

Trapping Best Management Practices Working Group Meeting Minutes (Second Meeting)

Wednesday, August 23, 2022

The Trapping Best Management Practices (BMPs) Working Group held a meeting beginning at 5:00 pm on Wednesday, August 23, 2022, at the National Life Building in Montpelier.

Members Present: Joanne Bourbeau, Chris Bradley, Tom Decker, Brenna Galdenzi, David Kelly, Michael Kolsun, Kevin Lawrence, Bruce Martin, Representative Amy Sheldon, Martin Van Buren, Game Warden Lt. Sean Fowler, Game Warden Randy Hazard.

Absent: Senator Chris Bray, Robert Mullen

Fish and Wildlife Department Staff Present: Commissioner Christopher Herrick, Director of Wildlife Mark Scott, Counsel Catherine Gjessing, Working Group Leader Kim Royar, Specialist Chris Saunders, Wildlife Biologist Chris Bernier, Veterinarian Dr. Walt Cotrell, Public Information Officer Joshua Morse

Agenda Items:

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| A. Commissioner Introduction | 5 minutes |
| B. Group Introductions | 10 minutes |
| C. Review Minutes from the beginning of the meeting up until the breakout groups | 5 minutes |
| D. Review Ground rules again (include addition), mandate, and consensus | 10 minutes |
| E. Response to Questions: | 35 minutes |
| a. Current off-set laws –Catherine Gjessing/Sean Fowler | |
| F. Dinner | 15 minutes |
| G. Report from Break-out groups (10 minutes to rehash points of consensus, and issues of concern) | |
| a. Review and finalize the minutes in each of the individual breakout groups | |
| b. Review discussions from previous meeting and prepare to present to the full group | |
| c. 5-10 minutes/group for presentation | 25 minutes |
| H. Establish points of consensus—full group | 30 minutes |
| a. Finalize edited minutes | |
| b. Report out points of consensus and issues of concern from each breakout group | |
| c. Establish common points of consensus from whole group | |
| I. Full group exercise on flip charts/paper | 15 minutes |
| J. Break out discussion of the above (depending on time) | 40 minutes |
| Share back | 20 minutes |

The meeting was called to order at 5:00 pm

AGENDA ITEMS A-D

Kim Royar introduced the commissioner, who made opening remarks expressing his appreciation for the group on this new process.

The commissioner noted that he had read the minutes and reviewed the recording, and that this was an important process. He emphasized the need to listen to different perspectives. Reiterated the importance of the ground rules for the meeting: that the goal is for everyone feeling comfortable speaking, and that requires everyone listening respectfully. He emphasized the diversity of experiences in the group, the need for everyone's involvement, and the fact that everyone will make mistakes – the goal is to move forward from these. He also requested that participants not share material related to the working group to social media

The commissioner also highlighted that he has learned a lot from meeting the diversity of people engaged in this work and gaining exposure to their different opinions. He asked the group to refocus on the goals and objectives of this working group. Closed by thanking participants and acknowledging the work they are putting into the working group and inviting all participants to introduce themselves.

Royar then reported that she has permission to share Bryant White's and Christopher Grove's emails (BWhite@fishwildlife.org and dgrove@utk.edu) and provided the following logistical updates:

- Bryant White is working on creating a pdf of the presentation will be distributed once it is available.
- The taped presentation from Aug 4 has been made available
- There will be a time for the blue and green groups to go over the breakout sections of the minutes from the prior meeting to discuss the edits that we received after they were mailed to the group.

Royar then asked whether everyone is comfortable with the meetings up to the breakout session. Kevin Lawrence interjected to say that in reviewing the minutes he felt his comments may have offended some folks and he wanted to apologize for any offense they may have caused.

Royar then reviewed the ground rules which were posted on the wall. She noted that finding common ground will take work. She introduced Lawrence's added ground rule: "begin from a place for forgiveness."

Tom Decker asked a clarifying question from the minutes regarding whether the working group recommendations will cover trapping in defense of property and on private land. He stated that except for the motive, trapping in defense of property is no different than avocational trapping. He asked whether trappers trapping in defense of property should be exempt from the proposed

regulations. Lt. Sean Fowler summarized the Blue Group's position – Statute 4828 covers nuisance furbearers and therefore any board rules emerging from this process would not supersede it without further legislative action. The commissioner confirmed that the group could, however, make a recommendation to alter the statute to require that the BMP's cover trapping in defense of property. Galdenzi added that this has been an issue for POW for years and that she supports including landowners and those trapping in defense of property in any recommendation from the working group. Fowler further clarified that Blue Group walked through each of the three petitions and determined which points fit within the legislative mandate. This topic was not originally included because a board rule cannot supersede a state statute. Royar added this topic to the 'parking lot' for further discussion

The group affirmed that everyone is OK with the minutes up to the breakout groups, and Royar moved on with the agenda.

AGENDA ITEM E

Royar revisited the definition of consensus and introduced the next agenda item: Catherine Gjessing's presentation on Vermont's current laws related to trapping setbacks in response to questions generated at the first meeting. Gjessing summarized legal background on setback laws and answered questions. This conversation covered the points below.

Gjessing stated that S201 focuses on considering requirements for the location of traps a safe distance from public trails, class four roads, playground, parks, and other locations where people might be reasonably likely to recreate. She explained that notice and landowner permission is required for trappers on private land; landowners can revoke permission at any time. This also applies to municipal lands. Lawrence interjected to explain his process for securing access. He sends written notices in the mail, which he stated is common. David Kelly stated that in his opinion the more relevant issue is hiking trails through private lands, where nothing is said about the location of traps. He clarified that he is talking about private individuals and asked if a large landowner who does not want to prohibit trapping needs to provide notice to hikers. Gjessing clarified that she is just providing legal background and not a participant in the working group; this issue should be taken up in the working group. Fowler clarified that there is a need for a working definition of a public trail. Kelly restated his concern about places where reasonable recreation might occur; Gjessing acknowledged the questions he raised and reminded the group that she was simply providing a legal background on trails.

Gjessing offered the two trail definitions she was able to find:

- 1) trails on lands used for many kinds of recreation and mapped by the Vermont Department of Forests, Parks and Recreation
- 2) town trails under Title 19 designated by town selectboards – often previously designated town highways, or new public rights of ways.

Gjessing also introduced:

- How VFWD defines corridors and trails on department lands.

- The 4 classes of town highways mentioned in S201 and noted that town highways are designated by the selectboard and must be mapped.
- A definition of public lands as any land owned by a governmental entity under traditional court definitions.
- A definition from the Agency of Natural Resources (ANR)'s primitive camping rules as property owned by the state of Vermont.

Gjessing described that ANR is likely the largest landowning state entity in Vermont. VFWD owns about 134,000 acres across 100+ wildlife management areas purchased with PR and licensing funds for the primary purpose of hunting, fishing, and trapping (referred to as Wildlife Management Areas –WMA's). ANR's current policy requires that people who are hunting and trapping stay 500 ft away from state park buildings and "other designated areas", a term that Gjessing noted is not clearly elaborated on.

Gjessing and Chris Saunders summarized setback regulations from the 48 states that currently allow recreational trapping. Of the 20 that have minimum setback distances, there are a range of road and trail types that are included. Gjessing presented the setback rules from those states that are closest to Vermont (ME, NH, MA, NY) and noted that her handout includes all the states surveyed. Kelly noted that the language in NY's regulation is broad with respect to what defines a "public road", and that the language around body gripping traps is not well written.

Brenna Galdenzi thanked Gjessing for the summary of the issue. Then, she provided context on Protect Our Wildlife (POW)'s interest in the issue which originated with a member report of a baited kill trap on public land while walking her dog. Galdenzi stated that Vermont residents should have the comfort to recreate on shared public lands with their dogs without fear of kill or leghold traps. She stated that POW's 2019 petition was aimed to prompt conversations regarding what other states are doing. Kelly noted that a former VFWD commissioner had two Brittany spaniels caught in foothold traps while bird hunting.

Bruce Martin asked for a restated definition of trail. Gjessing revisited the Title 19 definition of trails and class four roads which are mapped by VTRANs every year, as well as the Title 10 42 Vermont Trail System. She described that the legislature has requested that recreational trail maps be generated in consultation with the Greenways Council (i.e. VAST trails, walking, biking, etc.). Gjessing noted that FPR is trying to narrow this definition and is in the process of mapping their product. Martin asked whether that would encompass both trails on public and private land, and whether private property owners could revoke permission for specific trails covered under Title 10 42 (i.e. the VAST trail).

AGENDA ITEM F

Royar then transitioned to dinner and introduced the goal for the next section of the meeting: the small group share reconvening and setback.

AGENDA ITEM G

The working group split into breakouts, Green Group and Blue Group. Minutes from each breakout group's discussion are below.

Green Group Minutes

Members Present: Decker, Galdenzi, Kelly, Lawrence, Van Buren, Warden Hazard

Note Taker: Joshua Morse

Galdenzi agreed to share back the results of this discussion to the full group during the following portion of the meeting. Since August 4 meeting minutes were not available as hard copies, Galdenzi and Royar agreed to talk about the petitions instead of reviewing meeting minutes.

Galdenzi described a previous conversation about the setbacks as not productive and asked to talk about body gripping kill traps on land. Asked what they were typically set for. Hazard clarified they are typically set for mink and muskrat underwater, and that cubbies versions are set on land. Asked the group for their thoughts on restricting body gripping kill traps underwater. Van Buren asked if there is any data on out of season captures. Hazard and Royar said the average out of season bobcat capture is 1-7. Galdenzi noted that out of season reporting is limited to certain species, which makes it problematic to know incidental capture numbers. She asked what the benefits of body gripping kill traps are and asked if they outweigh the costs. She noted that you can trap certain species like fisher and mink without body gripping kill traps. Hazard noted that body gripping traps over 6 inches are already required to be off the ground/in the water between Dec 17 -31.

Royar clarified with Galdenzi that the capture of non-target species should be added to the 'parking lot' to be discussed later in the working group process.

Lawrence asked what the health of American marten is in Vermont. Royar summarized the research on marten movement across the state. Bernier briefly summarized that marten have some ability to disperse across the landscape. Galdenzi noted records show that in one year 10-12 martens were killed in a fisher set and identified the broader issue as the danger presented to individual non-target animals by kill traps.

Royar noted that we have 5 minutes left, and that it is important to discuss consensus about the previous meeting's minutes.

Van Buren stated he is OK with the minutes as edited (including POW's opposition to the VTA petition). Royar asked if she had misunderstood POW's position on the VTA petition. Galdenzi stated that she did not want to spend more time on VTA petition – she felt that they would not make trapping worse and does not oppose it, but that she does not believe they will result in improved animal welfare. Decker noted that the BMPs do increase the welfare of animals in BMP traps. He took Robert Mullen's comment from the prior meeting to mean VWC supported the BMPs. Galdenzi clarified that VWC is a different organization, Kelly clarified that VWC also does not oppose the BMPs but that in his opinion trapping remains cruel. Royar reminded the group that the legislative intent is to improve trapping, not to ban it. Kelly clarified that he is

not interested in banning trapping, and that some mandates in the law require us to look at setbacks as a potential way to improve animal welfare. Royar asked for clarity, and Kelly affirmed that they do not oppose moving the VTA petition forward but that they do not see the VTA petitions as making trapping less cruel.

Galdenzi asked the group to remember that there is a data gap in non-target capture, citing the bear killed last year. Hazard added that it is unlawful to take a big game animal and that it is required to be reported. Galdenzi reaffirmed there is a reporting gap for species that are not mandated to be reported and that POW is asking for a requirement that there be expanded reporting requirements.

Morse stated that the group had reached the time allocated for this section of the agenda and needed to review common ground and concerns.

Royar reviewed the group's potential point of common ground:

- Moving the VTA petition forward

Royar asked to be clear as to whether there is no opposition to moving the VTA petition forward while acknowledging that some feel it will not improve animal welfare. Galdenzi affirmed that this is an accurate reflection of POW's position.

Royar then reviewed the concerns/issues list for accuracy:

- An interest in the reporting of non-target species in body gripping traps,
- A request that the Department bring data on BMP incidental data to the next meeting, and what requirements for reporting incidental take is.

Morse asked the group to review and affirm a shared understanding of the white board points. Confirmed with Galdenzi that she will share these back to Blue Group in 2 minutes or less. Galdenzi questioned whether there would be chance to discuss additional issues. Morse clarified that there would, but that the goal for the next agenda item is just allowing the groups to share back.

Royar reported that Blue Group needed three more minutes before returning to the full group.

In the interim, Lawrence offered to show the group how his trap modification kit works. Kelly agreed that this would be a valuable addition to the record and requested that we add a collection of videos of animals that are in the trap gathered by a VWC highschool intern. Galdenzi mentioned Gilbert Proulx's research that AFWA's recommendations/researcher do not consider the psychological wellbeing of trapped animals. Van Buren asked how one could measure psychological wellbeing; Galdenzi noted that Gilbert Proulx's research demonstrated this. Kelly restated that he wanted to present video material and Galdenzi added that "both sides" material should be considered. Decker added that several psychological wellbeing metrics were considered when AFWA researched the BMPs, but that they were found to not be scientifically replicable by the ISO standard.

Blue Group Minutes

Members Present: Scott Chapman (meeting one), Chris Bradley (meeting two), Bourbeau, Martin, Kolsun, Rep. Sheldon, Warden Lt. Fowler

Note Taker: Chris Saunders

Reviewed prior meeting notes. Fowler suggested that “non-target” take needs to be considered. Animals legally trapped in season even if it wasn’t the prime target. Comments covered:

- Does that need to be talked about but not mandated?
- Why wouldn’t we include the protection of property? If we are asking trappers to go by the BMPs why not others?

Fowler clarified that landowners have been exempted for the decades from the rules that trappers need to follow us. But these are recommendations to the board not statute. Comments covered:

- If we ask one group, then should ask another...
- This comes up with defense of property of other things, like black bears. If this goes to board, they don’t have authority

Chris Saunders asked whether there is consensus on defense of property? Comments covered:

- If it’s clearly stated
- Don’t need to adjudicate now but we can discuss.
- [My thought is] any trapper that helps another out will be...
- Defense of property is a more severe issue than recreational trapping
- Saunders [identified a potential] compromise [around] recent regulation for wildlife control operators if this also applied to nuisance trappers for compensation.

The group also discussed [possible] consensus about defining non-target. Comments covered:

- Disagree with it fitting in the mandate.
- Annually reporting of incidental take.
- [This is] part of annual trapping survey. Target and non-target reported
- Why [traps must be checked] 24 hours? Fowler clarified that a day is and is not 24 hours and there is [intent] not to make everyone a criminal if not exactly 24 hours.
- Don’t think we have good consensus on this.

AGENDA ITEM H

Blue Group shared back their points of discussion, with Martin as the spokesperson. The group’s process was to go point by point through the legislative mandate and the items on the three petitions and determine which petition items deserved further discussions as dictated by the legislative mandate. The group agreed:

- To discuss the VTA petition

- To include a discussion on trail setbacks
- To discuss baits and lures
- To discuss several technical items such as body-gripping traps underwater
- To include a discussion of methods of dispatch

Green Group shared back their points of discussion with Galdenzi as the spokesperson. The group agreed:

- That the minutes from last week as accurate for the purpose of moving forward
- There is no opposition to moving VTA's petition forward although there was also no consensus that it would make animal welfare better; it was agreed that it would not make trapping worse

Green group also reported back that they had discussed the issue of body gripping kill traps set on land as a number one issue for POW and HSUS, with the interest of restricting their use to underwater only. The group also was interested in getting data on incidental take of non-target species in foot hold and body gripping traps.

Lawrence requested from Decker that AFWA share its selectivity data from national trap testing. Galdenzi raised a concern that AFWA's trap testing for selectivity does not incorporate incidentally trapped furbearers, just incidentally trapped non-furbearers

Royar then asked Green Group if they had comments on the items proposed by the Blue Group for further discussion. Galdenzi asked for clarification on the body gripping trap point. Martin clarified that body gripping traps underwater was a topic agreed to be worthy of discussion based on the legislative mandate.

Royar then asked if everyone else was on board with these items. Galdenzi asked if blue group was endorsing an underwater stipulation. Martin and Fowler clarified that the five listed items are just those topics that blue group agreed should be discussed further – not that there was any endorsement.

Royar asked if these five items encompass the scope of issues the group agrees to consider. Kelly raised that there may be other issues that should be considered, for instance, the placement of traps at the mouth of beaver lodges and asked whether that belongs on the list in question. Hazard and Fowler clarified existing law on this. David asked whether this issue could be included in the five points, noting that those five points cover the items VWC most cares about. Galdenzi asked for stipulations pertaining to underwater trap sets – Royar clarified that at this time, the question on the table is just whether these topics are the topics to be covered, noting that there would be space to engage with specific recommendations under each of these items. Kelly affirmed that these five items include the most important issues for VWC. Galdenzi asked whether we could discuss drowning sets/drowning as a method of killing. Bourbeau added that Blue Group covered that topic under methods of take.

Royar once again asked whether these 5 topics are a point of common ground as issues for continued discussion. Lawrence noted that VTA agreed to participate as a gateway to understanding in the hopes that the legislature might not have to engage with “anti-trapping”

bills every year. Lawrence expressed concern that some groups get “more bites at the legislative apple” than others.

Royar asked once again if there was any other common ground we could cover. Bradley noted that more wardens would be a point of common ground; Galdenzi affirmed.

Mark Scott asked whether the AFWA recommendations could be agreed upon as a scientific basis for the legislation – is the peer reviewed research legitimate? Bourbeau stated that this was not something HSUS agreed with. Galdenzi stated that this was not something POW agreed with. Scott reiterated: “does this group believe in what they heard last week, because that is the minimum that the legislature is asking of us?” Galdenzi noted that she does not think this is a productive topic for this meeting, and that the bill also asked the group to consider steps to make trapping more humane beyond the AFWA BMPs. She noted that she is working on an as-yet unpublished white paper critiquing AFWAs method and that she would be happy to present at the next meeting – but that she does not think it is productive to spend time on this critique at present. Kelly asked whether the BMPs include setbacks. Galdenzi and Royar confirmed not. Galdenzi noted further concerns about the AFWA BMPs – that a trapper’s technician could be any volunteer for instance a husband/wife pair, and that the data might therefore not be trustworthy. Royar noted that she hired many of the technicians in Vermont and does not believe she hired any husband/wife pairs. Galdenzi noted that until the names of the technicians are identified, there is room for mistrust in the process. The commissioner stated that the topic of the AFWA BMPs’ relevance has already been litigated: that FWD will follow the AFWA recommendations, and that because of this he does not think there is value to arguing about the validity of the BMPs process. Fowler then asked Decker if the peer review records are available from the BMP monograph. Decker confirmed that the monograph was rigorously reviewed. Kelly returned to the point that the AFWA BMPs have already been legislated and stated that it is productive to move on.

Royar summarized that there is NOT consensus on the scientific legitimacy of the AFWA BMP monograph but that the group will move on, after a 15-minute break.

AGENDA ITEMS I-J

Royar reconvened the group reminding us to be focused, and respectful, and acknowledged that we have a difficult task ahead. She then posed a question to the group: what issues would you like the group to focus on and recommend to the department? The group agreed to discuss trail setbacks.

Kelly suggested the Montana setback law as a reference – Sheldon asked him to elaborate. Galdenzi interjected by stating that clarifying what public land is needs to be the starting point. Kelly interjected that there are trails through private land that are also important. Bradley asked for a setback document to be shared with the group. Galdenzi noted that the New Mexico setback law also looked good, and that states with setback requirements must have faced the same challenge of defining public land. Royar summarized: is the issue for Galdenzi minimizing

the potential risk of dogs being trapped? Galdenzi affirmed that it is a safety issue for domestic animals and the public. Bourbeau affirmed there are risks to the public from releasing animals from traps. Kolsun asked if there is data showing that people and domestic dogs have actually been caught or injured in traps, and what numbers are we talking about? He added that the AFWA study shows no evidence of risk to people. Rep. Sheldon stated that her dog was caught in a trap. Chris asked for circumstances. Rep. Sheldon detailed that her dog was off leash and caught in a trap. Kelly mentioned that he had two Brittany Spaniels caught in a trap. Martin asked about public/private land, Kelly clarified that this was public land. Galdenzi noted that prior to 2018 there was no database collecting this information. Galdenzi stated that she wants assurance that when her dogs are walking on leash on public lands, her dogs will not be caught in a foothold trap.

Kelly asked whether it is smart to lay traps along the Lamoille Rail Trail. He cited that there could be a commonsense point to be agreed on as traffic increases on the Lamoille Rail Trail in the next 10 years and that there are some places where traps do not belong. Lawrence asked whether he meets many trappers along the Lamoille Valley Rail Trail. Kelly clarified that he does not spend time there. Lawrence states that he traps underneath a trail and that this does not pose a danger to the public. Galdenzi stated that if most trappers are not placing traps along trails then a law requiring offsets should be an easy point of common ground. Martin and Kelly discussed what exactly is meant by trapping on the rail trail. Galdenzi offered to put this group in touch with New Mexico colleagues to learn how they achieved a trap setback agreement.

Van Buren asked whether private land along a public trail should be regulated. Kelly suggested this should be the case. Galdenzi redirected the group from the specific topic of the rail trail back to public lands with the purpose of ensuring that people can recreate safely and without concern.

Galdenzi then asked the group to focus on public lands and asked the group what their concerns about trapping setbacks [from trails] on public land would be. Bradley asked what distance is being discussed – 10 ft, 75 ft, 100 yards? Galdenzi noted that New Mexico has a 75 ft setback. Lt. Fowler noted that the setback for firearm use when hunting is 25 ft from the traveled portion of a road. Royar noted that water sets are excluded from some states; Galdenzi noted that the exclusion of water sets from setbacks can be an issue. Fowler asked for details on the Williston set, Galdenzi offered to email. Martin noted he would have issues with the water setback suggestion because he has been engaged by landowners to trap beavers in defense of property very close to the land. Fowler noted that there is a distinction between public land and private land where setbacks apply. Galdenzi noted that this conversation began by discussing foot hold traps but that body gripping kill traps are also an issue to ensure dog safety – therefore she would also be interested in restricting body gripping kill traps on land, especially on public land. Decker observed there are very different kinds of trails which complicates the establishment of setbacks; he also noted that many public acres are purchased for trapping. He identified accommodating these nuances as a challenge facing the group. Galdenzi noted she is not asking to ban traps on WMAs, just to have regulations for safe recreation on public lands. Royar asked Kelly if there are other states with setbacks on WMAs. Kelly responded that Montana may.

Galdenzi reiterated her question: “what are peoples’ reservations about setting your traps away from trailheads and trails?” Van Buren stated that not all states have setbacks, some of them use

other methods like notifications at kiosks etc. to announce when trapping season starts. Van Buren also noted that he wants to consider states close to Vermont; Galdenzi noted that Vermont is a specific case with a high per-capita count of trappers. Bradley asked Kelly what an acceptable distance from the Lamoille Rail Trail would be. David said 50 yards, and Bradley asked for details clarifying that his intent is not to be confrontational. Galdenzi and Chris also noted that a leash law could be a point of common ground. Kelly interjected that he hunted with an off-leash bird dog. Lt. Fowler stated he does not think there is a place for a setback ban on WMAs as those properties were bought and often paid for specifically for hunting, fishing, and trapping. He suggested that other state lands owned by ANR, for example a hiking trail in Groton, might make sense – distance TBD. Lt. Fowler acknowledged that places like the Rail Trail are understandable because they are places promoted for people to recreate but are complicated by the fact that they pass through different jurisdictions. He made the point that multiple ownerships (including private land) are important considerations and we should begin by discussing state owned public lands.

Royar ended the setback discussion [due to time availability] and asked to clarify points of consensus. Royar stated that Lt. Fowler provided a nice summary of the group’s conversation – she asked whether there is potential for consensus around a discussion regarding setbacks on trails on state owned public lands. Kelly asked if it would be possible for a municipality to adopt rules on private lands. Royar states that the consensus point was state owned public lands and asks whether Kelly could agree to limit the discussion to public land. He reviewed the legislation and agreed that this is an appropriate focus.

Royar restated: “can we discuss the potential for setbacks on state owned public lands excluding WMAs?” The group agreed and she suggested that we all consider some reasonable suggestions we could bring to the table. Rep. Sheldon reiterated the question: “does anyone disagree with the topic of looking at trails on state owned public lands excluding WMAs?” No one voiced disagreement.

The meeting concluded at 8:25. In summary of consensus items, the group agreed to:

(1) discuss the 5 issues listed below:

- The VTA petition
- Trail setbacks
- baits and lures
- Technical items such as body-gripping traps underwater
- Methods of dispatch

(2) consider setbacks on public lands excluding WMAs
