

Notes to the Trapping Advisory Committee Jan 11, 2019

In preparation for the Montana Trapping Advisory Committee's final meeting it is worthwhile to revisit the committee's charge and clarify a few things.

The TAC Charter and the charge of the Committee

You are all familiar with the committee's charter and will hopefully review it. Importantly, the charter says that the committee is, "...a citizen committee representing the spectrum of opinions on trapping that will provide recommendations to FWP that ensure population viability of trapped species, the humane treatment of animals, and minimize social conflict.", and further, to "review ... the controversial issue of trap check time."

Minimizing social conflict is the most important part of the committee's charge, just as it was in 1998 when Director Graham appointed a Trapping Advisory Committee and charged them with identifying problem areas and developing recommendations designed to minimize conflicts. If it weren't for the social conflict about trapping, we wouldn't need the TAC.

Chris Smith's presentation during our first meeting pointed out that Montana's wildlife belongs to all its citizens. This is why the TAC was assembled with an eye to "...people who represent the geography of Montana, the spectrum of opinions on trapping, and who can respectfully work together to address issues and reach consensus." In addition to FWP's legal obligation to every state citizen, the Fish and Wildlife Commission has repeatedly directed FWP to consider the interests of all Montanans about trapping. Ginny has facilitated the TAC with an interest-based approach so that the spectrum of opinions are represented and respectfully addressed. I look forward to the TAC's recommendations so that FWP can move forward with trapping management that considers the varied interests of Montanans and minimizes social conflict.

When and where would a trap check time rule apply?

There remains some confusion or misunderstanding about when and where a trap check rule would apply, if there was one. A trap check rule would only apply to people who are recreationally trapping. Such a rule would not apply to people trapping for the purposes of livestock protection. FWP Chief Legal Counsel Becky Doctor's October 5, 2018 memo (attached) concerning this clearly states, "Neither the Department of Fish, Wildlife and Parks nor the Fish and Wildlife Commission has authority for regulating trapping of predators when conducted for the purpose of livestock protection."

This also applies to livestock protection trapping by the Department of Livestock. This came up because a Department of Livestock statute, MCA 81-7-102 (4), states,

“(4) Section [81-7-103](#) and this section do not interfere with or impair the power and duties of the department of fish, wildlife, and parks in the control of predatory animals by the department of fish, wildlife, and parks as authorized by law or the obligation of the department of fish, wildlife, and parks to expend its funds in cooperation with the department for predatory animal control as required by law. Funds of the department of fish, wildlife, and parks for the cooperative predatory animal control must be administered and expended by the department of fish, wildlife, and parks.

As previously stated, authority over trapping predatory animals for protection of livestock lies with DoL. People trapping for livestock protection, whether an agent of DoL or an individual, would not be subject to a trap check rule. An FWP trap check rule would only apply to recreational trapping under the authority of FWP.

Finally, there has been expressed concern that a trap check time would give FWP authority that it currently does not have such as coming on to private land to check traps. A trap check rule would not give FWP any more authority than it currently has to enforce rules and regulations. Wardens need a search warrant or landowner consent to enter private land for law enforcement purposes except if they see a violation in progress like someone poaching a deer at night.