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MEMORANDUM

TO: Deer Breeders
FROM: Richard L. O'Rourke 
RE: Canned Hunt Research
DATE: March 3, 2008

The statements contained within the justification for New York State Assembly Bill A2612 are inaccurate and misleading. If passed in its present form, the Bill will have unintended and far-reaching effects upon many legitimate businesses and worthwhile non-profit operations. The following memorandum will dissect the Bill's justification, sentence by sentence, and will provide facts detailing why each statement is false and/or misleading.

“Canned hunting is a practice whereby an animal is staked, caged or otherwise confined for the purpose of being killed for pleasure.”

- New York State deer farmers do not kill their deer for pleasure, rather the killing of the deer which roam the confines of a deer farm are killed to support the deer farmers' livelihood or to necessarily control the herd. The stated justification for New York State Assembly Bill No. A2612 -- that it applies only to canned hunts where confined animals are being killed for pleasure -- mischaracterizes the actual effect and reach of the Bill. The Bill will also prohibit legitimate, humane, conservation activities that should continue to be permitted in New York State.
- Assembly Bill No. A2612, by amending ECL § 11-1904 so as to render it applicable to all facilities harboring non-native big game mammals, regardless of the size of the facility, will prohibit legitimate deer farming facilities. Deer farming necessarily involves the confinement of deer (native and or non-native) for livestock, breeding or hunting purposes. Whether the deer are confined for

hunting purposes or for livestock purposes the deer will be killed within the fenced area, which usually exceeds ten acres. By eliminating the size limitation within ECL § 11-1904, most of the deer farm operations within New York State will be rendered illegal thereby taking away the livelihood of many New York State residents, and will damage the economy throughout New York State, most severely the economy of upstate New York.

- Deer farming is a legitimate business operation in New York State. In fact, Cornell University has reported that, “Deer and elk have been farmed extensively in New Zealand, Germany, and Russia, but less so in the U.S. However, New York is one of the leading states in cervid production...”. (Cornell Small Farms Program & Department of Animal Science Livestock Fact Sheets, available at: <http://www.smallfarms.cornell.edu/pages/projects/factsheets/deerelk.doc.>). Furthermore, the Department of Environmental Conservation is authorized to issue Domestic Game Animal Breeder Licenses to qualified deer farmers within the State. (See, N.Y. ECL §§ 11-1905; 11-0103; 6 NYCRR Parts 153 and 175).

“From automatic firearms to spears, almost any type of weapon can be used to kill prey in a canned hunt.”

- Automatic firearms cannot be used by civilians and are banned in New York State for any activity, including hunting.
- **FEDERAL**
 - Pursuant to Federal law, it is illegal for civilians to possess a fully-automatic firearm. 18 U.S.C.A. § 921 et seq.
 - Until the expiration of the sunset provision of the Violent Crime & Law Enforcement Act of 1994¹, it was also illegal under Federal law for civilians to possess semi-automatic firearms. However, legislation was introduced in early 2007 that reinstate and expand the prohibition against civilian possession of semi-automatic firearms. (H.R. 1022)
- **STATE**
 - New York State regulates gun control more strictly than the Federal government. Under New York law, it is illegal for civilians to own and

¹ Former 18 U.S.C.A. § 922(v) which prohibited the possession of semi-automatic firearms by civilians, expired on September 13, 2004.

operate fully-automatic and various types of semi-automatic firearms. See, N.Y. Penal Law §§ 265.00, 265.02, 265.20.

“To assure a kill, the animals are trapped by fences so they can be easily cornered and prevented from escaping.”

- Many deer breeders operate expansive farms, where it is impossible to “easily corner” the deer. Deer roam free, on some farms as large as 3,200 acres. Moreover, the fence surrounding a large deer farm is not in place to prevent the deer from escaping, but rather to prevent other animals from entering the enclosed area.

“Canned hunting brutalizes defenseless animals raised in captivity whose trust in humans makes them hapless victims of this practice.”

- Those that manage most deer breeding and research operations, take purposeful measures to limit deer exposure to humans. Human contact with the deer is minimized to the greatest extent possible to ensure the integrity of the research and to allow for natural breeding patterns. Many times deer breeders who release deer into their preserve will not see the deer again for months. Indeed, some deer may not be seen for six (6) to eight (8) months.

“Federal and state laws currently offer protections for endangered, threatened and many indigenous animals. But a lack of specific prohibitions allows a wide range of animals, including certain species of bear, llama, zebra and ram to be killed in this manner.”

- Still researching to confirm that this statement is accurate. If it is accurate, the appropriate legislative response is not to adopt Assembly Bill No. A2612, but to adopt legislation excluding Deer and Elk farms.

“In addition to prohibiting canned hunts, the bill would also restrict the supply of animals from zoos and game farms to canned hunting facilities. As recently as the fall of 2006, the closing of the Catskill Game Farm and the selling off of the animals raised concerns by groups that advocate for the humane treatment of animals that the herd animals like gazelles and the trophy animals like rhinoceros would be bought by a canned hunts in New York State, there would be fewer opportunities to sell these animals for canned hunts.”

- Opportunities to sell many types of exotic animals simply do not exist legally in New York State. Furthermore, deer breeders simply do not purchase or otherwise obtain deer or other animals from zoos or game farms.
- The sale or offer for sale of any of the following animals within New York State is prohibited:

- Leopard (*Panthera pardus*), Snow Leopard (*Uncia*), Clouded Leopard (*Neofelis nebulosa*), Tiger (*Panthera tigris*), Asiatic Lion (*Panthera leo persica*), Cheetah (*Acinonyx jubatus*), Alligators, Caiman or Crocodile of the Order Crocodylia (except as provided in subdivision two of this section), tortoises of the genus *Gopherus*, marine turtles of the family Cheloniidae and the family Dermochelidae, Vicuna (*Vicugna vicugna*), Wolf (*Canis lupus*), Red Wolf (*Canis niger*), or Kangaroo (*Macropodidae*) or Polar Bear (*Thalarctos maritimus*), Mountain Lion, sometimes called Cougar (*Felis concolor*), Jaguar (*Panthera onca*), Ocelot (*Felis pardalis*), or Margay (*Felis wiedii*), **Sumatran Rhinoceros** (*Dicerorhinus sumatrensis*), or **Black Rhinoceros** (*Dicero bicornis*). (N.Y. ECL § 11-0536)
- It is illegal to take, import, transport, possess or sell any endangered or threatened species in New York State, including the Gray Wolf and the Cougar. 6 NYCRR §§ 182.3, 182.6
- Without a permit from the New York State Department of Agriculture and Markets it is illegal to import or move captive deer into or within the state. 1 NYCRR § 68.2

“The recent outbreak of Chronic Wasting Disease (CWD), which is similar to “mad cow” disease, in New York State has been linked to captive deer farms.”

- Chronic Wasting Disease (CWD) was first found in New York State in 2002 on a captive deer farm in Oneida County. However, merely because a captive deer farm is the first place CWD was documented in New York State does not mean that it does not exist in the wild deer population. Clearly, testing for CWD is more easily conducted on captive deer farms and thus, there is a greater likelihood that a case of CWD will be found in captive deer farms rather than in the wild. Indeed, CWD has existed for decades in wild elk and deer populations in parts of some western states. (<http://www.dec.ny.gov/animals/7191.html>)
- Captive deer farms are not the only link to CWD. CWD has also been linked to wild deer in New York State. In 2005, two wild white-tailed deer located in Oneida County were found by the New York State Department of Environmental Conservation to have CWD. (<http://www.dec.ny.gov/animals/33220.html>).

“By outlawing canned shoots NYS can take a preventive step against the spread of CWD.”

- Assembly Bill No. A2612 is an over-reactive, inappropriate measure to preventing the spread of CWD. Preventative steps against the spread of CWD have already been successfully implemented by the NYS Department of Environmental Conservation and the NYS Department of Agriculture and Markets.
- Since the initial finding of CWD in 2002, a concerted effort has been underway involving the New York State Departments of Environmental Conservation, Agriculture and Markets, Health, together with the U.S. Department of Agriculture's Animal and Plant Health Inspection Service. (<http://www.dec.ny.gov/animals/7191.html>). This effort involves three parts: (1) regulations which reduce the risk of importation of CWD to New York State and minimize the spread of CWD if found within New York State; (2) an ongoing field surveillance program to ensure early detection of CWD; and (3) an agency response plan in the event the disease is found within New York State. (<http://www.dec.ny.gov/animals/7191.html>).
- A comprehensive set of regulations has been adopted by the New York State Department of Agriculture and Markets to monitor the health and movement of all captive deer and elk in New York State. **1 NYCRR Part 68**. Pursuant to these regulations, captive deer and elk herd owners are required to conduct routine sampling and testing for CWD. **1 NYCRR § 68.3**.

“By prohibiting canned hunting this bill recognizes that New York State should draw a line between sport and the cruel savagery of a canned hunt.”

- Again, this Bill does more than prohibit canned hunting. It is a sweeping piece of legislation that pulls many legitimate businesses and non-profit organizations within its far reaching grasp.
- Deer farmers do not kill their livestock in a cruel or savage manner. They are required to kill their livestock humanely. **Humane Slaughter Act, 7 U.S.C.A. § 1901 et seq.**

Simply stated, this so-called “justification” for Assembly Bill No. 2612 is nothing but an inaccurate, misleading statement. By resorting to such hyperbole, it is clear that many supporters of the Bill are being misled. Passage of Assembly Bill No. A2612 will seriously and permanently injure worthwhile activities in New York State which contribute to encouraging agricultural land use conservation and economic development.