

Wildlife Center of Virginia - Policy considerations and recommendations related to *Fox Pens* (Updated-1/22/13)

Summary:



So-called foxhound training facilities in Virginia, or *fox pens*, as they are more commonly known, are parcels of land, ranging from 34.5 to 840 acres in size, which are entirely fenced to create an escape-proof enclosure into which foxes are released, ostensibly for the purposes of training foxhounds to follow the scent of foxes and pursue this quarry. Foxes are live-trapped from the wild, across the state, transported to the pens, and stocked into these enclosures at densities determined by the owners. Then, for a fee paid to the fox pen operator, hounds are allowed inside the facility to pursue these foxes. Owners and advocates of these facilities contend that such enclosures provide a safe area for the training and schooling of hound, and that foxes are seldom harmed by this confinement and pursuit. The fact that approximately 4,000 foxes have been introduced into the 37 existing facilities, in the last few years, seems to contradict such statements.

According to the Virginia Department of Game and Inland Fisheries, most fox pens are relatively small, family-run operations, averaging 200 acres in size. About half of these operations only allow small groups of hounds into the pen, exclusively for training. However, the other half hosts large competitions and field trials, which can involve hundreds of dogs on a single day. For a few of the largest operations, such competitions seem to be their primary business. These are the largest consumers of foxes.

Many individuals and organizations, including the Wildlife Center of Virginia, contend that these facilities are inhumane, are devoid of any true *fair chase*, and pose a threat to the health and safety of both wildlife and humans. While not opposed to ethical and scientifically-managed hunting, the Wildlife Center considers the worst of these confinement operations to be little more than *killing fields*, in which publicly owned wildlife is removed from public domain, bought and sold, then used for personal profit. Once the foxes are stocked into these facilities, they are never intended to come out alive. This runs contrary to every principle of wildlife management in Virginia, and conflicts with prohibitions on the commercialization of wildlife in both Code and regulation. Further, regulatory requirements imposed on other wildlife-related activities and interest groups are completely absent in the permit requirements for fox pens. This is a situation which must be addressed.

The Wildlife Center would like to see these operations stopped altogether. At a minimum, **the Wildlife Center of Virginia calls on the Virginia General Assembly and the Department of Game and Inland Fisheries to enact an immediate and indefinite moratorium on the issuance of new permits for foxhound training facilities, and an immediate and indefinite moratorium on the restocking of existing facilities until a complete regulatory review and rulemaking can be conducted.**

This activity is NOT hunting!

- The fox pen operators have tried to associate themselves with mounted foxhunting, or other traditional forms of hunting with hounds, in order to gain the respect these legitimate and time-honored activities have earned. However, foxhound training facilities are NOT a form of hunting at all, nor are they a traditional outdoor sporting activity. Unlike either mounted foxhunting or on-foot foxhunting, there is no true element of *fair chase*, which is generally considered to be an ethical requirement in true sport hunting. It is, therefore, misleading and disingenuous to imply that fox-penning has any relationship whatsoever to true hunting. Opposing the operation of these confinement operations is NOT an attack on hunting. Most ethical hunters denounce the practice of pursuing an animal which has no chance of escape or avoiding eventual capture or death. Since these facilities are designed to be escape-proof, the animals are condemned from the moment of their introduction to the facility. **This is not hunting!**
- The Virginia Master of Foxhounds Association, whose members represent those who enjoy foxhunting on horseback, has issued a statement that the organization rejects any attempt to portray the operation of fox enclosures as an aspect of traditional foxhunting. In mounted foxhunting, *fair chase* is the very essence of the sport. In mounted foxhunting, the foxes are seldom seen, let alone harmed during the course of a hunt. One fox can provide sport for many years, and still die of old age. Any fox introduced to the pens is immediately lost to the public forever.
- Widely published claims by pen operators that foxes are not killed in the operation of these facilities are patently ridiculous, especially in the large operations where multiple competitions are held each year. If foxes were not killed in the operation of these facilities, there would be no need to restock any facility for reasons other than attrition due to natural death. Foxes in captivity should live 10 years or more. Yet, approximately a thousand foxes are re-stocked each year.
- Some pen operators seem to be hosting more and more competitions and field trials in these enclosures, rather than using them simply to train individual dogs, or individual packs—the declared purpose of such enclosures. This fundamentally changes the dynamics inside the enclosure, and significantly reduces the chances of any foxes to survive for long in the pens. The proliferation of such competitions makes it clear that some pen operations are more about money than dog training.
- The hunting and harvest of wildlife of all other species is regulated and scientifically managed, based on many factors, including the population size and carrying capacity of the habitat. For example, deer hunting bag limits are set by county, based on the habitat, the previous year's harvest, and many other factors. The uncontrolled strip-mining of foxes from across Virginia for stocking into these pens is neither scientifically managed nor otherwise regulated, in terms of the number of foxes taken. The high-volume consumption of foxes for this relatively small number of commercial operations has created an unprecedented demand for, and consumption of, foxes in Virginia. This

must stop until an adequate regulatory and management scheme can be developed and implemented, and until reasonable and enforceable limits can be established.

- Many would assert that since the fox is deliberately denied the opportunity to escape, and has only limited opportunity to even seek refuge during a chase within many enclosures, there is little meaningful or ethical difference between the operation of the worst of these facilities and dog-fighting, save for the size of the enclosure. Dog-fighting is a felony. At least in a dog fight, the opponents are supposedly matched in capability, and there are only two combatants. In a fox-pen, a single fox may be pursued by scores of hounds.

Foxhound training enclosures privatize and commercialize publicly-owned wildlife in ways otherwise prohibited in both code and regulation

- Fox-penning is the only form of wildlife-related activity that actually allows a private party to trap or capture a publicly owned game animal or furbearer, remove it from public access, permanently confine it on private property, and then charge the public to have access to it. It essentially endorses the removal of a resource from public use and allows it to be managed and maintained for personal profit. There are many forms of hunting and trapping that are dependent on healthy, abundant populations of foxes in the Commonwealth, including mounted foxhunting, hunting with firearms or bow, and trapping for fur. Every fox that is trapped and introduced into these enclosures is one less for other licensed trappers and hunters to enjoy, saying nothing of the legion of non-consumptive users of wildlife who enjoy simply watching wild animals.
- The purchase and sale of wildlife is generally prohibited by law, and can be a felony if the total amount of any such transactions exceeds \$200 in any 90-day period. The current permits states that foxes can't be *purchased*, but the pen operators can "*reimburse*" the trapper for his time and expenses. This ridiculous semantic exercise does not change the fundamental fact that this transaction is an exchange of value which, to any reasonable person, would be considered a sale. In spite of the fact that the permit conditions specifically state that all foxes remain the property of the Commonwealth of Virginia, published comments by pen operators suggest they consider the foxes, thus acquired, to be their personal property, and they are treated accordingly. The semantic nuance notwithstanding, the practices demonstrated by many who hold current permits would appear to be in conflict with nearly every section of Code and regulation that addresses the commercial use of game and furbearing animals. Certainly, once the foxes go into the pens, they are lost to use by the general public, unless fees are paid to the pen operator.
- According the permit conditions for foxhound training enclosures, each fox pen operator can designate up to ten licensed trappers who will supply live foxes to each enclosure. These foxes are

allowed to come from anywhere in Virginia, and may be trapped for stocking from September 1 through the last day of February, both days inclusive. There are no limits established for the number of foxes per trapper, nor the cumulative number of foxes that can be stocked into each pen. Further, there is virtually no way to monitor the activities of up to 370 designated trappers, let alone verify the sources of the foxes they supply.

- Since the reported cost of foxes is from \$50 to \$150 per animal, and given that as many as 4,000 foxes have been stocked in the pens in the last several years, the amount of money changing hands in recent years could easily exceed a half-million dollars. DGIF currently requires reporting of the source and origin of each fox, including the date each animal was trapped and the date it was subsequently released into the pens. Both parties to the transaction are required to keep copies of receipts showing the fees paid for the acquisition of each fox for two years, but payment information is not reported to DGIF. This information should be reported, and all documentation of these transactions needs to be fully transparent and available for public review, since these transactions convey *custody*, if not *ownership*, of a public-trust resource. Such documentation is necessary, if for no other reason than that the transactions should be subject to taxation by local, state and federal agencies, just as any other sale or fee for service. All such records and reports should be public.
- There is no meaningful return to the public for this commercialization of a public-trust resource. Permit fees do not begin to cover the costs related to the administration and enforcement of the permits, let alone compensate the public for the animals taken and killed for profit. While permit conditions give DGIF the right to monitor fox pen operations, there is little real probability that such monitoring will be carried out.
- As a commercial transaction related to hunting or wildlife activities, the sale of foxes, and the fees paid for use of training facilities, should be subject to the same sales and excise taxes as are other hunting-related or wildlife-related transactions. Since a portion of wildlife management activities are funded by such taxes, it is even more appropriate that all transactions related to fox pens be documented and taxed. Since all foxes taken for stocking in the fox pens are permanently lost to the public, some sort of fee or replacement cost per animal should be a part of permit conditions.

Confinement operations create potentially dangerous health risks for the captive foxes, surrounding wildlife, and even the public!

- Foxes are extremely territorial animals. Forced confinement or captivity during trapping, transport or quarantine produce considerable stress on the animal which has physiological implications, including immune compromise, capture myopathy, behavioral abnormalities (including self-mutilation), and injuries due to attempting to escape.

- The high numbers of foxes stocked in these escape-proof enclosures create artificially high population densities, many times greater than any which would ever occur in nature. The forced use of communal feeding areas, the unavoidable interaction with other foxes, and the need to share the use of artificial den structures, in which foxes are to theoretically take refuge during hound pursuit, cause not only potentially debilitating stress, but also the high potential for injury as a result of conflict with other foxes, to say nothing of injuries or death inflicted by pursuing hounds.
- When foxes are concentrated in artificially high densities, they can easily become highly stressed as a result of over-crowding, regular and relentless pursuit by dogs, forced interaction with other foxes, and limited access to natural food and cover. Under such conditions, their immune systems inevitably become compromised, rendering the animals less able to fend off disease or parasites. As a consequence, the health of all foxes contained in training enclosures will eventually gravitate toward the level of the least healthy animal in the enclosure. The potential for a sick animal to infect others in the enclosure is all but assured. While permit conditions state that sick or injured foxes shall not be allowed inside the enclosures, there is not specific health monitoring required.
- The risk of disease transmission and translocation is a major policy concern at DGIF, and has resulted in a number of regulatory restrictions on the movement of wildlife from one part of Virginia to another. Importation of any wildlife species from outside Virginia is basically forbidden. Nuisance wildlife operators are prohibited from releasing captured wildlife anywhere other than the property on which it is captured or trapped. Wildlife rehabilitators can only release rabies vector species within the county or jurisdiction in which they are rehabilitated. Rehabilitated deer can only be released in the county in which the animals are rehabilitated or in an adjacent county. Nevertheless, foxes from anywhere in Virginia can be trapped and transported to any given fox pen, with no provision to prevent the potential transmission of disease or parasites, other than the admonition that diseased foxes not be stocked. This greatly increases the opportunity for the spread or translocation of naturally occurring or introduced diseases. This may be the largest single threat to both wildlife and human health posed by fox pens, and must be addressed before these operations are allowed to continue. While permit conditions require the fox pens to be “escape-proof”, DGIF reports that escapes are commonplace, and that the fences around many facilities are in poor condition. Therefore, the movement and relocation of nearly 1,000 foxes around Virginia each year, flies in the face of other, well-advised measures to control wildlife disease and protect the health of both humans and animals, since it is acknowledged that many potentially-diseased animals escape confinement into distant habitats and wildlife populations.
- Currently, there seems to be neither any limitation on the periods of time during which chasing can take place, nor any requirement that foxes introduced to the enclosures be given adequate time to acclimate to the enclosure and the habitat contained therein prior to the pursuit by dogs. Therefore, it is essentially meaningless that so-called “artificial dens”, in which foxes are supposed to be able to seek refuge from pursuing hounds, even exist. Permit conditions only require one such escape structure for every 20 acres, but the design of such facilities is not defined. Newly

introduced foxes may not know where these structures are located, let alone be given time to be comfortable and familiar with their use. Most artificial den structures are fabricated from manmade materials that are alien to wild animals; they may not even be recognized as places of refuge. Further, given a fox's territorial nature, it is unlikely to willingly enter an escape structure that is already occupied by another fox. The first fox inside will likely defend it from any further intrusion, whether by pursuing hounds or other foxes. Therefore, the placement of a few of these structures in an enclosure is unlikely to provide meaningful refuge for animals being pursued, especially when there are large numbers of dogs in the enclosures at one time. It is clear that the foxes are considered a disposable or consumable commodity in some of the fox pen operations with the most egregious practices.

- Some pen operators talk about “vaccinating” the foxes they stock into their pens. Others routinely use the drug Ivermectin to control parasites. This raises further questions about the legality of the operations. There are currently NO VACCINES AVAILABLE TO THE PUBLIC WHICH ARE APPROVED FOR USE IN FOXES. Further, if fox pen operators are not actually purchasing foxes, (which would be a violation of the law and permit conditions), the foxes inside the enclosures remain public property. Therefore, since there is no ownership vestment in these foxes by the pen operators, providing any medical care to a fox one does not own is illegal, unless the operator also has a wildlife rehabilitation permit which requires a consulting veterinarian, specific training, compliance with housing guidelines, and separate reporting. Further, to qualify for such permits would require anyone handling foxes to receive pre-exposure vaccination against rabies. Under the regulations of the VA Board of Veterinary Medicine and the Virginia Board of Health Professions, the administration of drugs to these animals would also be considered to be practicing veterinary medicine without a license, and subject to legal sanctions.

Recommendations: There must to be a moratorium on new permits for foxhound training facilities and on the restocking of existing facilities until the following issues are addressed and regulated:

Humane and ethical operation:

- There must be a **limit on the number of foxes that can be stocked in a facility based on the carrying capacity of the habitat**, as determined by a DGIF wildlife biologist or other certified wildlife biologist. This carrying capacity must assure adequate space for each animal to find its own cover and territory, as required under the permit conditions. The maximum density of foxes per acre allowed for stocking/restocking authorization should be specifically defined and made a condition of permit renewal. **Restocking numbers should not be allowed to exceed ten percent of the facility carrying capacity per year.**
- If a fox pen operator allows foxes to escape, be killed, either deliberately or through failure to provide adequate cover and refuge structures, or die as a result of negligent husbandry of the foxes within the enclosure, the consequences of lower fox density should be on the operator, not on the publicly owned wildlife resources of the Commonwealth. **Limits on the numbers that can be restocked will incentivize the care and protection of the foxes in the facility.**
- Standards need to be set that provide **more “artificial dens” (the dog-proof escape/refuge structures in a facility than there are foxes.)** Foxes are extremely unlikely to enter a structure in which another fox has already taken up residence. Therefore, fewer artificial den structures than one- per-fox essentially mean only the first into the structures will have protection from pursuing dogs. The current standard of one artificial den per 20 acres is grossly inadequate. All foxes in the facilities must be afforded a reasonable opportunity to escape pursuit.
- There needs to be **no less than a 72-hour time period between the introduction of new foxes to a facility and pursuit by dogs.** The existence of artificial dens or other escape structures is meaningless if the foxes are not allowed time to locate them and select ones that are not previously occupied. Especially in a fox pen where fox densities are very high and/or competitions and field trials are held, animals must be given the opportunity to find and use shelter, cover, and refuge from pursuit.
- **Limits need to be set on the numbers of dogs that can be allowed in the facility on a given day,** based on: 1) the size of the facility; 2) the number of hounds per fox in the facility at any time, and 3) the number of hours per day pursuit is allowed. New hounds repeatedly introduced in a facility present unreasonable and inhumane stress on the foxes, and dramatically increase the changes the foxes will be injured or killed by pursuing dog, or otherwise die from relentless pursuit. The animals must be given time to recover from one pursuit before another begins.

Disease prevention/control:

- **Foxes are one of five rabies vector species identified in Virginia.** DGIF regulation currently prohibits the transport for release of rehabilitated foxes outside the county in which they were rehabilitated. Therefore, restrictions must be comparable for relocation of foxes into foxhound training enclosures. According to the Virginia Department of Health, none of the 358 confirmed cases of rabies in foxes between 2007 and 2011 was an animal from a training enclosure, yet it was not stated that a single animal from one of these enclosures was even tested. Therefore, the implication that the enclosures are rabies-free is simply not credible. All known interactions between rabies vector species and humans or dogs should be considered a possible exposure incident, and reported to the Department of Health as required by law. Nevertheless, there is no evidence that any of these inevitable incidents have been reported. **Every fox should be handled as a potential carrier of rabies, and every bite should be treated accordingly.**
- An appropriate **quarantine facility** needs to be established at each facility, according to housing guidelines used for wildlife rehabilitation, providing adequate space, appropriate food and water, to allow an animal to recover from having been trapped and transported, and to determine if there are health issues which could present disease transmission issues in the facility, including rabies. Quarantine guidelines can be secured from Virginia Department of Health, American Veterinary Medical Association, and Association of Zoos and Aquaria. Quarantine procedures and protocols need to be defined in the permit conditions and compliance required of all pen operators. Any medications, including treatment for parasites, must be administered by a qualified and licensed individual or veterinarian.
- Since trappers of live foxes and pen operators handle, transport, and house large numbers of captive foxes, a high-risk rabies vector species, they have a far greater potential for bites or other exposure to the disease than do most wildlife rehabilitators. Therefore, **they must be required to provide proof of pre-exposure immunization vaccination against rabies**, just as wildlife rehabilitators dealing with foxes are currently required to do by DGIF regulation.
- Any time a fox bites a person or a dog in a training facility, **the incident must be treated as a potential rabies exposure.** If the fox cannot be presented for testing, dogs bitten must be **quarantined** as determined by regulation of the Virginia Department of Health. Human bites from foxes must be treated as a potential rabies exposure **and immediately reported to the Virginia Department of Health, as required by law.** If possible, the fox delivering the bite should be presented for testing by the Virginia Department of Health, with all expenses related to such testing **paid for by the facility operator, dog owner, or sponsor of an organized training or field trial event.**
- Fox pen operators must also be required to carry **adequate liability insurance** to protect people and animals using their commercial operations from the hazards inherent to the operation.

- **In the event of disease outbreaks** which could have implications for wildlife, agriculture, or public health, either inside or in the vicinity of, permitted enclosures, including abnormal occurrences of rabies, distemper, mange, or other diseases which could be associated with, caused by, or exacerbated by fox-pen operations, **permits for operation should be automatically suspended** for the protection of the public interest until the epizootic is over. Further, while current permit conditions state that operators must report “any unusual mortality or die-offs involving any species of wildlife within the preserve”, there is no statement about how promptly this reporting should take place. **To be meaningful, the report of any outbreak of disease or die-off of foxes or other wildlife inside the training facility must be immediate.** Without immediate notification, it is impossible to prevent or mitigate the potential spread of diseases, greatly multiplying the threat to wildlife, agriculture and human safety. Further, there should be an absolute prohibition on the introduction of additional foxes to any enclosures during such an epizootic event, or following such an event, until DGIF verifies that the risk factors have been addressed.
- There must be **no introduction into permitted enclosures of foxes which have originated in areas in which there is a documented or declared disease epizootic**, including those identified by DGIF, the Virginia Department of Health, or any other public or environmental health agency. Such areas should be considered to be quarantined for the removal of live animals for relocation and/or release, including in fox pens.
- In the event that a facility permit is revoked, or simply not renewed, there must be an absolute prohibition on the removal or release of live foxes from any enclosure, for introduction to another enclosure or release into the wild, unless each animal has received a certificate of health from a licensed veterinarian, or until DGIF has certified that the wildlife within the enclosure is reasonably free of disease. The current permit conditions require pen operators to allow captive “foxes to disperse naturally from the preserve within 30 days of the revocation or failure to renew.” This permit condition must be changed and dramatically strengthened to more effectively protect the health of wildlife, domestic animals and humans living near these facilities. All testing and investigation will be at the expense of the facility owner.
- In the event any permit holder ceases permitted operations, but does not chose to pay for health examination of foxes being released, or disease-free certification by DGIF, the operator or his successors must maintain all fences and feeding operations for a period of two years, or until a certified biologist verifies that fox density is at a normally occurring level, to assure that foxes which have been introduced to the enclosure will not have detrimental impacts on local wildlife populations, agricultural operations, or public health. During this time, no hunting of any species should be allowed on the property.

Regulatory compliance and reporting:

- Since fox pens maintain collections of wild animals for commercial purposes, a determination must be made whether or not **they must be permitted by the U.S. Department of Agriculture and comply with USDA regulations** for captive wildlife facilities, as are all other facilities which hold mammals for commercial public use.
- There should be **strict reporting requirements for both fox pen operators and those supplying live foxes for introduction to the pens.**
 - Operators must continue to document each fox secured for stocking, the name and contact information of the person from whom it was secured, the location where the fox was trapped, the date of its acquisition, **and must also be required to report the amount paid for each fox.**
 - Trappers must continue to document the date and specific location where the fox was trapped, to whom it was conveyed, the date and location of the conveyance, **and must also be required to report the amount received for each fox.**
 - Both operators and trappers must provide this information to DGIF annually, **and it should be considered public information**
- **Failure to properly report activities or to fully comply with regulations, once established, should result in suspension of permits, with serious or repeated violations resulting in permanent revocation of permits.**
- Some may argue that pen operators have made significant investments in fencing or other structures associated with fox-pens, and that these training facilities provide a service to members of the public who hunt with hounds. Neither the investment nor the service provided reduces the threats to wildlife and human health currently posed by these fox pen facilities. Therefore, neither past investment nor types of activity previously allowed under fox pen permits should be considered in the development of effective laws and regulations to reduce and eliminate threats to the public interest.

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