#### **FALL 2022**

# TAKE BACK YOUR ELK

New Mexico Gives Huge Share of Elk Licenses to Private Interests

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#### NEW MEXICO PRIVATIZES OUTSIZED SHARE OF ELK HUNTING OPPORTUNITIES

New data from the New Mexico Department of Game and Fish shows our state's system of allocating elk licenses skews hard in favor of private interests and wealthy individuals, particularly nonresidents. It's time for residents to demand more elk hunting opportunity.

Over the last year, the New Mexico Wildlife Federation and New Mexico Chapter of Backcountry Hunters & Anglers have fought hard to get records from the New Mexico Department of Game and Fish showing exactly how it distributes elk licenses. The results show a system in dire need of reform.

For this report, "privatized" means licenses acquired, usually for a fee, from landowners enrolled in the "Elk Private Land Use System" (EPLUS) program or drawn from the outfitter set-aside portion of the draw.

Until this report, there's been no place residents could see how the system favors the wealthy while pricing most New Mexicans out.

#### IN 2021



### 36,162

Elk licenses were issued in New Mexico



Nonresidents received 12,757 (35.3%) of all elk licenses.

#### THE RESULTS SHOW A SYSTEM IN DIRE NEED OF REFORM

New Mexico elk hunters who rely on drawing a license in the public draw to hunt on public lands have sensed for years that the system's rigged against them. They were right.

Resident hunters who used to draw elk licenses consistently now commonly get skunked in the draw for years in a row. They can no longer count on getting together with friends and family at elk camp.

In short, New Mexico's unfair system of allocating elk licenses is destroying our state's cherished hunting traditions.

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But until now, with the release of this report, there hasn't been any solid information about what's truly going on, or exactly how unfair the state's distribution of elk licenses has become for residents.

This report shows that it's past time to reform New Mexico's elk license allocation system. As you read this, remember that those opposing reform are the ones profiting from increasingly excluding the public from elk hunting.



#### SOLID INFORMATION ON NEW MEXICO ELK HUNTING HARD TO GET



It's no accident that there's been a shortage of solid information about New Mexico's distribution of elk licenses. Until this report, there's been no place residents could find out exactly how many nonresidents are getting licenses to hunt in our state, or see how the system favors the wealthy while pricing most New Mexicans out.

### Those opposing reform are the ones profiting from increasingly excluding the public from elk hunting

The New Mexico Wildlife Federation and the New Mexico Chapter of Backcountry Hunters & Anglers started working together in 2021 to compile this report. Together, they drafted a request under the New Mexico Inspection of Public Records Act (IPRA) to the New Mexico Department of Game and Fish seeking granular detail on how the state allocates elk licenses. Once the questions were compiled, the NMWF took over the effort to press the game department to provide answers.

Wrangling the information out of the game department wasn't easy. The agency immediately claimed the information wasn't subject to disclosure under IPRA. The department asserted that, because the material was contained in agency databases, it could impose restrictions on its use and public release under a state law governing commercial use of state databases.

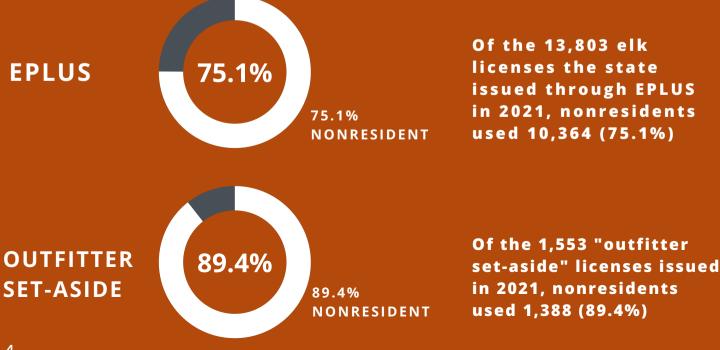
The game department's stonewalling prompted the NMWF to file a complaint with the NM Attorney General's Office last year. The AG's Office ultimately sided with the NMWF and concluded that the records were subject to release under the state's public records law with no restrictions. The game department finally yielded the information, some nine months after the initial request.

#### HUGE SHARE OF PRIVATIZED LICENSES END UP IN THE HANDS OF NONRESIDENTS

# 15,356

of the state's elk licenses were allocated directly to private interests in 2021, including both EPLUS licenses and "outfitter set-aside" licenses. Of these, 11,752 (76.5%) went to nonresidents. The records the game department released provide for the first time detailed information about how New Mexico turns over a huge share of the state's elk licenses to private interests. And the records further show that a huge share of those privatized licenses end up in the hands of nonresidents – most of whom pay thousands of dollars to get them.

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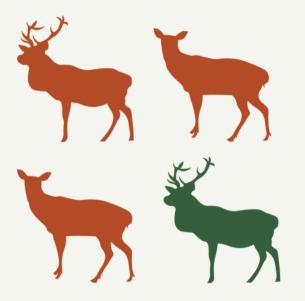


#### NEW MEXICO GIVES OUT A FAR HIGHER SHARE OF ITS ELK LICENSES TO NONRESIDENTS COMPARED TO OTHER STATES

New Mexico's allocation of over 35 percent of elk licenses to nonresidents in 2021 places our state far out of step with other states in the West that staunchly protect their resident hunters in the public draw.

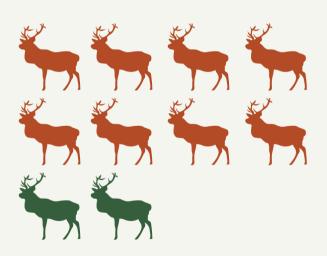
For example, Arizona for years has restricted nonresidents to drawing no more than 10 percent of the licenses for elk and other game species.

#### **EPLUS ELK LICENSES**



#### 3 OUT OF 4 ELK WENT TO NONRESIDENTS

Of the 13,803 elk licenses the state issued through EPLUS in 2021, nonresidents used 10,364 (75.1%) compared to 3,439 (24.9%) for residents.



**EPLUS BULL LICENSES** 

#### 8 OUT OF 10 BULLS WENT TO NONRESIDENTS

The state issued 9,487 bull licenses through EPLUS in 2021, nonresidents used 7,897 (83.2%) compared to 1,590 (16.8%) for residents.

#### NEW MEXICO THE ONLY STATE TO GIVE LANDOWNERS ELK LICENSES WHOLESALE

Under EPLUS, New Mexico issues transferable "authorizations" to landowners. The authorizations allow whoever holds them to buy an elk license without going through the public draw. Most landowners sell the authorizations to the highest bidder, and data shows these are most often nonresidents.

#### Most EPLUS authorizations only allow hunting on a particular private ranch

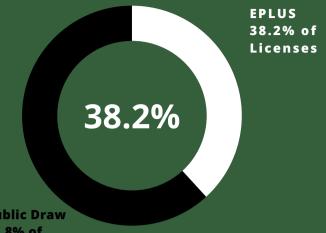
## 2,638

of the licenses issued under the EPLUS program – nearly 20 percent of the total – were "unit-wide" licenses valid on public lands. These unit-wide licenses allow whoever holds them to hunt on public lands within a particular game unit, where they compete with residents who drew elk licenses.

The EPLUS system is not codified in state law, but is merely a rule that the New Mexico State Game Commission enacted. Although state law requires the New Mexico Department of Game and Fish to issue landowner permits, it gives the game commission the power to determine how many and otherwise regulate the program.

While a few other states give limited landowner licenses, only New Mexico turns over such a huge percentage of its public elk licenses to private interests.

#### Allocation of All Elk Licenses Issued in 2021



#### Public Draw 61.8% of Licenses

New Mexico issued 13,803 licenses through EPLUS in 2021. That amounts to 38.2% of the total 36,162 elk licenses the state issued that year.

# 4,000

Landowners essentially tossed aside nearly 4,000 EPLUS authorizations in 2021 by failing to convert them to licenses.

NM STATE GAME COMMISSION REFUSES TO ADDRESS "EPLUS" DESPITE CALLS FOR REFORM

Although the game commission worked on a new rule in 2022 to address how licenses are allocated in the public draw, the commission refused to consider any changes to EPLUS despite repeated requests to do so from everyday New Mexican hunters, NMWF, NMBHA and others.

## CONSERVATION GROUPS AREN'T THE ONLY ONES TO CALL FOR REFORMING EPLUS

When Gov. Michelle Lujan Grisham was running for her first term in 2018, she responded to a questionnaire from NMBHA saying she believed that nonresidents were getting too many big game licenses.

"I believe the resident quota is too low," Lujan Grisham told NMBHA in 2018. "When you combine the number of licenses issued to nonresidents through the public draw along with the number of private land licenses issued, nonresidents receive a higher share of licenses than in any other western state. A thorough review of the public and private land systems laws and regulations must be initiated in order to develop an equitable solution that respects New Mexico residents." Lujan Grisham has yet to initiate any such review.



"A thorough review of the public and private land systems laws and regulations must be initiated in order to develop an equitable solution that respects New Mexico residents."

-Gov. Michelle Lujan Grisham, speaking as a candidate for office in 2018. Lujan Grisham has yet to initiate any such review.

The New Mexico Legislature's nonpartisan Legislative Finance Committee evaluated New Mexico Department of Game and Fish operations in 2020. The LFC issued a report that concluded, "The State Game Commision should consider amending its system for licensing elk hunting on private land, the Elk Private Land Use System (EPLUS), to be more in line with neighboring states."

#### "But that same private system likely creates opportunity for wealthier, out-of-state hunters at the expense of New Mexico residents"

NM Legislative Finance Committee, 2020 Report

The LFC review noted that the game department benefits from high rates of nonresident hunters getting licenses through EPLUS because nonresidents pay significantly higher license fees. "(B)ut that same private system likely creates opportunity for wealthier, out-of-state hunters at the expense of New Mexico residents," the LFC stated, a conclusion the game department's own data supports.

The LFC report prompted Sen. Martin Heinrich, D-N.M., to call on the game commission to reform EPLUS.

Nonetheless, the game commission so far hasn't touched the EPLUS issue and essentially has declined to say why it won't.

#### NM ELK PRIVATIZATION PROBLEM INCLUDES UNIQUE "OUTFITTER SET-ASIDE" PROVISION

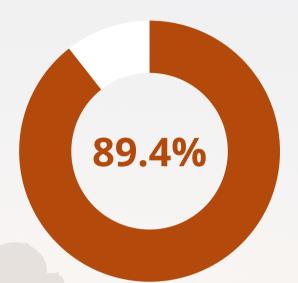
In addition to handing licenses to nonresidents wholesale through EPLUS, New Mexico state law sets aside another 10 percent of the licenses in the public draw for hunters who retain an outfitter. Other states in the West don't do this yet their outfitting industries continue to thrive.

In addition to the "outfitter set-aside," New Mexico law also specifies that an additional 6 percent of licenses in the public draw are earmarked for nonresidents who apply on their own, without using an outfitter. This small allocation to nonresident hunters who don't hire an outfitter is also a policy outlier among comparable western states, which overwhelmingly allow all hunters to choose whether or not to hire an outfitter on their hunts.

#### ELK PRIVATIZATION DRAWS NONRESIDENT HUNTERS TO NEW MEXICO

The results of New Mexico's unique approach to privatizing elk licenses is that nonresident hunters swarm our state and pay their way to the front of the line every year. They buy high-dollar private hunts from landowners, including many that offer "unit-wide" hunts that put them on public lands where they compete with those resident hunters who did manage to draw a license in the public draw.

There are countless ways to analyze the figures, but they all point to the same conclusion: New Mexico, far more than any other state in the West, favors private interests in allocating elk licenses. And because those private interests sell the licenses on the open market to the highest bidder, wealthy nonresident hunters take a much bigger share of elk licenses in New Mexico than in other western states. State residents only acquire 54.7 percent of all elk licenses by public draw without contracting with an outfitter or by obtaining a license from a private landowner.



Considering all 1,553 "outfitter set-aside" licenses, nonresidents drew 1,388 (89.4%) while residents drew 165 (10.6%).

The EPLUS system allows wealthy nonresidents to hunt New Mexico elk virtually at will as long as they can afford the price tag, often on public lands

#### PRIVATE INTERESTS ANXIOUS TO PROTECT LUCRATIVE ELK LICENSE ALLOCATION

It's no secret in the outfitting industry and the national hunting community that New Mexico fails to stand up for its own residents. Consider this current advertisement from the website of a New Mexico outfitter:

"Applying with an outfitter can greatly increase a hunter's chances of drawing an outstanding New Mexico license! In order to apply for a license in this pool of outfitter licenses, a hunter must have a signed contract with a NMDGF (New Mexico Department of Game and Fish) sponsored outfitter."

The same outfitter also offers EPLUS landowner elk licenses, with no draw required, with hunts starting at \$18,500. Such fees are beyond the means of most New Mexico resident hunters.

The EPLUS system allows wealthy nonresidents to hunt New Mexico elk virtually at will as long as they can afford the price tag, often on public lands. In addition, tags issued under EPLUS give hunters flexibility to dictate exactly when they want to hunt during lengthy season windows, a privilege the New Mexico State Game Commission does not afford to hunters who get their tags in the public draw.

#### NM'S PRIVATIZATION OF ELK LICENSES RUNS CONTRARY TO OUR NATION'S CONSERVATION IDEALS

Despite the fact many vested interests like New Mexico's elk allocation system just the way it is, it's imperative that sportsmen work for reform. First of all, residents deserve a fair share of the elk hunting opportunity in their own state. Beyond that, it's up to all of us to speak up for our nation's conservation heritage. Government must allocate access to wildlife to citizens equally, without regard to an individual's wealth, prestige, or land ownership.

North American Model of Wildlife Conservation

The conservation pioneers who set up our nation's first game laws and pulled several species back from the brink of extinction more than 100 years ago established that wildlife belongs to all people, regardless of wealth or social status. That's the reverse of the law in Europe and elsewhere in the world, where wealthy landowners own the wildlife on their private estates and everyday residents don't get to hunt.

Wildlife conservation efforts nationwide are guided by the "North American Model of Wildlife Conservation." The model, developed by Valerius Geist, Shane Mahoney and others, spells out the principles behind the wildlife conservation efforts in the United States and Canada.

Among the key principles in the North American Model is the tenet that wildlife is a public resource held in public trust regardless of land ownership. The model also holds that the government must allocate access to wildlife to citizens equally, without regard to an individual's wealth, prestige or land ownership.



Clearly, New Mexico's elk management program has gone off the rails in regard to the North American Model. Wealthy, nonresident hunters flock to New Mexico every year and pay top dollar to hunt publicly owned elk on both private and public lands while working New Mexicans commonly can't draw licenses.

## TIME TO SPEAK UP FOR REFORM

It's time for New Mexicans who care about hunting, conservation, equity and the future of our state's hunting heritage to speak up and demand change. Past generations of conservationists and hunters entrusted to us the great gift of our public hunting traditions. Future generations are relying on us to preserve them.

New Mexicans must work together to improve resident elk hunting opportunity and the chance to put meat on the family table.

Sign up to take back your elk at TakeBackYourElk.com

#### TakeBackYourElk.com