

Department of Wildlife Resources**Hound-Hunters & Private Landowners Stakeholder Advisory Committee****November 3, 2023**

Virginia State University – Randolph Farm & Pavilion

4415 River Road, South Chesterfield

Executive Summary

Fourteen primary members and eight alternate members attended the sixth meeting of the Department of Wildlife Resources (DWR) Stakeholder Advisory Committee (SAC), held at the Randolph Farm Pavilion in South Chesterfield. Participants discussed a portion of the draft proposals that had been submitted by SAC members and distributed to them via email prior to the meeting. In the latter part of the day, members gave feedback regarding where they stood on about half of those proposals.

Welcome and Introductions

The meeting was opened by the facilitation team from the Institute for Engagement & Negotiation:

- Kelly Altizer, Associate Director of Operations
- Mike Foreman, Special Projects Manager
- Chamie Valentine, Project Consultant

Stakeholder Advisory Committee (SAC) members were asked to introduce themselves by sharing their name and organization or seat represented on the committee. Meeting attendance was as follows:

- Greg Austin, Virginia Bear Hunter's Association (alternate)
- Kirby Burch, Virginia Hunting Dog Alliance
- Joel Cathey, Citizen Representative
- Sean Clarkson, Virginia Chapter, American Bear Foundation
- Bill Collins, Citizen Representative
- Troy Cook, Virginia Hound Heritage (alternate)
- Sherry Crumley, Citizen Representative
- David Griffith, Virginia Deer Hunters Association

- Jim Hackett, Sporting Dog Coalition of Virginia
- Michael Hayes, Virginia Property Rights Alliance (alternate)
- Jared Hubbard, Virginia Chapter, American Bear Foundation (alternate)
- Kevin Marshall, Spotsylvania County
- Jim Medeiros, Property Rights Coalition of Virginia (alternate)
- John Morse, Virginia Hunting Dog Alliance (alternate)
- Nolan Nicely, Appalachian Habitat Association
- Steve Nicely, Virginia Bear Hunter's Association
- Sam Norman, Virginia Farm Bureau (alternate)
- Chris Patton, Virginia Property Rights Alliance
- Andrew Pullen, Citizen Representative
- Amanda Savignano, Property Rights Coalition of Virginia
- Billy Stafford, Sporting Dog Coalition of Virginia (alternate)
- Daryll Toomer, Virginia Association of Responsible Sportsmen

Participants listed above are primary members unless otherwise noted. Alternate members participated in observer role only, except those who were representing their organization in place of the primary member

DWR team members attending included:

- Jenn Allen, Assistant Chief, Wildlife Division
- Ryan Brown, Executive Director
- Jon Cooper, Board of Wildlife Resources
- Lieutenant Jessica Fariss, Conservation Police Region Manager – Region 2
- Aaron Proctor, Policy Manager

Ground Rules, Meeting Summary, and Process Review

Mr. Foreman reviewed the ground rules developed by the SAC at the first meeting. Ms. Altizer provided an overview of the Meeting Summary of the October 19th meeting, which members received as a handout, and previewed the agenda for the day, which would be primarily focused on discussion of the draft proposals submitted by members. She also noted that the project team thought an additional SAC meeting would be necessary for the group to discuss all the proposals that had been submitted.

DRAFT PROPOSALS

The IEN Team noted that many of the draft proposals contained a significant level of detail. While specifics of any eventual proposal could be worked out by DWR, what would be important for the SAC would be to identify broad strokes within the proposals that are concepts or ideas where there is support. Discussion of draft proposals began with ideas around

permitting. Members who had submitted proposals on that topic were asked to summarize their ideas for the group:

Permitting proposal 1

- Propose a permit-based system managed by DWR (staying away from statutory law)
 - Needs to be broad
 - Apply to anyone running hounds (to get rid of loopholes... coons, coyotes)
 - There would be a minimal charge, dogs have permit numbers somehow on them
 - Landowners post contact info – landowner notification required
 - Permit funds would support 1-2 CPOs who primarily would deal with/investigate these complaints
 - Permit holder must abide by a code of ethics
 - Graduation system for violations (fines up to and including hunting license suspension, but not criminal offenses); and also trying to protect innocent mistakes
 - Question/Comment (Q/C): If dog has a permit number, does it mean the dog could hunt anywhere?
 - No, not the intent.
 - On your own property, you can hunt with hounds without a permit (what happens if dogs go off property?)
 - Q/C: Does DWR have the authority to establish a permit system?
 - All licenses are statutory authorized. Legislation may be required for a new permit system. DWR does have some types of permit capabilities authorized already, so the agency would have to assess whether this new type of permit would be authorized without additional statutory authority.
 - Potential new legislation enabling DWR the authority to establish this permit could be short – one line (“Board of WR has the authority to establish....”)
 - Foxhound field trial permit is authorized by statutory law
 - Details provided in the proposal were to provide an idea of what a permit could look like, but ultimately could be worked out by DWR.

Permitting Proposal 2

- Built off of the ideas shared above and boiled it down to the broad requirements; and then allow DWR to determine the details (SAC defines the skeleton; DWR fleshes it out)
 - Continue hound hunting tradition
 - Accountability - Permit number on dogs

- Protect property rights – hunting dogs contained to the lands where permission is provided
- Right to retrieve (RTR) – retain though refine – notify DWR when hunter needs to exercise RTR to retrieve dogs
- Road hunting – further restrict
 - “Hunters can shoot 1 inch off the road” – this statement was debated as to whether accurate
 - Hunting on/near road needs to be regulated statewide, not county-by-county
 - State has delegated this authority to the counties to regulate by ordinance
- Enforcement – DWR define escalating fines
- Specialized CPO team - establish
- Code of Ethics – hunters agree to abide by
- Q/C: From a bird dog hunter:
 - Suggestion shared that there should NOT be an exception for other dog hunters (beyond deer and bear); b/c it would be hard to always tell the difference in types of dogs
 - Or hunting dogs that are “in sight” maybe wouldn’t need a permit number on them

Permitting proposal 3

- Permit system to support hunting with dogs
 - Make it affordable; renewable; keep same number annually
 - Club permit also (make more expensive, but cover all members)
 - Q/C: What about how some clubs have their own land? Why require a permit to hunt own club land?
 - Include all hunting dogs – keep it simple, so it doesn’t get muddy (so no new loopholes get established)
 - Driver’s license approach – accumulate points for ethical hunting, so if dogs stray, your points reflect that you are good actor; these points protect the good hunters – it gives you multiple chances before getting to the point of revoking a hunting permit
 - Permit marking on dogs and on trucks – 2 inch size – various methods could be used
 - Required to stay on land where permission has been given to hunt
 - Q/C: Where would the permit money go? To supporting DWR for this issue
 - Q/C: Doesn’t this approach seem like it creates a lot of secretarial work? Agreed that it could; but points could help protect the ethical hunters

- Q/C: Would landowners use trail cameras to recognize/report dogs? Could occur – but if landowners only see dogs now and then, probably won't report; if see dogs a lot, then would report
- Q/C: Don't these permit proposals assume that dogs trespassing is illegal? Permit system would rely on statutory changes

Permitting proposal 4

- Proposes a results-based regulation rather than a methods-based regulation
 - Would rather regulate the result rather than the method – this allows for various methods to achieve the result (e.g., voluntary best management practices)
 - Similar construct is the water quality regulations/BMPs that Forestry uses
- Q/C: Are we talking about marking all dogs or deciding based on breeds of dogs? There was disagreement within the group about this approach

Permitting proposal 5

- Permit for everyone who uses a dog
 - No further dog marking beyond what is already required by state law for collars with ID – no further marking, maiming, branding, etc.
 - All dogs wear an e-tracking collar
 - Dog parcel registration is ludicrous and should be off the table
 - No changes needed to coyote or fox hunting law
 - All proposals should include mounted fox hunters

Following presentation and discussion around the permitting proposals, some members raised the point that that any permitting ideas would depend on how the idea of dog trespass is handled. Because that is a statutory issue, the SAC transitioned to proposals that had been submitted regarding statutory changes.

Statute – 18.2-132.1 (intentional release of dogs) – Proposal 1

- 18.2-132.1: Reword statute; remove all intent language (including last sentence of statute)
 - These proposed changes also protect against all dog trespass issues, not just hunting dogs
- Q/C: If this law passes, it will stop all hound hunting.
- Q/C: This proposed language change likely is too strict; probably wouldn't pass due to that.
- Q/C: Are you (the person proposing this statutory change) open to changes to this proposed language? Yes.

- Q/C: Is the current law enforceable?
 - Yes, it technically is enforceable. But you have to prove intentional release. Small numbers of cases can be enforced, and the law works for those ones. However, intent can be challenging to prove. Director Brown has already directed DWR law enforcement to develop guidance on how CPOs apply law.
 - Typical hounds scenarios (of the repeat offenders) experienced by SAC landowners are not corrected by the current law.
 - Two lenses on determining whether a recommendation could be effective:
 - Will this recommendation solve my problem?
 - Will it not impact ethical hunters?
 - Let's focus on the hunters who are the problem, not the dogs (dogs going on other lands are going to happen sometimes).
 - We want to catch the violators, not the incidental mistakes.
 - Last sentence of this regulation has to remain.
 - Agree that this statute's language should be revised to better focus on applying to bad actors, but this proposed language is not there yet.
 - Do not want to end hound hunting, but "we want the hound hunters help" on how to pull in the bad actors – "we do not want hound hunters to say there is not a problem" – "let's work together" because current laws are not fully working.
 - In past years, VaHDA has put out several law/regulation proposals to address the bad actors.

Statute – 18.2-132.1 (intentional release of dogs) – Proposal 2

- Replace word "intent" with "negligent"
- 1st through 4th offenses – escalate consequences
- Q/C: This negligent word is used in legal terms – does this word work better than intentional? Intentional is hard to prove, but if a hunter is not following ethical practices, s/he is negligent.
 - Would "reckless" work better?
 - Some thought "negligent" word may work better than "intent" (need legal analysis of whether it would be better?)
 - "Intent" should also be able to be proven when there is a pattern of behavior. (Only can work if the dog can be consistently identified.)
- Q/C: The big problem is the ability of CPOs to enforce these laws.
 - CPOs have to observe (or gather evidence) that a violation occurred, to be able to apply 18.2-132.1

- Q/C: Do CPOs still have to observe or gather evidence (circumstantial case) if the word is changed from “intent” to negligent or reckless?
 - This is a criminal statute, so observe/evidence always applies.
 - Intent is easy to blow a hole into (if the case has to rely on circumstantial evidence), unless the behavior is egregious.
 - Example of video of hunting dogs on landowners’ property of 21 out of 22 months when hound hunting is allowed. These dogs are coming from hunters who are released on the hound hunters’ lands or on edge of property boundaries (of the adjacent landowner), but the dogs constantly (e.g., almost daily) go onto his/her land. Also, the dogs are released a lot at night with no hunters with the dogs.
 - Idea: Can we add language to a statute that a hunter needs to maintain communication with/control of dogs?
 - There may be a law for this... dogs-at-large law?
 - These hunting dogs (let out to run at night) may not be considered hunting, so would 18.2-132.1 apply?
 - The above described hound dog issues seems like they should qualify for “intent” of violating 18.2-132.1 – so questioning whether DWR LE is applying law to full extent.
 - A stakeholder noted that for years they have asked for more officials and more training.
 - Note – statute 29.1-516: for when hunters say they are chasing fox under open season, maintaining pursuit includes hounds with GPS collars (i.e., if dog has GPS collar on a fox chase, then CPO cannot use that code for hunters who are letting those dogs run at night while hunters are at home)
 - Until it becomes wrong to run your dogs on someone else’s property, there will still be problems.

SAC Discussion Regarding 18.2-132.1, Permit System, and Other Ideas

The bullet points shared below reflect the ideas, questions, and concerns raised in discussion with SAC members regarding the proposals discussed above:

- ❖ Should SAC ask DWR to provide technical feedback on legal/enforceability ramifications of using word “negligent” or “reckless” (vs intent)? What actions would constitute each of these three words? Would one of those words be more enforceable than “intent”?
 - Mixed support for this idea. DWR can provide this feedback.
 - Even if the word “intent” is changed, may not result in more enforceability in the criminal legal system.

- Suggestion that SAC should instead focus on a permit system since that allows bad actor situations to be addressed without criminal law required.
 - DWR already consulted with AG, and DWR is working on clarifying this statute with CPOs – so can we give this time to see if this additional CPO education/training will work?
 - o DWR shared that this additional CPO education/training may result in a change from “single-digit” violations to “double-digit” – so it probably will not move the needle a lot in resolving this conflict (because CPOs still have to observe the violation or there needs to be sufficient circumstantial evidence).
 - This statute needs to be reviewed to see if changing/revising/removing intent will make a difference.
 - Permit/registration system needs to protect landowner rights.
 - Landowners have a misunderstanding that they have 100% landowner rights.
 - Can a permit system (with codes, BMPs, and/or points) be used to establish “intent”?
 - o But can a permit system be effective if dog trespass is not against the law?
 - Others say making dog trespass illegal is not effective, because dogs will eventually stray.
 - However, it is not ok to let your farm animals go onto someone else’s land. (VA Farm Bureau: Technically, there is not a requirement to fence in farm animals. VA is a fence out state, not a fence in state.)
 - This is a people and enforcement issue. Permission needs to be required.
 - Could we revise 18.2-132.1 to include both negligent and intent levels?
 - We all agree 18.2-132.1 does not work, but do not know how to revise. If revise by these word changes, still would not be effective. Instead, let’s focus on permit system – that is the only way we are going to find consensus.
 - You don’t have the right to hunt without restrictions. Is there a way to extend punishments through current hunting permitting/license system? (Accountability is needed.)
 - For permit system to work, need to change the property posting law.
- ❖ Should DWR explore what steps are needed for them to have authority to establish a permit/registration system? (e.g., enabling legislation) – general SAC agreement for this
- Can any permit system avoid marking dogs (painting, branding), etc?
 - Permit system: would this necessitate a DWR formal resolution system? If so, major budget cost.

Suggested alternatives to permit system:

- More CPOs
- Better training (especially conflict resolution)
- SAC needs to provide strong support for DWR to obtain more funding for more CPOs and better training.

- Many agree for more CPOs and funding – and all will agree to this if there is something that the CPOs can enforce (laws, regs, permit system)
- Also need community policing – CPOs need to know their communities (build relationships)
 - Data are clear; DWR knows where the problems are; not every dog hunter; focus on the problem areas; These are people problems, not dog problems
- Deer dog training season:
 - Establish a training season and dogs must wear a tracking collar
- It can be done to train hunting dogs to stay off lands where they are not wanted. How then to make this training level a requirement?

Statute - Posting Lands and Landowner Notification

Following extensive discussion regarding possible statute changes and a potential license/registration/ permitting process, a SAC member observed that one commonality in discussions was that it seemed like most hound hunters agreed that if landowner information was posted, in most circumstances they would try to contact the landowner before retrieving their dog. Other ideas around the concept were then discussed.

BALLOTING

IEN's typical process for evaluating proposals would involve a test for consensus where members share in a group setting their level of support for a proposal. Several SAC members requested an anonymous method for indicating their support, so for this meeting an alternative process was used. For each proposal presented, members were asked to write on an index card whether they supported the proposal with a "yes" or "no." If "no" members were asked to indicate what change would be needed for them to be supportive of the proposal. This method represents a "temperature check" only, to learn where members stand on a proposal, and does not represent a test for consensus. Cards were collected and tallied anonymously. Ballot counts reflect the number of SAC members present when each proposal was evaluated with some members needing to depart before the meeting adjourned.

Proposal 1 – Right to Retrieve with Attempted Notice

If the landowner's name and phone number is posted, this would mean that the hound hunter must attempt to call/text and notify the landowner that s/he is exercising RTR law to retrieve hunting dogs. Call goes to landowner during legal daylight hours. Outside of legal daylight hours, notification call must go to DWR dispatch.

- There was a past bill (2022) from Edmunds that was similar.
- No phone signals – Addressed this concern by clarifying that you can show your cell phone log as proof that you did try to call (even if no signal)
- Should not apply in situations where the dog’s life is in danger
- Would like for landowners to have the right to say “no” under extenuating circumstances – how to define extenuating? (e.g. I’m still hunting on my land right now, please wait an hour, etc.)
- Do not want to change code – Can this attempted notice be implemented via a DWR state regulation (and avoid changing statutory code)?
 - The intent of this proposal is supported, but how to do it is where the disagreement came from.
- Ballot: Yes: 13, No: 3

Proposal 2 – Requirements of Posting Property

This proposal reflects the idea that property posting requirements should be strengthened and specific to better identify private property to hunters and facilitate communication between hunters and landowners when needed. The following changes, denoted in red, are proposed for § 18.2-134.1.

§ 18.2-134.1. Method of posting lands. A. The owner or lessee of property described in § 18.2-134 may post property **against trespass while hunting, fishing, or trapping** by (i) placing signs **bearing the name and the contact telephone number of the current property owner or their agent, and of not less than 8 1/2” by 11” with text of not less than 2” in height in contrasting color to the background of the sign explicitly** prohibiting hunting, fishing or trapping where they may reasonably be seen **including at each side of each corner of the property, at each entry or access point, road, gate, or stream crossing and at a distance of not more than 250 feet apart around the contiguous boundary of the property;** or (ii) placing identifying paint marks on trees or posts **at each road entrance and adjacent to public roadways and public waterways adjoining the property.** Each paint mark shall be a vertical line of at least two inches in width and at least eight inches in length and the center of the mark shall be no less than three feet nor more than six feet from the ground or normal water surface. Such paint marks shall be readily visible to any person approaching the property **and not more than 150 feet apart around the contiguous boundary of the property between the signs described in (i) placed at each side of each corner of the property, at each entry or access point, road, gate, or stream crossing, and adjacent to public roadways and public waterways adjoining the property.** B. The type and color of the paint to be used for posting under A(ii) shall be prescribed by the Department of Wildlife Resources.

- Additional notes:
 1. Vast majority of states require this approach
 2. Replace 2” high text with “legible text”

3. Prefer if these proposed statute changes include not only requiring a landowner name but also landowner phone number
 4. Concern shared that this idea really does not address the hound hunter/landowner conflict
- Ballot: Yes: 14, No: 1

Proposal 3 – Request DWR to Explore Reducing Overlap of Hound Hunting and Still Hunting Seasons

Move the deer dog hunting season start date to 16 days after the start of general firearms season to reduce conflict with still hunters.

- Ballot: Yes: 9, No: 6 (1 person voting “present.”)

Proposal 4 – Close Coyote/Fox Loophole

Request for DWR to explore how to close the coyote/fox loophole of deer hound hunters posing as coyote/fox hunters? This does not include mounted fox hunting.

- Ballot: Yes: 8, No: 7

Proposal 5 – Potential Approaches for Increasing Enforceability of 18.2-132.1

The original proposal included creating a deer and bear dog hunting license, increasing foxhound field trial fees, and a prohibition on hunting dogs “running at large” any time of the year. Group members indicated that there wasn’t much traction with these ideas, and the revised proposal became:

Ask DWR to provide information on potential approaches for making 18.2-132.1 more enforceable.

- Ballot: Yes: 13, No: 3.

Proposal 6 - All deer and bear hunting dogs are required to be fitted with a functioning remote tracking and behavior control collar while hunting.

- Ballot: Yes: 11, No: 4.

Proposal 7 - All deer and bear hunting dogs are required to be fitted with an identification chip that can be read by law enforcement and animal control agencies.

- Ballot: Yes: 2, No: 13

Proposal 8 - Would a permit/license/registration system be an effective tool in the toolbox?

- Ballot: Yes: 8, No: 7

Proposal 9 - Repeal 29.1-525.2 – remove fox and coyote enclosures prohibition.

- Ballot: Yes: 10, No: 5

Proposal 10 - DWR to provide hound-hunting educational information to hound-hunting counties for counties to post on their website. (Sussex County is a good example.)

- Ballot: Yes: 12, No: 2

Other Proposals

At this point these other proposals were briefly shared:

- Dog hunting parcel registration system: Not evaluated via ballot.
- Hunting from state-maintained roads: Not evaluated via ballot.
- Removing the intentionality requirement of § 18.2-132.1: Not evaluated via ballot yet since legal guidance is needed from DWR or Attorney Generals office.

NEXT STEPS

Ms. Altizer noted that the project team had identified prospective dates in early December as a possibility for the final SAC meeting. Some group members objected to meeting during hunting season and requested that the meeting be held in January instead. Ms. Altizer indicated that IEN would work with DWR to identify prospective dates and share those with the group. She thanked members for their efforts, and the meeting adjourned.