

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF FISH AND WILDLIFE**

**DECISION ON REMAND REGARDING THE ISSUANCE AND RENEWAL OF A  
COMMERCIAL SHOOTING PRESERVE LICENSE TO HUDSON FARM**

This decision is being made by the State of New Jersey, Department of Environmental Protection (“NJDEP” or “Department”), Division of Fish and Wildlife (“Division” or “DFW”) on the Hudson Farm application for a commercial shooting preserve (CSP) license, in light of the remand by the Appellate Division in the matter of Roseff v. MMK Reinsurance, Ltd., No. A6209-07T1 (App. Div. August 5, 2010). As set forth below, NJDEP has determined that Hudson Farm meets all statutory and administrative criteria for the issuance of a CSP license.

When DFW reviews a CSP license application, a number of statutory and administrative factors are considered. The total property size, the size of the individual tracts of land involved, ownership of the property, the proximity of neighboring houses, the number and species of birds to be stocked, the origin of the birds to be used, the proper posting of property boundaries, and any potential conflict involving prior reasonable public interest all are taken into account. Safety is the Division’s primary concern. To that end, prior to issuing a CSP license, the Division’s Bureau of Law Enforcement inspects each new CSP and re-inspects the preserve if and when additional tracts of land are added in order to verify that safe hunting conditions still exist.

For more than fifty years, the Division has been authorized by the Legislature to issue CSP licenses. N.J.S.A. 23:3-29. N.J.S.A. 23:3-28 mandates that a CSP must be at least 50 acres in size, excluding safety zones, and that its boundaries must be clearly defined by signs posted no more than every 200 feet. The CSP applicant must either be the owner or lessee of the area to be licensed. N.J.S.A. 23:3-29d. By statute, the Division only can issue a CSP license when “the operation of such shooting preserve shall not conflict with a prior reasonable public interest.” N.J.S.A. 23:3-29d(1). In other words, if the change in the property’s use to a CSP is not found to be adverse to the reasonable public interest served by the prior use, then a CSP license could be properly issued, assuming all other statutory requirements have been met. The license applicant also is required by statute to produce evidence that at least 500 game birds (i.e. mallard, pheasant, quail, and partridge) will be raised or purchased and then liberated during the season. N.J.S.A. 23:3-29d. CSP licenses are in effect for less than one year; every license applicant must submit an approvable application to DFW each year in order to obtain an annual CSP license, which authorizes the licensee to operate between September 1 and the following May 1. N.J.S.A. 23:3-29; N.J.S.A. 23:3-32. A CSP license cannot be renewed until evidence is produced that the liberation requirements of N.J.S.A. 23:3-29 have been satisfied. N.J.S.A. 23:3-36. License holders also must keep and submit accurate written records of the number of game birds possessed and subsequently propagated. N.J.S.A. 23:3-37. Any birds brought into the State are required to be accompanied by an official health certificate and an importation permit issued by the Division. Additionally, all game birds taken from a CSP must be tagged. N.J.S.A. 23:3-32.

The Division further requires a license applicant to submit two copies of the tax maps depicting the proposed CSP area and its surroundings. Any buildings on and adjacent to the

preserve, any safety zones, and the boundaries of the preserve must be clearly marked on the tax maps. New maps must be forwarded each year with renewal applications. DFW conducts site inspections whenever a new site is proposed and also performs routine inspections of licensed CSP properties every few years. As part of its application review, the Division further takes into account how the subject property was being used previously, in comparison to its proposed use as a CSP. As of 2010, CSP license applicants also must describe the history of hunting on the proposed property.

At present, Hudson Farm owns a 1,510 and an 878 acre tract of land and leases an adjoining 24.99 acre tract of land for a total of 2,412 acres (the "Hudson Farm property"). The entire Hudson Farm property is presently licensed to be utilized as a CSP. Over 600 acres of the 1,510-acre tract located in Hopatcong Borough and Byram Township has been licensed as a CSP since 2000. In 2007, Hudson Farm proposed to add to its CSP operation the 878-acre tract located in Andover and Byram Townships, Sussex County. Hudson Farm's lease of the 24.99-acre tract, which began in 2010, was verified through the signatures of Emily and Johnson Ference, for the Estate of Roland Johnson, on the Verification of Leased Property form. This tract adjoins the 878-acre tract for a total of 902 acres. The 1,510-acre tract is noncontiguous to the other 902 acres; the entire Hudson Farm property is covered under the same CSP license. N.J.S.A. 23:3-29d. Each year as part of its annual report, Hudson Farm has provided DFW with proof via invoice that more than the minimum number of 500 game birds were stocked and released on its lands. N.J.S.A. 23:3-29d(2). Each year, the origin of the birds is indicated on the Commercial Preserve Permit Renewal Form and on the annual reports. The birds either come from a New Jersey Propagation and Sales Permit holder or an importation permit application is submitted along with the renewal form. N.J.A.C. 7:25-10.5(b) and (c). The permit number of the supplier is recorded on the license application. Receipts for the birds purchased are supplied with the licensee's annual report.

N.J.S.A. 23:3-28c provides that CSPs must contain a minimum of 50 huntable acres. The Hudson Farm property encompassed 2,213 acres in 2007 when Hudson Farm applied for the license at issue. Since 2000, the Hudson Farm property has exceeded the CSP minimum acreage requirement, and site inspections have confirmed that the preserve's boundaries are clearly posted at appropriate intervals of 200 feet or less as required by N.J.S.A. 23:3-28. The Division requires that a tax map be submitted with each CSP license application, with the property and safety zones marked in red and noting the acreage of each proposed tract. As indicated above, three tracts of land presently make up the Hudson Farm property. The individual tracts are 1,510 acres, 878 acres, and 24.99 acres in size. The 24.99-acre tract adjoins the 878-acre tract. All buildings located on a proposed CSP property and on each adjoining property also must be marked on the map. As part of its field review, the Division's Bureau of Law Enforcement verifies the size of the tracts of land to be used as CSPs and verifies that no firearm hunting will occur within 450 feet of any potentially occupied building without obtaining the written permission of the property owner. N.J.S.A. 23:4-16d. The Bureau of Law Enforcement also verifies that safety zones and property boundaries are clearly posted at intervals of no more than 200 feet. The Hudson Farm property was inspected in 2007 after a total of 1,738 acres were added to the existing Hudson Guild Farm, and the property became Hudson Farm. 878 of those 1,738 additional acres were on a separate tract of land in Andover and Byram Townships; the other 860 acres were added to the property in Hopatcong Borough and Byram Township. The

entire Hudson Farm property was again inspected by the Division's Bureau of Law Enforcement in 2010 after an additional 24.99 acres of adjoining property were added to the 878-acre tract. Just as it did in 2007, the Hudson Farm property substantially exceeds the minimum acreage requirement under N.J.S.A. 23:3-28 at present, and the preserve's boundaries are clearly posted at appropriate intervals. In addition, the Division found that no hunting on the preserve would occur within 450 feet of any potentially occupied building without the property owner's permission. Moreover, sportsmen who hunt within the CSP must abide by the same safety zone regulations (i.e. N.J.S.A. 23:4-16) that apply to all other sportsmen in the State. Consequently, a CSP operation on the Hudson Farm property does not create a safety hazard.

In accordance with the Appellate Division's directive for remand in the case of Roseff, No. A-6209-07T1 (App. Div. August 5, 2010), DFW solicited public comment on the issuance and renewal of the 2007 CSP license to Hudson Farm, including whether the change from the prior use of the property, when compared to its proposed use as a shooting preserve, "would be inimical to a reasonable public interest served by the prior use." Roseff, No. A-6209-07T1 at 14. DFW reviewed and considered all public comments it received in determining whether operating a CSP would create any conflict with a prior reasonable public interest in the property and whether the CSP license should have been issued and renewed. Based upon the prior use of the Hudson Farm property for hunting purposes, the Department has determined that operating the Hudson Farm property as a CSP would not conflict with any prior reasonable public interest.

The Hudson Farm property has served as open hunting ground since at least the late 1990s. Prior to 2000, a substantial portion of the 1,510-acre tract in Hopatcong Borough and Byram Township was a semi-wild shooting preserve. The Division has issued a CSP license for this property since 2000. In 2007, the CSP license was amended to include the separate 878-acre tract known as Hudson Farm West (formerly the Westby Farm), which also has a long history of hunting activity. In 2010, Hudson Farm's CSP license was amended again to add a 24.99-acre tract, which adjoins the 878-acre tract and is leased from the Estate of Ronald Johnson. The 24.99-acre tract of land was previously used as hunting ground by members of the Johnson family. Given the longstanding history of hunting on the entire Hudson Farm property and the fact that its two collective tracts are large enough to provide a safe hunting environment, DFW finds that using the property as a CSP would not be inimical to any reasonable public interest served by the property's prior use as an open hunting area.

Based on the large total property size, the size of the individual tracts of land, the ownership and verified lease of the property, the proximity of neighboring houses, the number and species of birds to be stocked, the origin of the birds, the proper posting of property boundaries, the history of hunting on the property, and the lack of conflict with a prior reasonable public interest, the Division has determined that the 2007 issuance and subsequent renewal of a CSP license to Hudson Farm was in accordance with N.J.S.A. 23:3-29 and was not arbitrary, capricious, or unreasonable. The applicant has complied with all statutory and administrative requirements associated with obtaining and renewing a CSP license.

By: \_\_\_\_\_  
David Chanda, Director - DFW

Dated: \_\_\_\_\_