was the beginning of the discussion. We're at the end of it. We don't have to rehash the topics; we should go forward and be productive. We also appreciate the role of DGIF and all its help."

Other Broad Issues

The panel also explored issues that dealt with wildlife management and agriculture but not necessarily the kill permit system.

- A stakeholder explained the brief history of a bill that would have created the Fish and Wildlife Commission. This organization would have vetted ideas and probed problems before implementation of specific policies. The bill died and the commission was thus never formed.
- It was noted that many of the panel's concerns initially fell under the law enforcement side of the system. It was hoped that most of these are being addressed under the panel's recommendations.
- Adding two weeks to the firearms season, increasing magazine size or bag limit could all help hunters address the issue of herd population.
- The committee stated that it would like to reaffirm that DGIF needs to manage deer, elk and bear herds through hunting on a county-by-county basis. If there were more tools in the hunting tool bag, maybe permits would not even be necessary.
- A panel member wanted to make clear that the panel may not get everything that it wants from DGIF, but the agency has been extremely helpful and accommodating. It was also made clear that the panel has likely not covered everything that should be recommended to the agency.

Consensus Test

The panel called for a consensus test regarding that the items and work done during this meeting will be reflected in the report. The test passed with eighteen votes in full support and one abstaining vote.

Appendices

- It was asked if all comments on basecamp, emails and all documents created by the panel should be included in the report appendices. The panel decided that those documents were just for the panel's internal use. The panel decided that it should not haphazardly include such information and that it should be either all of the information or none of it, with a preference for none.
- The DGIF survey will be included.
- The agribusiness survey was noted to have not been a scientific study but instead is an internal study done by agribusiness for its constituents. This is the same for the beekeepers survey.
 - It was suggested that summaries be used for both surveys. The survey developers will have to be consulted with to see if they should be included in the report.
 - It was asked if these surveys are included, it should be noted that the public was not included on the DGIF survey, as per the committee's request.
 - Agribusiness wanted to include their survey if the DGIF survey is part of the report. All methods and results should be included.

Virginia Agribusiness Council Kill Permit Survey Results

Summary of Responses as of 7/8/2011

1. In the past 5 years, what level of damage has your farm operation experienced from deer, bear, or other wildlife?

Extensive damage	50.0%
Moderate damage	38.8%
Minimal to No damage	5.5%
No Responses	5.5%

Comments

We have seen damage both corn and alfalfa fields. During dry times the corn has been striped down and eaten until it looked like a tobacco stalk after the leavers were striped. We have had four and five acre fields completely eaten without any crop during the heavy pressure times. Alfalfa stands last only a few years because of the damage from the deer.

I rent some park land and I cannot plant soybeans because of the deer damage. There are many times I count over 75 deer grazing on 135 acres. Because of the deer I only plant corn. I still have considerable damage with the corn but not as bad.

On our home farm before getting the kill permits I feel we had extensive damage. Now that we are using the kill permit I feel our damage is less. I would still say it was moderate or heavier damage.

Some years we have a real problem with geese.

I have had areas of different peanut fields as large as an acre, completely pawed up by deer. No one seems to understand that it costs me just as much to raise that acre as the rest and I get no return on it.

We have a specialty apple orchard/nursery operation that produces fruit tree stock for sale from our nursery and apples. Deer damage to young trees is often lethal and stunts their development even when they aren't destroyed outright. Thinning the deer herd is the only really cost effective way of controlling the degradation.

deer in corn and alfalfa

Deer damage to wheat and pumpkins

Most damage occurs to soybeans from deer feeding. Peanuts and wheat are heavily damaged in certain areas where the deer population is very high (10-12 animals per herd per night).

we have lost from 20 to 30 % of our fruit because they eat all of the buds as high as they can reach. we planted out 500 trees 2 years ago and they killed 1/2 and we had to replant this year

Deer come out of the mountains during warm months and wear out the alfalfa fields. The damage becomes intolerable particularly in dry weather when they are looking for water and food.

Virginia Agribusiness Council Kill Permit Survey Results

A Turkey will 20lbs of grapes a day and you cannot get a kill permit for them
 Had only minimal damage from deer. Had more damage from ground hogs. We were able to hunt them.
 Deer predation in the winter is on the rise. Four years ago we had none, last year we had extensive damage to nursery stock inventory.
 Over the past 3 years, we have had losses of over \$50,000 due to destruction and predation by bears, birds, and racoons.
 Deer damage has been extensive to our Alfalfa.

2. In the past 5 years, how have you used the Kill Permit issued by the Department of Game and Inland Fisheries (DGIF)?	
Received Kill Permit Multiple Years	58.8%
Received Kill Permit One Year	17.6%
Applied for, but was not issued a Kill Permit	5.8%
Considered applying for Kill Permit, but found it too difficult	5.8%
I'm unfamiliar with Kill Permits	11.7%
Other	5.8%

Comments

did not take time to apply
 To keep the deer population in check we have had to get multiple Kill Permits each year.
 I plant soybeans on our home farm and this is the third year that I have received a kill permit.
 In recent years we have had less problems in obtaining kill permits.
 We would prefer additional tools to manage the deer population. While kill permits are helpful they only add to our farm workload and extend our work hours. It is no fun to work all day then try to kill a few deer at night. Extended hunting seasons or incentives to take more females during regular season might be options.
 i was denied a permit during hunting season when we can give the meat to people. no one wants to fool with one during the summer.
 Used one for deer but you are not allowed to have one for turkeys
 Landlord and friends hunt occasionally.
 We have have counted as many as 7 bears in one night. They come in night after night, even after electrifying the farm. After all of the documented damage, we have still only been granted kill permits for 3 bears over the past 3 years. We have requested more, but have been denied in the past.

Virginia Agribusiness Council Kill Permit Survey Results

3. Rank Your Satisfaction with the DGIF Kill Permit Program.	N/A	Poor	Fair	Good	Excellent
DGIF Response Time to your Request for Kill Permit	13%	13%	20%	40%	13%
Ease of Obtaining Kill Permit	7%	20%	20%	33%	20%
Number of Days Kill Permit Issued For	13%	27%	47%	0%	13%
Number of Animals allowed on Kill Permit	13%	13%	20%	40%	13%
Ease of Reporting to DGIF	13%	0%	27%	27%	33%

Comments

The last two years we have had good response time and good cooperation from the local Conservation Police officer. Before that, it was clear that they were more interested in giving us HELL instead of giving us permits. It took a meeting of local farmers and the Area DGIF supervisors to finally change their unspoken policy. Most of the farmers at the meeting told DFIF officials that DGIF could work with us or we would take care of the problem our selves.
 This year my experience obtaining a kill permit was excellent. The previous two years was a different story.
 Sometime it seems that the game wardens want to try to "save" deer for the hunting season, as if the damage to my crops stops on a certain day before deer season comes in. Also I have never been able to shoot "antlered" deer. I guess they don't eat crops like the does do! If I have deer damage to my crop, then I (or whomever I designate) should be able to control it.
 I have found too much individual interpretation of the law by conservation police officers.
 The main problem is that a lot of damage has occurred before a permit can be issued. For soybeans, you really need to start soon after the soybeans are planted not wait 3-4 weeks when the damage has occurred and replanting is necessary.
 The DGIF Agent I worked with made the process simple. He has since retired. Hopefully, the next agent is as accomodating.
 See comment in No. 2 above.

Appendix A:

Kill Permit Stakeholder Committee Charge

Charge Item	Meetings	Panel	Notes	Completed Needed
1. Identify issues & problems with the current kill permit system.	X	X	Meetings 1-3 ✓ Identified a list of #34 > 17 issues	
2. To propose solutions to these issues & problems.	X	X	✓ For 6 highest priority developed possible solutions ✓ Cross tab table shows these address multiple additional issues identified x- 11 issues remain to have solutions proposed by committee (but many overlapping solutions captured)	
3. To determine if the issuance of kill permits is done efficiently & according to law, and what steps can be taken to authorize such permits in a timelier manner. (House Committee Charge)	X	X	✓ Issues 1-6 solutions listed	
4. To determine if SB 868 would place significant stress on the herds affected by this measure. (House Committee Charge)	X	x	✓ DGIF shared its assessment with the panel Yes X - receive additional perspectives from the panel.	
5. If SB 868 places significant stress on herds, to determine the extent that biological considerations should be a factor in the issuance of kill permits. (House Committee Charge)	x	X	✓ Technical review & comments provided by DGIF staff. X- Should be addressed by panel because it is value based. However, significant public guidance is already established in the Deer and Bear Management Plans (to be summarized by DGIF). ✓	
6. To determine the extent that SB 868 will result in abuse of current hunting laws? (House Committee Charge)	X	x	✓ Technical review & comments provided by DGIF staff. X - receive additional perspectives from the panel.	
7. To determine what provisions can be put in place to effectively prevent abuse of the kill permit system? (House Committee Charge)	X	X	✓ Technical review provided by DGIF staff. X - receive additional perspectives from the panel.	
8. To identify other issues affected by SB 868? (House Committee Charge)	X	X	TBD Meeting 4	

Appendix B:**Kill Permit Study Consensus Points****Meeting 1-**

- Committee decided by consensus that there was no need for the general public survey and thus it was dropped. The survey results should have a line that reads: ***“These results reflect only the views of those who participated in the program.”*** Multiple other stakeholders agreed with the idea and phrasing, and this was added by committee consensus.

Meeting 2-

- The sub-committee idea failed to achieve consensus support. The group developed an alternate proposal that larger, more diverse sub-committees (with DGIF or IEN staff included) be established at the end of Meeting 3. The group decided to table a consensus test on this counter-proposal until the next meeting.

Meeting 3

- ✓ Committee decided by consensus, after significant discussion, to eliminate the suggestion for changing the COV section language that requires DGIF to issue a kill permit from “shall to may.” For reasons described in the meeting summary, the committee decided it was best to keep that language without change.
- ✓ Committee decided by consensus to eliminate yellow pages, eliminate requirement for community input as a prerequisite for kill permit issuance, eliminate online permittee directory and replace with a centralized database accessible by a centralized number.
- ✓ Committee agreed it generally preferred, on principle, to avoid suggesting a change to the Code of Virginia as such a recommendation could jeopardize the rest of the Committee’s work, although the DGIF, supported by some members, wanted to reserve the right to decide if some issues were best addressed through the code.
- ✓ Committee agreed to drop the following issues: incorporating “timeliness” as a criteria in staff evaluations; using professional sharp shooters where there are safety concerns; using data to investigate abuse; creating smaller districts; and also “zero tolerance” for violators of the kill permits was removed since it conflicted with CPO discretion and could have adverse consequences.
- ✓ Committee agreed to just focus on the species named in the charge (deer, elk and bear) but would like to have it noted somewhere in the report that other species can be a pest problem. It was asked of DGIF if there was a way to address problems, such as turkeys in vineyards, *without altering* the COV. DGIF responded that this had been done previously for muskrats and other species under certain conditions, and the agency could explore situations that could allow special permits, which would not necessarily involve kill permits.

- ✓ Committee agreed to remove language about local ordinances but keep the idea that the process should account for local conditions and allow CPOs to use their discretion. The final report should note that CPOs already do this and should continue to do so.

- ✓ Committee generally agreed that baiting should only be used at a CPO's discretion and only for safety reasons. DGIF agreed and stated that this was already policy. The panel wanted this elaborated in the SOP. Safety concerns, in general, should be a guidance recommendation to CPOs via the SOP.

Appendix C:

Definition of consensus:

- You can live with the proposal and not compromise issues of fundamental importance
- You can support the overall package though individual parts of it may be less than ideal
- You will work to support the full agreement, not just the parts you like best

Testing for consensus

3 fingers = Full support

2 fingers = You have questions/concerns but can live with it and support

1 finger = You have too many questions/concerns: cannot support or live with it;
blocks consensus

[0] = [All of the above assume that final signature of agreement may also need to consult with organization, but [0] may be used if you cannot give *any* indication of support without consulting constituencies]

AppendixD:**Kill Permit Stakeholder Committee Charter**

The stakeholder committee agreed to the following principles on how it would conduct its process.

Representation

- Stakeholders should strive to make all five meetings.
- Stakeholders should choose an alternate if they cannot make one or more meetings. They are responsible for briefing their alternates on the proceedings. DGIF should be informed in advance as to whom this will be. Alternates will be allowed to participate fully, but votes are limited to one vote per organization.

Responsibilities of Representation

- Stakeholders are expected to communicate the committee's progress and proceedings with the organizations that they represent.
- They are also expected to seek the opinions of the organization or constituency they represent.
- If they are representing an organization with members, they are expected to represent that organization's views, not their own personal opinion.

Communication Between Members

- People should state their name and affiliation.
- No one should call anyone unless previously agreed.
- Business should not be conducted by email and emails should not be reply to all.
- If a stakeholder wishes to opt out of sharing their contact information they must email the IEN Intern Charles at cbk5da@virginia.edu. IEN will set up a listserv so that contact can be maintained while emails addresses are kept private.
- All emails should start the subject line with "Kill Permit."
- Contact should remain within this group and should be minimal.
- DGIF should provide information relevant to meetings in a timely fashion so that stakeholders can take the information to the groups they represent. It was agreed that this means that DGIF should disseminate information at least a week in advance of a meeting.

Communication With The Media or Others

- If a stakeholder is approached by the media or others outside of a meeting, they will refer questions to the DGIF, and also make it clear that their comments are their own personal opinion.

Decision By Consensus

Recommendations and decisions will be made by consensus. Consensus for the group will mean:

- Everyone can live with a proposal without compromising issues of fundamental importance.
- Individual components of an agreement may not be ideal but overall the package is worthy of support.
- You will work to support the full agreement, not just the parts you like best.

Any committee member may call for a test of consensus at any time. Consensus will be tested using a three-level gradient of agreement:

- Three means a stakeholder fully supports a decision.
- Two means they have questions and concerns but can live with the decision.
- One means that they have too many questions and concerns and need more discussion because they cannot support a decision. Consensus is thereby blocked.
- Members who cannot support a decision may also step aside on that issue, providing they are still willing to support the final package proposal.

Discussion Guidelines and Requests

- To save time, stakeholders should agree with a comment, not restate it.
- Cell phones should be silent. People will excuse themselves to take calls outside.
- Stakeholders should be brief in making points.
- One person should speak at a time and should be recognized in order to speak.
- People should speak respectfully and should not make derogatory comments.
- Meetings shall be a safe place for all perspectives.
- There is no such thing as a bad idea.

Appendix E:

Virginia Department of Game and Inland Fisheries
Stakeholder Advisory Consensus Committee on Virginia's Kill Permit System
Facilitated by the University of Virginia Institute for Environmental Negotiation
 (www.virginia.edu/ien)

Meeting #4

August 17, 2011

DGIF Headquarters, 4010 West Broad Street, Richmond

8:00 Welcome/Introductions

Institute for Environmental Negotiation: Tanya Denckla Cobb, Karen Terwilliger, Kristina Weaver

- (5) Welcome, quick Introductions, Review Committee Charge, its "Charter", where we are in the process
- (10) Review committee's consensus decisions to date
- (5) Review today's agenda to develop committee's consensus recommendations

8:20 Setting the Stage for the Committee's Report and Recommendations

- Review Draft Outline of Committee Report
 - (10) Review *Table of Contents*: Anything missing? Organized appropriately?
 - (10) Review *organization* of committee's issues and draft recommendations

8:40 Consider Two Major Proposals Covering Multiple Committee Ideas

- Review 2 proposals offered to meet that framework - discussion of key points/differences agenda item we need to decide
- Identify areas of common agreement, building consensus

9:30 Introduction of Delegate Morgan and Remarks

(5) Introduction by Bob Duncan, Director

(10) Comments by Honorable Harvey Morgan, Virginia Delegate, 98th District

9:45 Break *(morning bagels, yogurt, snacks still available)***10:00 Review Outline of Committee Report: Part 1 – Background; Survey Results; SB 868; Part 2 - Committee Charges; Part 3 - Committee Process**

- Have we identified all the key items that should be included here?
- Anything missing from this section?

Review Part 4 of Committee Report Outline: Issues Identified by Committee

- Review summary list of major issues identified by the committee
- Have we identified all the key items that should be included here?
- Anything missing from this section?

10:20 Review Part 5 of Committee Report Outline: Recommended Strategies**To Address *Meeting Farmers Needs in a timely manner***

- Review summary list of committee's proposed strategies to address this issue; includes sub-issue of enabling hunters to reduce herd pressure; expanding KP potential.
- Review 2 proposals offered – any remaining work to be done?
- Do these strategies actually address and help resolve this problem? Have we gotten at the real underlying problem?
- Additional strategies needed/ suggested?
- Reality testing with DGIF: are these doable? Feedback, concerns from DGIF?
- Further refinements or changes?
- Test for Consensus on whether basic strategies are supported, allowing for further

Review Part 5 of Committee Report Outline: Recommended Strategies**To Address *Improve How to Contact the DGIF – addressed under SOP Proposals? Remaining issues?***

- Same set of questions as above

Review Part 5 of Committee Report Outline: Recommended Strategies**To Address *Improving Consistency in Implementation Across Counties – addressed under SOP Proposals? Remaining issues?***

- Review summary list of committee's proposed strategies to address this issue (includes proposal to develop standard operating procedures; aligning definition of agriculture to include new orchards, all beekeeping; wording to include municipalities);
- Same set of questions as above

Part 5 of Committee Report Outline: Recommended Strategies**To Address *Improve Safety Surrounding KP System***

- Review summary list of committee's proposed strategies to address this issue
 - Includes sub-issues of baiting; food safety (fecal contamination); recourse for neighbors
- Same set of questions as above

Review Part 5 of Committee Report Outline: Recommended Strategies**To Address *Preventing Abuse of the KP System***

- Review summary list of committee's proposed strategies to address this issue
 - Includes sub-issues of personal responsibility for damage; special or different criteria for elk (to differentiate elk from deer); carcass disposition
- Same set of questions as above

1:15 Lunch (short break and continue with working lunch)**1:45 Review Part 5 of Committee Report Outline: Recommended Strategies****To Address *Improving Data Collection for Future Decision-Making***

- Review summary list of committee's proposed strategies to address this issue
- Same set of questions as above

2:15 Responding to Committee Charges- # 4, 6, 8?

- (20) VDGIF PPT presentation of its findings on Committee Charges on Abuse and Values
- (25) committee discussion, Q and A

3:30 Review Part 6 of Committee Report Outline regarding SB868

- VDGIF Staff Technical Recommendations – re: herd stress and abuse:
 - Are there specific requests that Committee has regarding DGIF's findings? e.g., specific DGIF findings that committee wishes to highlight or emphasize?
- Per charge: Committee identifies any additional issues raised by SB868. (NB: Committee is *not* asked to develop recommended solutions to these issues)
 - Brainstorm additional issues to be included;
 - Prioritize and identify top issues.

4:30 Next Steps

- Drafting final report - process and deadlines for posting draft
- Revisions, comments by committee members

5:00 Adjourn

**Kill Permit Stakeholder Advisory Committee
Virginia Department of Game and Inland Fisheries**

Meeting #5

**September 20, 2011
4010 West Broad Street, Richmond, Virginia 23230
9:30 AM – 4:00 PM**

The meeting opened with the Institute for Environmental Negotiation (IEN) thanking the committee for contributing so much time and effort over such a long process. The panel has found common ground and created guidelines with which to address the kill permit issue. The

purpose of this last meeting is to make sure that the panel is satisfied with the report and, ideally, achieves consensus support for its recommendations.

IEN reviewed the documents that were to be used for this last meeting. They included the meeting's agenda (Appendix A), the subcommittee meeting notes (Appendix B), and Part IV of the draft report (Appendix C). The majority of the day's work focused on Part IV of the draft report. Highlighting in the document reveals proposed changes in the document, which were systematically discussed during Meeting 5. The Department of Game and Inland Fisheries (DGIF) was recognized for pulling together significant amounts of information and creating the more than 160 page document.

Review of DGIF Sections of Draft Report

DGIF explained that the executive summary will be written after the day's meeting is finished. Part one of the report is background materials. Part five was also authored by DGIF and addresses charges related to SB 868. The agency explained that all technical information, excepting a small amount in Part V, has been previously presented to the committee. DGIF stated that they will send digital copies of the report to the group and those that wish to have a paper copy can request it.

It was noted that some panel members had not had time to read the entire draft report as some members of the panel cannot access basecamp and did not get a paper copy. IEN noted that the day would focus on issues that had been contentious or needed to be addressed again after the subcommittee meeting. Furthermore, documents had been available on basecamp for some time. The panel took a few minutes to review the document so that all members could note areas of concern.

It was further noted that no representative of the sportsmen group had been at the subcommittee meeting as it was at a later date than had originally been intended. Sportsmen noted that there may be more concerns beyond what had been identified at the subcommittee meeting. IEN reinforced that the group would look at any concerns brought up at this meeting.

Report Draft Part IV

The first concern the group examined was in the 'preamble' section of Part IV. DGIF was concerned that not all stakeholder groups had had their concerns fully addressed. DGIF explained that the group had expressed a wide range of concerns and that most of the panel's recommendations dealt with DGIF's consistency of implementation. The department noted that it may not be able to specifically address every nuance of every recommendation and concern of the panel. The agency has not had the opportunity yet to explore every issue and all recommendations. The agency hopes to remain transparent and keep panel input but does not want the panel to think that every recommendation is something DGIF can accomplish. Stakeholders can still come to DGIF and remind the agency at a later time if there is an unsatisfactory implementation or changes that still need to be made. DGIF and the panel

recognize that there are very different issues between kill permits for municipalities, airports and farms. Very different procedures will need to be developed for each of these.

Representing All Interests

- A panel member wanted to know if DGIF is still committed to having standard operating procedures (SOP). The agency confirmed that many of the issues the panel has noted can be written directly into agency policy. DGIF will not reject any of the panel's recommendations. The agency's responses in the draft report are to seek clarification and build understanding whilst maintaining transparency throughout the process.
- IEN clarified that other concerns on this preamble issue were on the focus of the panel and report on agriculture and that DGIF would maintain the intent of recommendations if not the explicit prescription of the recommendation itself.
- The panel was under the understanding that it had given the agency the go ahead to work out with municipalities, airports and other special groups to do what needs to be done. This should be noted in the report.
- A panel member representing a municipality noted that there has never been a problem working with the department for kill permits. The current code as well as the recommendations of the panel gives municipalities the leeway to do their job. Airports are similarly concerned.

Statutory Changes

- A panel member commented that they would not support any statutory changes except for the change required to differentiate elk from deer. DGIF commented that the panel's consensus on not having statutory changes would be kept. The only change that would be made would be for the elk issue.

Implementation Timeline

- DGIF noted that the timeframe for implementation is currently unknown as coordination within the agency and with other state agencies such as VITA will be needed.
- A panel member asked that the wording "as expeditiously as possible" be used regarding the implementation timeline.
- It was asked if the department could note which recommendations will have an undetermined implementation timeline.
- The panel requested that DGIF find a way to keep the panel up to date on implementation. The panel has given a lot of time and effort to this process and wants reasonable assurance that the recommendations will be addressed.
- DGIF noted that it is a public body and thus is accountable to the public. It intends to honor the panel and agency's money, time and effort spent on this process. While a

timeline can be set up, a strategic plan to accomplish the recommendations takes time to create. The agency questioned the panel's idea that the agency need to annually report progress on the panel's recommendations to the general assembly (GA). Instead, DGIF would prefer to report back to the panel directly or update on the status online. The panel supported the idea that DGIF post this information online. DGIF suggested semi-annual online reports.

- It was also asked that kill permit data be included in other reports, such as species reports.

DGIF Homepage

- The intent of this section is to make the complaint process easier and to create a more efficient way to track and rectify complaints. A webpage may be too specifically prescriptive at this point.
- DGIF noted that it had heard concerns about making too much information public. In order to address both of these concerns we need to have some flexibility in how to do that. Anybody who wants to get this information can do it via a FOIA request. Some members of the panel voiced support for this comment.
- It was noted that complaints that can lead to a criminal investigation is not something that should be publicly available online.
- During the subcommittee meeting this issue had been clarified to the panel wanting language instructing the public on how to get this information, but not to actually provide the information without a proper request.
- There needs to be a mechanism to collect abuse information. Individuals' names need to be collected in a manner that shows repeat offenders so that the agency can police abuse in the system.
- DGIF noted that it will need flexibility to achieve the intent of this recommendation. There are laws and other issues that the agency will need to work around and with to achieve the intent.

Meat and Carcass Disposal

It was noted that this recommendation is to help ensure ethical use of animals killed on a kill permit and to honor the strong feelings of some panel members. It cannot be made mandatory as there can be health and other concerns. The agency stated that it would put this recommendation into practice and encourage applicants to properly dispose of carcasses and to use the meat when possible, and that agents have leeway to use their judgment for proper, practical and safe disposal of carcasses.

Defining Commercial Agriculture Production

DGIF proposed a two-part definition of commercial agriculture: 1) a definition of agriculture similar to that contained in the Code of Virginia (COV), but with key additions; and 2) criteria for commercial operations as evidenced by supplied proof, where necessary.

- There was significant confusion over this definition of agriculture and how commercial production was related. DGIF clarified this by referring the panel to the commercial qualifier test.
- A serious concern with defining agricultural production is that people who grow food plots to attract animals to shoot would get the same protection as a bonafide commercial agricultural producer. In order to address this concern it was recommended that the statement **“food plots created with the purpose of attracting wildlife and not for commercial production do not qualify for a kill permit”** be added to the report. However, the panel did not want to penalize commercial producers with legitimate lure plots. DGIF noted that CPOs can use their discretion to determine legitimate lure plots.
- It was noted that during the subcommittee meeting, DGIF’s concern with defining agricultural operations was that it could have possible implications for silviculture. Traditionally, DGIF has not issued kill permits for silviculture due to the associated time frame and that this could open up full year long kill permit issuance. CPOs need discretion for this issue. Early stage production of fruit trees and nurseries should qualify for kill permit protection but natural timber regeneration for logging should not. The commercial means test will help determine qualification for kill permits.
- DGIF noted that it will give guidance to CPOs on what is agricultural production, what is commercial production and will work with foresters to figure out how to incorporate legitimate silvicultural uses such as purposeful, paid for replanting into this definition.

Extrapolating the Agricultural Process to Others

The panel confirms and supports that the agricultural process that has been determined through these recommendations should have its intents extrapolated by DGIF to other permit types (e.g. – residential and municipal kill permits). DGIF stated that it will consistently apply this where appropriate.

Pre-Registration

DGIF questions the value of pre-registration as being useful in and of itself. This recommendation could create problems for the agency. The agency does however want to help applicants and farmers to take preemptive action to manage wildlife.

Rapid Response from DGIF

The department is having a new dispatch system developed. It will require proper applications to DGIF for kill permits instead of informal communications to local implementers. The panel did not want this system to make it impossible to contact their local agent or CPO. Furthermore, DGIF clarified that the agency will, in the case that an agent cannot act on a call

immediately, reroute to the next available agent to ensure the most rapid response possible from the agency.

Permit Conditions

The agency wants to maintain discretion for permit issuance. Being required to issue permits for the entire season of a crop or the time that the crop can be potentially damaged could be over prescriptive.

- The panel noted that it wished to reduce the number of permits required per season. Having permits issued for the time in which damage could occur to a crop helps meet this.
 - There was concern that this could remove coverage of stored crops.
- There was concern that having permits end when a hunting season begins could penalize certain areas, such as urban areas or airports, that do not have hunting seasons. DGIF stated that this will not penalize those specific conditions. Kill permits can be issued year round under certain circumstances.

Elk and Bear

It was decided that elk and bear be separated into different sections in the report. DGIF will separate them but maintain consistent language as appropriate.

Elk and Deer as Separate Species

Code Change

- Agricultural interests were concerned that separating elk from deer could lead to no kill permit program for elk. Elk must be included within the kill permit program.
- The COV lists elk as separate from deer in six different locations, including §29.1-356 and §29.1-100. It was questioned if a code change is necessary with these definitions already occurring in the code.
- DGIF noted that the agency's attorney advised them that if they want to have non-lethal methods for elk, it would need to be specified in the kill permit section of the code. Thus a code change is necessary. It would be the cleanest, clearest way to address elk within the kill permit system and allow non-lethal options similar to how non-lethal options are used for bears. DGIF will only seek a code change for allowing non-lethal methods to be used on elk.
- It was noted that there needs to be a strong emphasis on non-lethal methods for elk inside the restoration area.
- The panel noted that the agency is past its deadline to submit legislation for review. It is necessary for the group to line up sponsors, write up specific language, and start lobbying to get this code change done.

- The specific code change proposed would put elk next to where non-lethal options are authorized for bears. The title for §29.1-529 would also need to be changed to maintain consistency.

Other Elk

- Requiring three consecutive elk captures before a kill is logistically, legally and authoritatively hard to do especially if an applicant or landowner carries out the captures and tagging. DGIF or their designee should be put into the recommendation instead. The panel was supportive as long as animals get tagged. It was also suggested that the landowner or applicant should be allowed to be the aforementioned designee.
- There is currently no elk hunting season. It was noted that hunting is a prerequisite for a kill permit. This will be changed specifically for elk to not require hunting before a kill permit.

Crop Damage Definitions

DGIF noted that, regarding fecal contamination and other types of crop damage or new areas for kill permit issuance, this is an emerging field. While DGIF does not mind the panel's recommendation, it does want the panel to understand that this is a new field.

Expanding Species Covered by Kill Permits

DGIF noted that there are a number of species that the agency could use kill permits to cover. The panel decided to not deal with this subject during its examination of the kill permit system. The panel decided to remove specific 'other species' in this section of the report and instead leave it as just "other species".

Notifying Neighbors

DGIF and municipality representatives noted the difficulties in notifying adjoining landowners of the issuance of a kill permit. DGIF will encourage permittees in residentially zoned areas to notify their neighbors of their kill permit issuance.

Abuse

DGIF will take the committee's recommendations for more accountability, better record keeping and a formal appeals process and incorporate them into the agency's new system. It was noted that it is very hard to control, document and track abuse unless the abuser is caught red handed. However, the new DGIF system will track complaints, abuse, etc. over the life of a kill permit. All of this information will be FOIA searchable, but the agency will be able to run quick checks to see if there are kill permits at specific locations. The agency will be able to keep track of reporting with the system.

Consensus for Statement of Panel Support for the Report

It was asked by the panel to vote for consensus on having a declaration in the report that lists members of the panel and their organizations. The declaration would state that these members and organizations concur with this report and support it as a broad deal between the groups present. Consensus was achieved with nineteen members fully supporting this declaration and two supporting with some reservations.

Concern was that some members could not necessarily represent their organizations without the organization seeing the document. Those members will check with their organizations for support before they have their names added to the list.

Overall the statement will show the General Assembly that the organizations present agreed to the documents and the process. It will show that the recommendations come from a broad group of organizations.

Consensus Test for Part IV of Panel Report

It was clarified that the panel's work in Part IV contains the heart of the panel's recommendations and is what is being voted on for consensus, not the other DGIF sections such as Part V. It was asked that it be clarified that Part V is the department's response and not that of the panel. DGIF said that this will be made clear.

The panel voted on consensus with nineteen members in full support and two supporting with reservations. Consensus was achieved.

Next Steps

DGIF thanked the panel for its time, attention and focus. DGIF applauded the work that led to this consensus. DGIF noted that it only has ten days to finish the report so it will be submitted almost exactly like the draft that has been worked on. The report will include a cover letter from Bob Duncan to Chairman Harvey Morgan. The executive summary will also be added. The report will be put up on basecamp. Those who want a paper copy can request it from David Whitehurst.

DGIF will issue progress reports every six months. Major Mike Minarik offered the panel his cellphone number so that they can contact him with any concerns or questions. The agency emphasized that the panel should call the department if they see any problems or have comments on anything. DGIF also wanted to thank Frances Greenway and other staff who helped put together the logistics of the meetings.

IEN recognized DGIF's commitment to the process and commended the agency for how helpful and responsive it has been throughout the process. IEN also commended the panel for the work it did to achieve consensus. IEN thanked the panel for all of its time, effort and sharing of differing opinions, viewpoints and information.

The panel thanked DGIF for putting together this process.

Appendix A: Meeting 5 Agenda

Virginia Department of Game and Inland Fisheries
Stakeholder Advisory Consensus Committee on Virginia's Kill Permit System
Facilitated by the University of Virginia Institute for Environmental Negotiation
(www.virginia.edu/ien)

Meeting #5

September 20, 2011

DGIF Headquarters, 4010 West Broad Street, Richmond

9:30 Welcome/ Introductions

Institute for Environmental Negotiation: Karen Terwilliger, Kristina Weaver

- (5) Welcome, quick Introductions
- (10) Review where we are in the process, outcomes of the Subcommittee Meeting, and today's agenda

9:45 Review Draft of Kill Permit Report - DGIF Sections

- Brief overview of DGIF sections in the final draft
- Comments and questions from the Committee

10:15 Review Draft of Kill Permit Report – Committee Sections

- Brief review of Part III: Issues Identified (15 minutes)
- Systematic review and discussion of Part IV with emphasis on highlighted areas that reflect new developments in the following:
 - Pre-registration Issue
 - Response Time
 - Crop Growing Season
 - Classification of Elk in relation to Code Change
 - Proposal Outlining the Interests of Neighbors
- Q & A with DGIF as needed

12:15 Lunch

12:45 Finalizing the Review: Testing for and Building Consensus on Committee Recommendations

2:00 Next Steps

- DGIF plans with regard to Final Report
- Q & A from Committee Members
- Thank you to Committee Members

Adjourn

Note: End time is unspecified because Meeting 5 may wrap up early, depending on the extent to which the Committee needs to build new consensus. We will have you out by 4pm at the latest.

Appendix B: Subcommittee Meeting Summary

Kill Permit Panel Subcommittee Meeting

September 9, 2011 at 10:00 a.m.
4016 West Broad Street, Richmond, Virginia

~~The Institute for Environmental Negotiation (IEN) opened the meeting by briefly stating~~ that the purpose of this meeting is to offer representatives from the larger kill permit panel an opportunity to serve as a sounding board for Department of Game and Inland Fisheries (DGIF) questions and concerns regarding the implementation of the panel's recommendations. The committee has previously voiced strongly that it wants to know if the Department has any concerns or barriers to implementing the panel recommendations. A brief round of introductions was held for those in attendance and the meeting commenced.

A draft of the Committee's report was used to form the structure of the meeting. The subcommittee went through this document to address DGIF concerns that had been highlighted. The document can be found on the panel's basecamp site. Only part four of the document, the committee's recommendations, was being examined at this meeting.

A subcommittee member noted that they would prefer to go through part four of the document from beginning to end and deal with substantive issues. Wordsmithing would be noted but avoided in favor of larger issues. This will help move the larger panel along at the next meeting. It was also noted that this process can help the subcommittee find any stumbling blocks before the larger panel meets. DGIF noted that they would like to use this meeting mostly to get clarification of intent for certain issues in the document.

Review of the Committee Draft Recommendations

Meeting the needs of a diverse group of stakeholders

DGIF commented that the preamble of section four (committee recommendations) took note of many different stakeholders while the recommendations themselves dealt mostly with agricultural interests. Recommendations did not seem to address residential, urban or suburban areas. The agency would like to know if these other stakeholder groups have had their needs addressed by the current existing Code or if the agricultural recommendations should be used as guidelines for adapting the kill permit process. The panel has shown that it realizes the need for flexibility regarding kill permits and urban, rural, municipal, residential and biological needs. Most of this flexibility

that was realized by the group focused on agriculture.

A stakeholder commented that agriculture was responsible for State Bill 868 because it had many concerns. Other stakeholder groups were responding to potential impacts caused by these concerns, and were all represented on the committee. IEN noted that the sportsmen constituency presented a proposal similar to the agricultural one and that

the sportsmen's suggestion to use the agricultural proposal as the baseline for the committee's recommendations indicated that they were seeing their needs met. IEN asked the DGIF for further clarification on its underlying concern.

The agency responded that their underlying concern is that this proposed process is very focused on agriculture and

the agency still needs to address kill permits in the residential and urban context. DGIF wants to know if the panel's recommendations are to help direct all kill permits. This is especially important since the group had a good representation of all interests and all interests brought up good issues. The agency noted that the sportsmen constituency's interest in kill permits focused on the agricultural implications of kill permits more than the suburban and urban. As long as the panel recognizes that DGIF needs flexibility in addressing protocols and the Department addresses consistency in application for identified issues, the recommendations should be fine. Issues raised in the report need to be addressed according to such protocols.

A panel member noted that they wanted to make sure that the recommendations would not weaken the abilities of municipalities to work as they do under the current kill permit system. Unless DGIF feels that there were issues dealing with the application of permits in municipalities, the municipality's stakeholders are fine with the current Code. They felt that originally there was some language that could have changed the way municipalities do things,

but that was dealt with appropriately and has relieved those concerns. DGIF responded that they do not believe that municipalities' ability to accomplish their goals will be undermined.

Another stakeholder noted that the timelines set for rapid response for agriculture is appropriate for agriculture but may not need to be altered for municipalities unless DGIF needs to change them for residential areas. It was also noted that due to the broad representation on the panel, it was apparent that other issues other than agriculture had been addressed and the intent of the line in question was to act as a preamble to show

this. IEN will edit this to indicate that this line is part of a more general, preamble recommendation.

Homepage for Kill Permit

DGIF noted that this a homepage for the kill permit would be possible to do, but reminded the group that there were concerns from farming interests on how public this information would be. The agency can create forms, but the concern is that this is public information that is not necessary to display on the web. However, if someone asks for it, the agency has to give it out. How deep does the panel want to go with this website?

A panel member responded that this is something that needs to be discussed with the full panel, especially with the neighboring property owners contingent present. Maybe if the website has who to contact and how to get information regarding complaints, that would be better. The site could tell the public how to get the information but does not necessarily put up all the information readily available in the open.

Definition of Commercial Agriculture Operations

The agency noted that, excepting bee keeping issues, defining agriculture could open a Pandora's box with defining silvicultural activity in such vague terms. This definition could allow wild land timber management or other operations that are not necessarily agricultural to get kill permits. Kill permits should apply to nurseries but not necessarily timber regeneration across a landscape. The agency acknowledges that it lacks a good definition of a commercial agricultural operation. The agency needs to be able to clarify between legitimate operations and someone who is going to claim a bona fide operation but really just wants to shoot deer.

A panel member commented that since the Code is not being altered to define agriculture for kill permits, the panel can define agriculture however it wants. It is critically important to have a more clear definition of agriculture for the agency. The panel could use COV §3.2-300 as starting point. Emphasis needs to remain that a farmer has to prove that they have a commercial agriculture operation.

DGIF noted that they can help create a good definition in their policies that enumerates that agriculture will include; bees, honey, tree nurseries and other concerns brought up by the panel.

An agriculture representative on the subcommittee stated that they think the panel can

work on a definition but should use COV §3.2-300. For consistency the definition needs to stick with the bulk of 3.2-300, but needs to work on what protection should be given to silvicultural activities. Agriculture offered to work on a definition to incorporate into the next draft report for panel review.

Appendix C: Draft Consensus Recommendations Reviewed during Meeting 5

Part IV: Committee Recommendations to Address These Issues to Improve the Kill Permit System

The Committee developed several consensus recommendations aimed at addressing the issues identified above. These recommendations are listed below.

Note that specific recommendations are annotated by a parenthetical referencing system of brackets containing the numbering of the issue(s) addressed. These numbers correspond to the list in the above section, and they are included so that the reader may track particular recommendations to the issues they address.

Consensus Recommendations to Address Multiple Issues

General Framework for Committee's Recommendations

{NOTE TO COMMITTEE MEMBERS: Highlighted in blue are areas identified by DGIF as issues that it wished to discuss at subcommittee meeting for clarification or to express concerns. Areas in yellow highlighting are notes to committee members that explain discussion points from the subcommittee meeting. We have preserved tracked changes where original consensus language has been altered as a result of the subcommittee meeting. This language should be revisited by the Committee.}

To ensure consistent application of the Kill Permit Program, the Committee recommends that the DGIF develop through the least disruptive means possible a kill permit program that will ensure consistent application of the program and meet the needs of a diverse group of stakeholders including farmers, residential landowners, municipalities and localities, airports, and the hunting community (9,27,1,3). To accomplish this, the committee envisions that the DGIF will make changes through statutory, regulatory, or guidance mechanisms as appropriate. The committee intends for its recommendations to provide guidance on the specific areas of the kill permit system that need improvement, and also does not want to weaken what is currently in the Code of Virginia (Code). It does not expect the DGIF to be able to implement its recommendations overnight, and also wishes to clear that it desires the DGIF to implement the *intent* of its suggestions without feeling obligated to implement every single specific detail of the committee's suggestions.

{NOTE to committee: DGIF expressed concern that not all of these stakeholder interests are necessarily reflected in specific recommendations pertaining to them; subcommittee noted that all these interests participated in the discussions and weighed in on the recommendations. Additional language has been added to clarify the committee's intent. Additional language was also added to reflect the DGIF's concern about being held accountable to the very prescriptive nature of the committee's recommendations.}

Those who are issuing permits should be able to take species management plans and specific circumstances of localities into consideration (10,11).

The committee recommends that DGIF consider a DGIF homepage that will include a site for complaints and system for reporting and investigating complaints (7,4,26,23). The committee's intent is that the DGIF should make it extremely easy for people to lodge complaints as well as to inquire about complaints that have been filed by others. It understands that citizens are also able to obtain specific information on complaints and abuses through the Freedom of Information Act.

{NOTE: DGIF clarified that it does not believe posting specific names, or specific complaints, on a website would be helpful or appropriate. The subcommittee emphasized that its intent is *ease of filing complaints, and ease of inquiring about complaints.*}

The committee strongly recommends that meat from animals killed on kill permits be used and not be wasted and that carcasses be disposed of properly (24).

Proposed Process to Address Applicants for Kill Permits

All Species: General Specifications

Item 1: Definition of Commercial **Agricultural Production**

{NOTE: From subcommittee discussion, a new definition was developed to ensure that a new area of potential permittees is not being created for all silvicultural activities. New language was also added to clarify committee's core intent.}

The committee recommends that the DGIF create a definition in its operating procedures for commercial agriculture that is clearer than is currently found in the Code.

Commercial agricultural operation shall be defined as in §3.2-300
“Commercial agriculture operation” means any operation devoted to the bona fide production of crops, including honey; or animals, including bees or fowl; or including the production of fruits and vegetables of all kinds; or meat, dairy, and poultry products, nuts, tobacco, nursery, and floral products; and early stage production of trees. (21) (22).

- When proof is necessary as determined by the CPO, sufficient evidence of proof of a commercial agricultural operation may include any of the following provided to the Department upon request:
 - o Conservation plan established by NRCS, SWCD, or other entity
 - o Copies of bills and receipts of sufficient amount for establishment costs associated with the operation
 - o Copies of other expenses related to the agricultural operation
 - o Other evidence deemed sufficient by the Department at the time of their request (20)

Item 2: Appeals Process Established (26)

- If an individual has been denied the initial Kill Permit, he/she can file an appeal with the Department Director or his/her representative outlining the reasons he/she believes that his/her kill permit request was wrongfully denied.
- The Committee would like the Department to develop a formal appeals process that may have these components:
 - o The Director or his/her representative must initially respond and address their appeal without undue delay, and with a formal written response no later than 5 days from written notification of appeal, giving the reasons for either upholding the initial denial or reasons for overriding the denial.
 - o All appeals will become part of a permanent record.

Item 3: Enforcement Mechanisms

- All current enforcement mechanisms will remain in place as established by §29.1-529 F.

Species: Deer - Process to respond to and issue Agriculture Kill Permits

{Note to committee: The DGIF interprets this as being able to develop similar processes for residential permits, where appropriate, and it will do so. Have added language to reflect this in committee's recommendations.}

While the committee has outlined recommendations below for improving the process for obtaining an agriculture kill permit, it also suggests that the DGIF may wish to develop a similar process for residential permits, where appropriate.

- Note: To be used for antlerless deer unless the Department finds clear and convincing evidence that an antlered deer is the cause of the damage, in which case a waiver to this requirement shall be granted.

- The kill permit holder or his/her representative, who must be given authority by a CPO, may execute the permit.

Step 1: Pre-Registration and/or Initial filing of Kill Permit Request (1,2,5) {Formal process for connecting with landowners early on, prior to the issuance of a kill permit}

{The DGIF expressed concern that pre-registration could overwhelm the Dept with requests, and also specifically requested that the idea of a pre-registration number was overly prescriptive. It would like to have the latitude to develop an internal administrative process, not necessarily pre-registration. New proposed language reflects this.}

The committee's intent is for the DGIF to develop an easy and simple way for landowners to work with the DGIF early on, well in advance of a crisis situation in which animals are causing damage and an immediate permit is needed. The committee would like this early contact with the DGIF to include education about non-lethal ways the landowner can prevent the need for using a kill permit. It also may be helpful to landowners to provide them early on with contact information for nearby hunting associations, but the committee would not want hunting associations to be given landowners contact information, as that could lead to abuse.

The committee suggests that one way the DGIF might accomplish this goal is to enable landowners to pre-register prior to needing kill permit; this would provide necessary information to DGIF to utilize when making initial kill permit request. Pre-registration may allow (but not require) DGIF staff to visit the farm, with landowners consent, to establish initial discussions regarding certain permit conditions.

- The Committee encourages DGIF to educate landowners who have property upon which damage is occurring to allow hunting or other control measures (12,15).
- A key feature the committee would recommend is that a landowner should be able to file requests through a central system (1-800 number, website, or other options) for a kill permit. (2,4).

Step 2: The Committee would like the Department to develop Response and Establishment of Permit Conditions with the following components (1,2):

The committee's goal is for landowners to receive a response from the DGIF as soon as possible; if the DGIF cannot respond within 48 hours, the committee would like the request to be rerouted to somebody who *can* respond within 48 hours. The committee recognizes that this will require a change in practices for landowners: for the clock to start ticking, the landowner will need to call the central routing system to engage the system, and not rely on personal DGIF contacts.

For first time Kill Permit Requests a DGIF representative will respond within 24 hours and will be onsite as soon as practically possible, ideally within within 48 hours, at a time agreeable to the landowner, for inspection of the damage and establishment of permit conditions.

{NOTE: the DGIF is concerned that it may not be able to *dispatch* someone to the property within 24 hours, but it can *respond* within 24 hours. A proposed change in language reflects this concern about ability to implement.}

- Permit conditions will include:
 - o Permit **will** [may be] be authorized for [up to] the length of the crop growing season, as set forth in guidance by the Department in consultation with Virginia Cooperative Extension and the Virginia Department of Agriculture and Consumer Services (5).

{NOTE: Currently, authorizing a permit for up to the length of the crop growing season is at the discretion of the DGIF; the committee will need to discuss this issue – whether it wishes to *encourage, while still allowing discretion*, or wishes to ask the DGIF to *require*.}

- o Up to fifteen deer will be allowed to be harvested under each kill permit, consistent with the deer management plan, unless DGIF feels a larger number is appropriate for that circumstance. Subsequent requests for additional animals on a kill permit during the calendar year will be in fifteen animal increments (see Step 4- Subsequent Requests). Fifteen animal increments can be expanded at the discretion of the Department on a case-by-case basis in instances of significant crop damage or large acreage (5).
- o The kill permit will not be effective during hunting season and will expire no later than the first day of hunting season for deer (11,12). Upon the discretion of the Department, this requirement can be waived on a case-by-case basis if deemed necessary to address significant damage, emergencies, or other extenuating circumstances. {NOTE: There continues to be concern about the language, to make sure it is clear what is intended; language change reflects this}
- Upon the determination of the Department, based upon herd management and safety concerns, the Department may waive the initial inspection (2,11).

Step 2 (a): Lack of DGIF Response within 48 hours and Interim Authorization for Kill Permit

- If an individual does not receive a response within 48 hours, then this individual may use the Appeal Process. The Appeal Process will include mechanisms for complaint (26).

Step 3: Reporting of Harvested Deer

- A reporting system will be developed to allow reporting of harvested deer by kill permit holders or others designated on their permit at the end of the permit. When feasible, the Committee would recommend that this be incorporated into the centralized database, including but not limited to electronic reporting. This reporting system will

support a complaint system that is available to permit holders, the public, and law enforcement (23).

- Data from the reporting system may be used in aggregate by the Department to provide necessary data for future decision-making, reports to the General Assembly, Board, and assist in identifying future program needs (29).

Step 4: Subsequent requests for Kill Permits in the same calendar year or into the future (5).

- The committee requests that the DGIF develop a process that would enable subsequent requests in the same calendar year for additional deer on a kill permit be handled quickly and simply. **{DELETE and rewrite this section: Kill Permit Extension Authorization Number [DGIF's concern is that this is too prescriptive; can we instead develop more broad language. New language is an attempt to reflect this concern)}** The committee requests that subsequent requests be authorized immediate kill of up to fifteen deer, consistent with the deer management plan, unless DGIF feels a larger number is appropriate for that circumstance, following the same conditions as the already established kill permit, and reporting requirement.
- Subsequent requests in the next calendar year for a kill permit may be re-issued immediately upon receipt of request and approval of an agency representative, following the same conditions as the previous permit. Normally, it should be established that hunting did take place during the past hunting season. The agency representative should take into account any extenuating circumstances if hunting did not take place on the damaged property. **{REPLACES PARA BELOW}**
- **{NOTE: THIS PARA IS SUGGESTED TO BE DELETED}** Subsequent requests in the next calendar year for a kill permit for the same property would also be re-issued a permit or have their previous permit reactivated [change this to be less prescriptive] that would authorize immediate [OK] kill of up to fifteen deer, following the same conditions [Dept might not want to apply same conditions] as the previously established kill permit, and reporting requirements. Where appropriate, the permittee would be required to state that the property had been hunted for deer during the previous hunting season (12,15).
- **{NOTE: DGIF suggests the following replacement of language for the deleted paragraph}**: Subsequent requests in the next calendar year for a kill permit may be re-issued immediately upon receipt of request and approval of an agency representative, following the same conditions as the previous permit. Normally, it should be established that hunting did take place during the past hunting season. The agency representative should take into account any extenuating circumstances if hunting did not take place on the damaged property.
- *The Committee wished that the following language be included as a qualifier: The requirement for hunting in a previous season is appropriate for most agricultural operations, but not for all permits. Land that is able to be hunted on must be hunted on before a permit can be issued.*

- The Department maintains the ability to extend the amount of animals authorized on subsequent requests.
- The Department may inspect the property and or damage as deemed necessary. {NOTE: Dept is not required to inspect property each year}
- Generally, a kill permit shall not be in effect when a hunting season for the species for which the permit is issued is open in the jurisdiction in which the permit is issued (12). {NOTE: DGIF's concern was addressed by adding word: "Generally"}

Species: Bear and Elk- {NOTE: Dept wondered if these 2 should be separated out; but understands why.} Process to Respond to and Issue Agriculture Kill Permits

Step 1: Pre-Registration and/or Initial filing of Kill Permit Request (1,2,5)

- Landowner pre-registers prior to needing kill permit, provides necessary information to DGIF and is issued a pre-registration number to utilize when making initial kill permit request. Pre-registration may allow for DGIF staff to visit the farm, with landowners consent, to establish initial discussions regarding certain permit conditions.
- The Committee encourages DGIF to educate landowners who have property upon which damage is occurring to allow hunting or other control measures (12,15).
- Landowner files request through central dispatch system (1800 number, website, other options) for a kill permit if damage has occurred from deer and is issued a Kill Permit Request Tracking Number. If pre-registered, operator will provide pre-registration number in request, to be linked to kill permit request (2,4).

Step 2: DGIF Response within 48 Hours and Establishment of Permit Conditions

- For first time Kill Permit Requests a DGIF representative would be dispatched within 48 hours, at a time agreeable to the landowner, for inspection of the damage and establishment of permit conditions (2). Permit conditions will include: [Note, Ag is ok with all of this if elk are treated as deer; if elk become separated out as a separate species, then Ag would have a problem with this]
 - o Permit will be authorized and commence upon damage and last for [up to] the remainder of the specific crop growing season, as set forth in guidance by the Department in consultation with Virginia Cooperative Extension and the Virginia Department of Agriculture and Consumer Services.
 - o The Department can, based upon herd management objectives and wildlife recommendations, authorize non-lethal control measures in lieu of a kill permit for bear or elk (11,14).
 - Non-lethal capture methods should include every effort to tag the animal (14).
 - If a landowner has damage from elk to their property outside the management area from the same tagged animal that has been captured

three consecutive times, the operator is authorized to kill the animal and report the kill to the Department (6).

- Up to three bear will be allowed to be harvested under each kill permit, consistent with the bear management plan, unless DGIF feels a larger number is appropriate for that circumstance (11).
- Outside the management area, one elk will be allowed to be harvested under each kill permit, consistent with the elk management plan, unless DGIF feels a larger number is appropriate for the circumstance. Non-lethal measures are a first resort (14).
- A kill permit shall not be in effect when a hunting season is open for the species for which the permit is issued (not to include chase season for bears) (11,12).
- Upon the discretion of the Department, this requirement can be waived on a case-by-case basis if deemed necessary to address significant damage, emergencies, or other extenuating circumstances.
- Within the Elk Restoration Area, all practical non-lethal methods should first be exhausted. If all non-lethal methods are not effective, it is preferred that DGIF Staff or their agent will lethally remove the elk. In this way, proper biological testing will be ensured (14).
- Outside the Elk Restoration Area, all practical non-lethal methods should first be exhausted (28). If these fail, it is preferred that DGIF Staff or their agent be responsible. If they cannot, then a DGIF Staff may designate the landowner to kill the elk.
- NOTE: The DGIF response to these recommendations are that it cannot accomplish these goals without a CODE CHANGE. Because elk are legally categorized as deer, the Dept may not be able to refuse issuing a kill permit for elk; the Dept will need to have CODE CHANGE to enable non-lethal options such as relocation for elk.

Step 2 (a): Lack of DGIF Response within 48 hours and Interim Authorization for Kill Permit

- If an individual who has not been pre-registered does not receive a response within 48 hours, then this individual may use the Appeal Process. The Appeal Process will include mechanisms for complaint (2).

Step 3: Reporting of Harvested Bear and Elk

- A reporting system will be developed to allow reporting of harvested bear or elk by kill permit holders or others designated on their permit at the end of the permit. When feasible, the Committee would recommend that this be incorporated into the centralized database, including but not limited to electronic reporting. This reporting system will support a complaint system that is available to permit holders, the public, and law enforcement (23).

- Data from the reporting system may be used in aggregate by the Department to provide necessary data for future decision-making, reports to the General Assembly, Board, and assist in identifying future program needs (29).

Step 4: Subsequent requests for Kill Permit for Bear or Elk in the next calendar year (5)

- The same processes outlined in Steps 1-3 will be followed.
- Where appropriate, the permittee would be required to state that the property had been hunted during the previous hunting season (12,15).
- The Department maintains the ability to extend the amount of animals authorized on subsequent requests.
- The Department may inspect the property and or damage as deemed necessary.

The issue of Code Change: The Committee discussed at length whether to recommend changes in the Kill Permit Code, and it ultimately decided that its recommendations for solutions would be regulatory. There were, however, significant minority opinions that it may in some cases be desirable to change Code. The DGIF also expressed the opinion that legislative remedies may be desirable in some cases, and members of the Committee echoed that if the DGIF determines they are necessary, code changes may usefully occur. The Committee asked that the complexity of this conversation be noted, although no consensus recommendations to open code were developed (32).

Consensus Recommendation to Address Issue #19: Preventing Abuse of the KP System

DGIF should provide general education to potential permittees and the public about the KP system and about abuse of the system (e.g. – brochure of guidance, website, etc).

Consensus Recommendation to Address Issue #3; #29: Improve Methods for Contacting DGIF; Local Information Gap

Make information easily accessible by creating a centralized online guide to the Kill Permit system, including information about how documentation of damage can be provided and about options for non-lethal approaches to pest animals.

Justification: Committee rationale for this recommendation includes the following:

- Transparency needs to be a goal of communication efforts.
- Information needs to be publicized and made more readily available.
- Stakeholders need easy and quick access to DGIF resources.
- A central online location would make the process more timely.
- A kill permit guide could be made available, including non-lethal options for pest control, at minimal cost.
- Easy access to non-lethal methods could reduce the need for kill

permits.

- vii. Information about the process could expedite future permit issuances.

Consensus Recommendation to Address Issues #11, #24: Improving Safety

Create general safety standards as part of DGIF's Standard Operating Procedures (SOP). Safety concerns, in general, should be a guidance recommendation to CPOs via the SOP.

In addition, the Committee wanted it noted as part of this report that it held a conversation on the issue of spotlighting, but did not develop consensus recommendations on this issue. The conversation touched on why spotlighting is currently used under the KP system as a legitimate and important tool for efficacy and safety, but also noted that there are improper uses and abuses of the practice. One stakeholder held a strong opinion that the current allowance for spotlighting under a Kill Permit should be removed, and there was a suggestion that a CPO should specify if this tool is allowed on a case by case basis. *The Committee wishes to highlight spotlighting to kill trophy bucks (where not permitted) as an illegal, serious abuse that the Department should attempt to address with a serious penalty.*

Justification: In considering issues of safety, the Committee noted the importance of considering land size, adjacency, public buildings, schools, parks, etc. According to DGIF, this is an area where most discretion will be used by CPOs, and where most appeals will originate.

Consensus Recommendation to Address Issue #28: Improve Data Collection for Future Decision-Making

To assist future decision-making about the KP system, the DGIF should collect any new biological data in such a way as to enhance its future management system, as well as KP data including but not limited to the following:

- a. Permits issued versus requested.
- b. Permits denied and reasons for denial.
- c. Violations that occur within the life of the permit, by participant.

Justification: The Committee felt that the three specifically requested data categories would assist in any future decision-making process, should the Kill Permitting system be again under review by the DGIF, the General Assembly, or the public. Beyond these categories, the Committee felt that the DGIF should make its own internal decisions about what forms of data are needed for herd management.

Consensus Recommendation to Address Issues #24; #32; #33 – Food Safety; Species Not Covered; Expand Kill Permit Potential

1. Where and when appropriate, expand kill permit potential to include damage to natural

resources, health and safety (e.g., fecal contamination), etc (19, 31). {NOTE: Reworded as requested by subcommittee}

{Note: New additional language proposed in subcommittee} The committee requests that the DGIF develop a policy of interpretation of “crop damage,” specifically to expand the definition to include crops that are no longer saleable because of fecal contamination. DGIF should keep consistent definitions of crop damage in the program, and this definition should continue to evolve to reflect evolving conditions.

Justification: The idea to expand the potential of the kill permit system to include damage to natural resources, health and safety, and other species was introduced by the DGIF as a potentially desirable change. The nature of agriculture is evolving, and there are now health standards for crops that add new conditions to the meaning of crop damage. For example, a crop may now be ruined by animal fecal contamination, and this should be recognized as “rop damage.”

The Committee felt that the DGIF should have the authority to determine other contexts in which a kill permit would be necessary. The Committee discussed at length the idea of adding other species, but determined that this recommendation was out of the scope of its work and asked that an acknowledgment of the problem be noted, without a formal recommendation. In response, the DGIF said it could investigate the use of “special permits” for non-deer/bear/elk pests, such as for turkeys in vineyards, which it may already be doing in some counties and which it may wish to expand to places where it would be helpful (30).

Recommendations to Address Multiple Issues (Primarily Issue #2 – Recourse for Neighbors)

Note that these recommendations have not yet been tested for consensus by the Committee. The Committee will have to consider them in Meeting 5 before they can be included as consensus recommendations in this report.

1. The complaint site have a subsite for those opposed to the issuance of the kill permit, their reason(s) for their opposition, and actions/review taken by DGIF and by whom; response to this type of complaint must be acknowledged by DGIF (electronically, phone, or mail) within 5 business days and acted upon within 5 business days following acknowledgement with prompt response to the complainant: and a system in place to keep a record of these complaints for a minimum of five years (16,23).

Justification: This would allow DGIF to have access to information on possible repeat offenders of abuse or safety issues in a specific location.

2. The complaint site have some way for the general public to find out for the current year who has been issued a kill permit eg., information on current kill permits can be obtained through the Freedom of Information Act, and how to go about getting that information through FOIA (7,3,4).

Justification: Many of the public would report abuse if they were made aware of the fact that “harvesting” was occurring and be more vigilant as well as the obvious safety issues.

3. An easily accessible online guide to list all kill permits issued in the state for years previous to the current year by alphabetical index of city, town, or zip code followed by address and name of permit holder (4).

Justification: To ensure that kill permits in residential neighborhoods are not issued in successive years to adjacent property owners that are circumventing the existing system in Section A of the existing Code (which we are not changing).

4. As abuse was the primary concern of the committee, and the one area that DGIF would not or could not provide historical data on (it appears as if everything is anecdotal), DGIF should make one of its primary concerns a system to record, document, investigate, comment on, and actions taken on reported abuse cases, including documentation of cases taken to court with the outcome of those court cases. Also, documentation of why cases were not taken to court if there was sufficient information from reliable sources (eg., police, DCR) that in fact abuse was flagrant and serious (23).

Justification: Abuse is acknowledged by all, its increase has been stated by DGIF with the escalation of kill permits, accountability by/for the department is necessary.

5. Longer Term: Recommendations that DGIF begin whatever process needs to be done to allow for the department to have greater authority to prosecute abuse cases civilly, with more significant fines and any other deterrents that may decrease cases of serious abuse.

Appendix D: List of Attendees

Stakeholders

George Andreadis
Leon Boyd
Kirby Birch
Dage Blixt
Kevin Damian
Larry Faust
Kathy Funk (via telephone conferencing)
Nick Hall
Tex Hall
Michael Henry
Ricky Horn
Donna Johnson
Todd Jones
Clint Keller
Michael Lucas
Robert O’Keeffe
Earit Powell
Jon Ritenour
Chris Stanley
Wilmer Stoneman
Steve Sturgis
Dick Thomas
Keith Wilt

DGIF Staff

Bob Duncan
Matt Knox
Mike Minarik
Jaime Sajecki
Betsy Stinson
David Whitehurst

IEN Staff

Charles Kline
Karen Terwilliger
Kristina Weaver

Additional Ideas List

- a. Begin implementation of a process that would give DGIF more power and authority to prosecute cases of abuse civilly and to substantially increase fines for those determined to have abused the system.
- b. Increase DGIF resources for effective administration of KPs such as more game wardens or creating KP only staff.
- c. Committee reaffirms that DGIF should be managing herds through its hunting program and regulations.
- d. A stakeholder asked that the DGIF consider creating a program that could either replace or run parallel to the kill permit program. This proposed program would create a hunter and farmer matching system that pairs farmers with hunters to help manage wildlife on a property. It was suggested that the hunters pay into the program and that this payment goes in part to DGIF and in part to the farmer. Payment would depend upon the species, sex, and other criteria of the animal being harvested.

Appendix VIII. Committee Evaluation of the process

At the end of Meeting 5, Committee members were asked to complete a voluntary survey evaluating the process, including outcomes, the work of the facilitators, and the work of DGIF. The evaluation instrument is reproduced here, followed by a summary of results.

Evaluation Instrument

PROJECT NAME: Kill Permit Stakeholder Advisory Committee Process

PROCESS SCORECARD

Please circle the number that best matches your level of agreement with each statement.

1=strongly disagree 2=disagree 3=neutral 4=agree 5=strongly agree

Check "Not Applicable" if question does not apply to the overall goals of the process/project/case.

1. THE OUTCOME			
	CIRCLE ONE	Not Applicable	
An agreement or understanding that addresses most or all of the issues was reached.	1 2 3 4 5		
The process has helped to improve the overall circumstance(s) of the project/case/situation.	1 2 3 4 5		
Overall, I am satisfied with the outcome of the process.	1 2 3 4 5		

2. WORKING RELATIONSHIPS			
	CIRCLE ONE	Not Applicable	
The process improved communication among participants.	1 2 3 4 5		
The process helped build trust among participants.	1 2 3 4 5		
I improved my understanding about the issues and others' views and values.	1 2 3 4 5		
The process helped to initiate/build partnerships among participants.	1 2 3 4 5		

3. QUALITY OF THE PROCESS			
	CIRCLE ONE	Not Applicable	
All or most of the relevant issues were raised and addressed.	1 2 3 4 5		
The right parties were involved in the process	1 2 3 4 5		
Everyone had access to information needed to build understanding make good decisions.	1 2 3 4 5		
The process fostered information gathering and learning.	1 2 3 4 5		
Overall, regardless of outcome, the process was fair.	1 2 3 4 5		

Please help us improve the services we offer. As participants, your comments and suggestions are the most important measure of our performance. **Please complete both sides of this form and return it to us at the end of the meeting**

1. Was the process helpful? If so, how was it helpful? If not, please explain.

2. Did the facilitator(s) fulfill her or their responsibilities? (Check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> impartiality | <input type="checkbox"/> confidentiality |
| <input type="checkbox"/> process design | <input type="checkbox"/> development and support of ground rules |
| <input type="checkbox"/> honoring time commitments | <input type="checkbox"/> keeping group focused |
| <input type="checkbox"/> encouraging participation | <input type="checkbox"/> promoting civil discussion |
| <input type="checkbox"/> coordinating meeting logistics | <input type="checkbox"/> helping group invent solutions and build agreement |
| <input type="checkbox"/> documenting agreement | <input type="checkbox"/> documenting points of agreement |

Other comments:

3. Did the DGIF fulfill its responsibilities? (Check all that apply)

- providing adequate meeting space
- providing adequate refreshments
- providing material to meet information requests
- responding to technical questions

Other comments:

3. Did you encounter any specific problems during the process? (Check all that apply)

- | | | |
|--|-----------------------------------|--------------------------------------|
| Unrealistic expectations: | mine <input type="checkbox"/> | others' <input type="checkbox"/> |
| No compelling reason to reach agreement: | me <input type="checkbox"/> | others <input type="checkbox"/> |
| Stakeholder groups: | too many <input type="checkbox"/> | too few <input type="checkbox"/> |
| Available information: | too much <input type="checkbox"/> | too little <input type="checkbox"/> |
| Deadlines: | too soon <input type="checkbox"/> | too distant <input type="checkbox"/> |
| Other (please explain): | | |

4. How could this process be improved?

5. If applicable, what process would you have used/chosen to address the project/situation or issues if you had not participated in this process?

Process Evaluation Summary of Results

1. Was the process helpful? If so, how was it helpful? If not, please explain.

“Yes, IEN took on a difficult task, made it organized [and] facilitated a [solution] and final decision.”

“Great job keeping people on track! Your communication was outstanding!”

“Yes – had full chance to discuss many points of view”

“Yes it was helpful [at] understanding the issues”

“Provided a much greater understanding of SKP process, others perspectives”

“Yes. Hopefully to better the process.”

“Gave a new outlook to the kill permit state wide.”

“Facilitate a stronger kill permit process.”

“Yes. Informative and was able to organize the information in a coherent fashion.”

“Yes. To learn more about each party and their point of view.”

“It was very helpful to me.”

“I was able to hear [and] begin to understand the complexity of the issue and its outcome.”

“Yes”

“The group was too large.”

“Yes, chance to voice opinions – good [and] bad”

2. Did the facilitator(s) fulfill her or their responsibilities? (Check all that apply)

The total number of checks have been added up for each topic. The highest score possible is 22.

Impartiality – 19

Process Design - 14

Honoring time commitments – 16

Coordinating meeting logistics – 17

Documenting agreement – 17

Confidentiality – 13

Development and support of ground rules – 18

Keeping group focused - 18

Promoting civil discussion - 21

Helping group invent solutions and build agreement - 17

Documenting points of agreement - 18

Other comments:

“EXCELLENT!”

“wonderful staff [and] effort”

3. Did the DGIF fulfill its responsibilities (Check all that apply)

The total number of checks have been added up for each topic. The highest score possible is 22.

Providing adequate meeting space - 20

Providing adequate refreshments - 21

Providing material to meet information requests - 20

Responding to technical questions - 19

Other comments:

“Hats off to VDGIF great work”

4. Did you encounter any specific problems during the process? (Check all that apply)

The total number of checks have been added up for each topic. The highest score possible is 22.

Unrealistic expectations:

mine - 1, others - 2

No compelling reason to reach agreement:

mine - , others -

Stakeholder groups:

too many – 3, too few -

Available information:

too much - , too little –

Deadlines:

too soon - 2, too distant -

Other (please explain): “None”

5. How could this process be improved?

“fewer of the same interests participants”

“I had trouble getting info off basecamp – i.e. – large files.”

“It was appropriate for the subject [and] time constraint”

“one more meeting”

“Great”

“worked very well”

“Would’ve been helpful to have had Wild Turkey Federation included in group.”

“By majority”

“Confusing documents – need to be dated [and] pages numbered. Clearly define which document will be used at meeting and what info[rmation] needs to be reviewed prior to meeting.”

6. If applicable, what process would you have used/chosen to address the project/situation or issues if you had not participated in this process?

“This seemed to work very well.”

“Just as it was.”

“N/A”

Process Scorecard

Values ranged from 1 = strongly disagree, 2 = disagree, 3 = neutral, 4 = agree, 5 = strongly agree and not applicable. For each value, the total tally out of the 22 evaluations returned is given next to it.

1. The Outcome

An agreement or understanding that addressed most or all of the issues was reached.

1 – 1

2 – 0

3 – 0

4 – 11

5 – 10

Not applicable – 0

The process has helped to improve the overall circumstance(s) of the project/case/situation.

1 – 0

2 – 1

3 – 2

4 – 6

5 – 13

Not applicable – 0

Overall, I am satisfied with the outcome of the process.

1 – 0

2 – 2

3 – 0

4 – 8

5 – 12

Not applicable – 0

2. Working Relationships

The process improved communication among participants.

1 – 1

2 – 1

3 – 1

4 – 10

5 – 9

Not applicable – 0

The process helped build trust among participants.

1 – 0

2 – 2

3 – 4

4 – 7

5 – 9

Not applicable – 0

I improved my understanding about the issues and others' views and values.

1 – 0

2 – 1

3 – 0

4 – 6

5 – 15

Not applicable – 0

The process helped to initiate/build partnerships among participants.

1 – 1

2 – 1

3 – 3

4 – 10

5 – 7

Not applicable – 0

3. Quality of the Process

All or most of the relevant issues were raised and addressed.

1 – 1

2 – 0

3 – 2

4 – 10

5 – 9

Not applicable – 0

The right parties were involved in the process.

1 – 1

2 – 1

3 – 1

4 – 13

5 – 6

Not applicable – 0

Everyone had access to information needed to build understanding/make good decisions.

1 – 1

2 – 1

3 – 1

4 – 6

5 – 13

Not applicable – 0

The process fostered information gathering and learning.

1 – 1

2 – 1

3 – 1

4 – 7

5 – 12

Not applicable – 0

Overall, regardless of outcome, the process was fair.

1 – 1

2 – 1

3 – 0

4 – 6

5 – 14

Not applicable – 0