

Vermont Fish and Wildlife Board Meeting Minutes

Wednesday, October 19, 2022

The Vermont Fish and Wildlife Board held an in-person meeting at 5:00 p.m. on Wednesday, October 19, 2022, at the National Life Dewey Conference Room in Montpelier. A recording of the meeting is available on the department's YouTube channel and website.

Agenda

- 1) Public Comment Period
- 2) Approval of Previous Meeting Minutes.
 - August 2022
- 3) Trapping BMP Update
- 4) Commissioner's Update

The mission of the Vermont Fish and Wildlife Department is the conservation of all species of fish, wildlife and plants and their habitats for the people of Vermont.

Board Members Present: Brian Bailey, Michael Bancroft, Nicholas Burnham, Jamie Dragon, Allison Frazier, Brad Ferland, Michael Kolsun, Neal Hogan, Robert Patterson, Jay Sweeney

Remote: David Deen, David Robillard

Absent: Martin Van Buren, Bryan McCarthy

Staff Present: Commissioner Christopher Herrick, Wildlife Director Mark Scott, Outreach Director Alison Thomas, Counsel Catherine Gjessing, Wildlife Management Program Manager David Sausville, Game Warden Lt. Sean Fowler, Specialist Chris Saunders, Financial Manager Tom Malinowski, Public Information Officer Joshua Morse

Digital: Working Group Leader Kim Royar

Public Present: none in person

Online: Rob Coronado, Brenna Galdenzi, Brian O'Gorman

The meeting was called to order at 5:00 pm

PUBLIC COMMENT PERIOD

No members of the public present in person or online asked to make a public comment.

APPROVAL OF PREVIOUS MINUTES

Discussion: None.

Motion: David Deen moved to approve the minutes from August 22, 2022. Seconded by Neal Hogan.

Vote: Unanimous

TRAPPING BEST MANAGEMENT PRACTICES (BMP) UPDATE

Scott introduced the trapping BMPs working group process to date. He credited Kim Royar for her leadership, and credited staff who were present at all or some meetings of the working group, in addition to himself: Herrick, Fowler, Hazard, Scott, Saunders, Gjessing, Sausville, and Morse.

Ferland asked for an overview of how the BMP working group was established. Scott turned the floor to the commissioner.

Herrick summarized that the legislature took up a bill to ban foothold traps, and that the department had counter-proposed to “raise the bar on trapping” based on current best management practices from AFWA. The legislature then granted the department a period of time to follow a directive to develop new recommended regulations on trapping. Herrick reminded the board that the department brings regulations to the board based on research, and that he selected a working group as the first step of this process with representatives from: the trapping community, law enforcement, the wildlife activist community, and a number of other groups. The process was a facilitated meeting with a focus on identifying common ground based on the directive from the legislation. The working group met (4) times, and today the board will hear a report of the group’s process.

Scott added that the Board had previously received a petition from the VTA in 2022, and from POW in 2019, on trapping regulations. Scott noted that Van Buren and Kolsun represented the board on the working group. Scott explained that the purpose of tonight’s presentation is for the board to understand the working process – not to generate specific recommendations at this time, a step that will be forthcoming from dept staff and the commissioner. He reiterated that the working group was set up to identify areas of consensus based on the BMPs to make trapping more humane and safer in Vermont, an effort no other state has undertaken.

Scott closed by noting that the purpose of this presentation is for the board to have as full understanding as possible. He asked the board to take time to review the full presentation given to the working by AFWA so that the board has an understanding of the work already in place by that organization on trapping BMPs.

Ferland clarified that Scott as wildlife division director will make recommendations to commissioner, the commissioner will bring these to the board, the board will then follow its standard rule-making process to formalize these as new regulations. Scott affirmed, adding that it was mandated by the legislature to have a public meeting (Saunders noted that the likely date is Nov 29), and that the staff will manage the meeting and provide all information for the board. Ferland asked about any other important dates, Scott identified that there will be a report made to the Legislature on Jan 15.

Scott then turned the floor over to Royar.

Royar stated her hope that with department staff present, the evening's process can be a conversation between staff and board members.

Royar described the outcomes of the four working group meetings we have had since August 3. The working group had the following stated goal: "to attempt to recommend rules that would regulate the use of foothold trapping systems in accordance with the BMP criteria as outlined by AFWA. In addition, the group considered other proposals that were related to BMP or other trapping system improvements associated with animal welfare, selectivity, and safety as defined by Act 159".

Royar summarized the research process behind the AFWA BMP monograph – a 30 year field trial in which trappers, field observers, and veterinaries examined traps for their impact to furbearers and identified 39% of tested traps as meeting high animal welfare standards. Royar also noted that the monograph has been peer reviewed and published in Journal of Wildlife Management.

Royar listed all working group participants. Royar also stated that the meeting minutes were recorded by Saunders and Morse, and audio/video recorded, so the department has very good records of the process.

Royar stated that the objective of the working group was to get informed consent from participants through a fair, equitable, and transparent process. She stated that the working group was hoping to secure agreement on the final recommendations that would go to the commissioner, but that the actual outcome was some areas of consensus/alignment and some areas without such. She explained that the department will work from these to come up with practical and enforceable recommendations for the commissioner.

Royar described the ground rules process that started the meetings on August 4. All participants agreed to follow the ground rules, and the group added one additional rule "to begin from a place of forgiveness" based on past history between working group members. Royar described that the group also talked about their goal of finding consensus; initially the hope had been to avoid vote

taking, but the group eventually moved to vote taking to avoid confusion. Royar described that consensus meant “all members of the working group could support, agree to, or even reluctantly accept an individual recommendation.”

After going over ground rules, the working group heard from Bryant White from AFWA and Dr. Dan Grove, a BMP study veterinarian involved with the necropsies. They presented an overview of the 22 year BMP research effort. Royar suggested that anyone with questions about the history or results of the BMP effort review White’s presentation.

Royar then gave the floor to Fowler to present on the legislative charge and how the working group narrowed its focus from these. Fowler shared the charges from Act 159. Fowler noted the diversity of stakeholders on the working group. He described that the department initially broke the working group into two breakouts to facilitate dialogue. Each reviewed the two petitions (2019, 2022) to see which points from each fell within the priorities of Act 159. Fowler described that this process worked well for the breakout he was a part of, and that the method was then implemented with the full group.

Fowler then introduced the five points of consensus to discuss that resulted from this process: 1) the VTA petition; 2) trail setbacks; 3) baits and lures; 4) other trapping techniques related to body gripping traps; 5) ethical and human dispatch. These points became the topics the working group would discuss moving forward.

Royar then summarize the second working group meeting, which focused on the trail setback discussion point. Gjessing shared a presentation on legal definitions of trails with working members, which she presented again for board member.

The board broke for a 20-minute dinner at 5:55 pm.

The board resumed discussion of the working group process at 6:05 pm.

Royar explained that there was substantial discussion of trail offsets in the second and third meetings. Royar also described that working group members asked that data be provided on non-target catches (NTCs).

Royar defined NTCs as furbearers taken out of season or non-furbearers taken in a trap. She shared data from the trapper mail survey, noting that the trapper mail survey does not collect data on dogs and cats because by statute trappers must notify the dept within 24 hours of such a capture and those data are collected in the law enforcement CAD database. She reports that the survey question is “did you capture any out of season furbearers while targeting in-season furbearers?”

Royar summarized the data for NTCs in season 2017-2022, noting that there were about 290 active trappers per year in this period, averaging about 25,000 trap nights during this period for coyotes, 16,000 trap nights for beaver, and 16,000 trap nights for fisher and 4,200 trap nights for bobcat per year: during this period less than 200 NTCs total were reported.

Sweeney asked how the surveys are sent, Royar confirmed that everyone who has a trapping license received a mailed survey and it is mandatory to return them. Royar explained that the survey was voluntary until 2018 and is now mandatory.

Royar then summarized data on non-target animals taken out of season during animal damage control trapping (ACD) between 2018-2021. She explained that ACD trapping appears to cause incidental take that could be avoided, e.g. otters caught during out of season ACD beaver trapping. She read the prompt “did you catch any NTCs while trapping out of season for ACD?”

Deen asked who does the trapping for ACD (“are they the landowners, are they people out there who provide the service?”). Royar explained that it can be both. A landowner can trap on their own land in defense of property or can hire an agent. She explained that Title 10 VS 4828 was changed so that anyone trapping furbearers in defense of property must have a trapping license and go through a trapper education course. Deen explained that he was curious because the numbers caught show a significant effort for the 300-500 [active trappers] in the state at a given time.

Royar then turned the floor over to Saunders to present on the law enforcement CAD data on domestic dog and cat captures.

Saunders explained that the working asked how much incidental catch was of domestic pets (cats, dogs). Saunders explained that this information has been required by law to be reported since 2018, and that it is entered into the law enforcement CAD database that serves all law enforcement state-wide. He noted that this makes pulling data difficult, and that he missed a case in his initial pull; the current presentation has been updated to include that case. He summarized that there are 36 reports during 2017-2021: 26 dogs, 10 cats, and one omitted due to lacking data. He explained that of those cases, just over half occurred during the trapping season by a licensed trapper, and that in those cases 20 out of 23 trappers had permission to be trapping where they were. Three of those involved violations – lack of permission, or illegal placement of a body gripping trap. Only two cases occurred on public land. The majority were private land cases, many of which occurred on the trapper’s own property. None of the 26 dogs in these cases were on leash, and 9 were roaming uncontrolled.

Saunders then broke down trap type for these captures. The majority were foothold traps. Saunders then broke down reports by year, noting that once mandatory reporting came into effect the numbers rose but in sum there have been less than 11 per year over the past 5 years.

Saunders presented on injuries to domestic animals caught in traps. He explained that of the 36 reported cases, 4 were fatal. One was a feral cat. Three occurred during the regular trapping season. Of these, one was a violation with an illegally placed body gripping trap; one involved a dog walker who was walking their dog off leash on the trapper’s property under advisement that trapping was in effect there; and the last involved an outdoor cat being caught and killed. Saunders then broke down injury type from the 32 non-fatal cases.

Ferland asks what the intended target in each of these cases was. Saunders explained that it is not known. Ferland explained his interest in whether a specific type of trapping could be causing many of the domestic NTCs.

Royar then took the floor and continued summarizing working group meeting three. She summarized that Dr. Walt Cottrell presented to the group on AFWA and AWV efforts to develop national recommendations on humane dispatch. The group found consensus and voted to put off making a recommendation on humane dispatch until those groups' reports are ready, with the stipulation that the working group's report to the commissioner will state an intent to circle back to those subjects once the AFWA/AWV recs come out.

Royar also explained that each stakeholder group was asked to present a short position statement on the five consensus topics for discussion, and that each interest group was supposed to share these at meeting three. Royar explained that HSUS/POW/VWC presented their proposal on the third meeting; VTA/VFS was not in a position to present on their positions until the fourth meeting.

Royar explained the points from the HSUS/POW/VWC proposal:

- No opposition to the VTA petition, but no confidence that the BMP process would improve wildlife wellbeing.
- 500 ft setback from trails, and a request for more discussion on what Royar stated had previously been a unanimous agreement to excluded WMAs from the offset rule and to discuss non-trail public locations.
- Prohibit baiting of traps with visible bait from the air
- Prohibit the use of body gripping traps on land and mandate that traps in water be fully submerged.
- Gunshot as only acceptable dispatch for trapped animals.

Royar explained the VTA presented on their 2022 petition in lieu of a position statement.

Royar explained that the meeting then closed, and VTA agreed to come back to the fourth meeting with a position statement. Royar noted that the department also sent out a survey for feedback on process, Saunders explained that only four attendees replied and that there was not enough data to make any broad conclusions except to note topics to cover.

Royar than explained that a fourth meeting additional to the original three proposed was scheduled. She noted that Meier presented on the department's trapper education program per Act 159's stipulations.

The group then considered the VTA position statement, originally solicited for the third meeting, which included the following statements:

- Trail setbacks: traps not to be set within 10 ft of a trail except under bridges and in waters
- Meat-based baits to be covered.
- No meat based baited traps on the ground.
- Cable restraints made legal again in VT.
- An increased number of game wardens.
- Trapper education curriculum to include any new regulations.

Royar explained that the moderators encouraged the participants to look for areas of alignment

between the proposals. She noted that there was limited success in this, and that the moderators/participants agreed to end the meeting with the understanding that the department would develop final recommendations to the commissioner taking into account what was learned during the working group. She also noted that it was understood that there would be future opportunities for all interest groups to weigh in, for instance through the forthcoming public meetings.

Royar then listed the “parking lot issues” raised during the working group as important, but beyond the scope of the working group charge:

- Whether BMPs would apply to ACD trappers out of season.
- Increasing the size of the warden force.
- Including any changes in the trapper ed curriculum.
- To come up with a potential cost to help trappers who need to update their traps to be consistent with new regulations.

Royar then explained that the group is looking at a public meeting on November 29, with details pending. Following the public meeting there will be recommendations to the commissioner. A required report to the legislature will be made by Jan 15 ‘23, and a final proposal would be brought to the board in Feb or March ’24.

Royar then asked Kolsun to provide any observations from his experience on the working group. Kolsun said that the presentation by AFWA about BMPs was valuable, and that the study design was blind with respect to veterinarian inspect of animal damage and trap type. He also explained that the process for ruling traps out based on harm to animals was conservative to minimize acceptable level of injury. Royar added that scoring was consistent across the national study area. Kolsun added his observation that as a blind, peer-reviewed study with a 22-year field component and a budget of \$40 million there is no better piece of work on this topic and it should be the standard that [the board] go by to meet the goals of harm reduction to trapped animals set by the legislature.

Kolsun also noted that he felt everyone came to the working group with apprehension, and he liked Lawrence’s suggestion that the group come together from a place of forgiveness. He liked the way that the group proceeded respectfully and stated that this was the first time a working group was used to try to address something that has grown more contentious over the years. He closed that it was successful from his perspective. Royar affirmed that the working group members themselves deserve credit for participating in 5-8:30 pm meetings and showing up/working respectfully despite the challenging topic and charge. She stated her appreciation of the working group members who put in the time to attend these.

Frazier asked two questions of Royar: she wanted to make sure she correctly understood that the percentage of non-target catch to the total trapping catch was extremely low, Royar affirmed that is accurate; and she asked how to find that AFWA presentation, and Royar explained this would be made available.

Scott added that a presentation to the board by AFWA may be helpful and is under consideration if the board is interested.

Ferland asked whether the correct term is “offset” or “setback”. Royar explained “offsets” is the space between trap jaws, Ferland then clarified he is curious about the safety component of setbacks. Specifically, whether a setback proposal would be trying to address unintended take, personal safety to individuals who may come in contact with a trap, or whether the group would be trying to resolve an issue that is not an issue.

Fowler answered that his understanding is that this is a personal and pet safety issue. He stated that to his knowledge as a warden in VT and based on the BMP process by AFWA, excluding trappers catching themselves he would never call this a human safety issue – he does not have reports of this happening. He considered the setback recommendation a mostly domestic pet safety issue.

Sweeney stated that he would recommend inviting AFWA to present to the board to reduce the risk of board misinterpretation, if AFWA reps are available. He noted that the board does not want to get this wrong.

Royar then asked whether there are other things that Scott or Herrick consider necessary to review upon. Scott explained the most immediate next step is getting the date and location of the public hearing decided (Nov 29, between the two firearm hunting seasons and in spite of busy staff schedules). He stated he would hope the board members will attend, and that this will not replace the subsequent board hearing to come in spring or summer '23.

Ferland asked what the objective of the Nov 29 public meeting will be. Royar explained that holding the public meeting is mandated by Act 159. Royar explained that the format is still being developed, but staff will present a draft set of recommendations and solicit participant feedback. Scott added that the goal will be to hear from every person, that the dept will likely use a large/small group facilitated table process to create an environment where everyone feels comfortable being heard. He stated the goal will be to understand why participants have the opinions they may have (e.g. building on what he learned during the working group about the primary focus on concern about pet safety).

Ferland asked if there were any other questions for Royar, none were raised. The board thanked Royar.

COMMISSIONER’S UPDATE

Herrick commended the working group and the staff who facilitated it. He credited staff for getting stakeholders to communicate about what is clearly a highly emotional topic for many. He stated his continued high regard for all department staff based on his field experience, etc.

Herrick informed the board that all members will need to take a mandated ethics course consistent with their role as public servants. Logistics are in the works.

Herrick described that the fall is an exceptionally busy time, with the budget development process wrapping up and the departments’ legislative initiatives being crafted. He will present

those this Friday with leadership and the governor's office, and will not get out ahead of that meeting.

Herrick provided an update on the coyote hound hunting issue. He explained there needs to be an information gathering process, a recommendation must be made to the commissioner, and a proposal must be brought to the board. He stated that this will be initiated shortly as a survey to coyote working group members. He noted that the coyote working group has a different time frame from the trapping BMPs working group.

Herrick observed that since becoming commissioner his time available to hunt and fish has declined. He stated that he will be at the deer check station at R&L archery for youth weekend along with secretary Moore to show support to youth hunters and learn from the biologists on site. He described taking part in many field visits, including one to Sallisbury to present the Lets Go Fishing Instructor of the Year award last weekend, and credited Thomas for her outstanding program.

Finally, he shared department calendars to the board, noting that some of the photos in the calendar are by department staff and that the calendar shows the passion department staff have for the beauty of the outdoors.

Patterson asked for the timeline on the coyote working group process; the commissioner stated that he does not have this top of mind but that the moratorium on hunting coyotes with hounds requires timely motion. He also noted that working groups take considerable staff time and effort. Bancroft followed up by asking whether the original time frame for the issues was concurrent, he wants to make sure the hounding does not get pushed back and that it should have been prioritized because no hounding is currently allowed. The commissioner explained that the staffer who was the point person for hounding retired, setting the department timeline back. He reaffirmed that this is a priority for him.

Kolsun asked for details on the coyote working group; Herrick explained that the members are outside stakeholders as with the trapping BMPs working group.

Robillard asked whether the department contracted out with Responsive Management for a survey. Saunders explained the current Responsive Management contract for a statewide survey of furbearer issues (e.g. attitudes about trapping, animal damage complaints, etc). Saunders explained that telephone sampling started mid last week, and should be completed today or tomorrow, and that there has been a high response rate and results should be available within a month or two.

Ferland asked whether the goal is to use that survey to inform the department's recommendation on either working group topic. Scott clarified that the survey was not precipitated because of the working group efforts, and that it was enabled by Pittman Robertson funds, but that the data will be brought to bear in response to the recommendation process by both.

Ferland asked about the moose season, RE ticks and the health of the herd. Herrick explained he does not want to get out ahead, but that anecdotally the ticks could be down. Kolsun added he has been at the check station daily and that animals are in good shape weight-wise.

Dragon asked about availability of the calendar. Herrick explained they are available over the website.

Ferland then asked board members to add any additional topics round-table.

Dragon stated she has no problem coming to any meetings because she has already filled her tag this year with a 213 8 pt. buck. Kolsun welcomed Frazier to the board, and stated that the moose check station has been active and enjoyable. Sweeney thanked department staff for their work on the working group. He also wanted to thank the recently retired Col. Batchelder. Deen welcomed new board members and congratulated the colonel. Ferland asked who the next board members to have their terms completed are: Robillard will be done in March '23. Sweeney stated that he will need to step down if he becomes assistant judge in Franklin CO, and will know whether he is successful in mid Nov.

The meeting was adjourned at 7:29 pm.
