



**Animal Welfare
Institute**
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PROJECT COYOTE

FOSTERING COEXISTENCE



May 31, 2013

BY ELECTRONIC AND REGULAR MAIL

Submitted via regcomments@dgif.virginia.gov

The Virginia Department of Game and Inland Fisheries
Attn: Policy Analyst and Regulatory Coordinator
4010 West Broad Street
P.O. Box 1104
Richmond, VA 23230

CC: 4016 West Broad Street
Richmond, Virginia 23230

Re: Comments on 4VAC15-290-160 (Game: Permits. Foxhound training preserves)

To Whom It May Concern:

On behalf of the Animal Welfare Institute (AWI) and Project Coyote (PC), please accept the following comments on the above-referenced Virginia Department of Game and Inland Fisheries (hereafter VDGIF) proposed amendment to establish in regulation the conditions for a permit to operate a foxhound training preserve (4VAC15-290-160 or “proposed regulation”). AWI, PC and our collective members and supporters who reside in Virginia urge you ban penning in the state of Virginia outright or—at least—put forth regulations that do not allow minimal requirements to be waived for pen operators, as detailed in 4VAC15-290-160(B). This recommendation is based on legal, practical, and other considerations as summarized below and discussed in greater detail throughout the remainder of this letter.

By allowing for penning operators to waive out of minimal requirements, such as providing food and water to the foxes that live in these pens, the proposed regulation effectively leaves penning operations unregulated. Penning facilities not only involve cruel and inhumane activities, but often lead to disease transmission between wild canids and domestic animals, including rabies and parasites. Wild animals in these facilities are often transported from out of state without regulation or inspection, and Virginia lacks the resources to enforce its existing regulations.

By providing the Director of VDGIF with the authority to waive out of minimal requirements if they are too onerous, the proposed regulation creates many problems for the state of Virginia and the conservation police officers charged with monitoring these facilities. Furthermore, the regulation is not based on any sound scientific data or evidence that minimal regulations governing these pens pose any economic burden to pen operators.

I. The state of Virginia should ban coyote and fox penning.

While AWI and PC applaud VDGIF for prohibiting the release of coyotes into foxhound training preserves, by allowing for the continued purchase of foxes for the purpose of stocking a preserve, the state will continue to face the problems posed by the practice of penning. These pens are inhumane, reflect poor wildlife management practices, often perpetuate the spread of disease, are virtually impossible to regulate, and are a threat to public and wildlife health.

Penning is cruel and inhumane.

Penning involves capturing wild coyotes and foxes and then placing them in pens where they are mercilessly chased by packs of hunting dogs. This practice often leads to the coyote or fox being torn apart alive. Moreover, exposure to repeated, prolonged and unavoidable pursuit results in chronic physiological stress and death.¹ While Virginia prohibits killing foxes in pens, thousands have in fact been killed because there is simply no means of enforcing this limitation: For example, at least 3,600 foxes have died in pens across Virginia in the last three years alone. Capturing, transporting, marketing, and penning wild animals for dog training is inherently inhumane and should be banned for this reason alone.

Pitting domestic canines (hounds bred and scored for their speed, persistence and aggression) against their wild cousins also parallels dog- and cockfighting—activities that were made illegal in all U.S. states in the last 20 years, largely on ethical grounds. In addition to continual pursuit, animals used in penning operations are often kept in inhumane conditions without access to water or food. Most of these penned wild canids suffer and die.²

Penning is prohibited by other fish and wildlife agencies.

Citing some of these health and ecological concerns, the Midwest Association of Fish and Wildlife Agencies passed a resolution in 2008 urging the adoption of state-by-state regulations prohibiting the importation or interstate movement of foxes and coyotes for the purpose of stocking coursing pens or for release and pursuit by hounds outside of coursing pens (Attachment 1).³ Resolution #2008-2 cited serious disease risks to native wildlife, domestic livestock, and human health associated with the importation of wild canids used for stocking in hound coursing pens and the problems pens pose with respect to the inevitable importation of non-native coyotes and their impacts on fox populations.⁴

In 2010, the Florida Fish & Wildlife Conservation Commission (FWC) voted unanimously to ban coyote and fox penning statewide.⁵ The Commissioners made this decision after appointing a task force to consider all options and after an undercover investigation of penning operations led to the arrest of 12

¹ Huffington Post, “Coyote & Fox Penning: A Blood “Sport” That Must End, available at http://www.huffingtonpost.com/camilla-fox/coyote-fox-penning-a-bloo_b_620435.html (June 22, 2010).

² “Coyote Ugly: Indiana DNR approves penning,” available at <http://www.nuvo.net/indianapolis/coyote-ugly-indiana-dnr-reverses-its-position-on-wildlife-penning/Content?oid=1859690#.Uaefs0DktPI> (November 24, 2010).

³ Midwest Association of Fish and Wildlife Agencies, Regulation of Interstate Movement of Foxes and Coyotes For Hound Coursing Pens, Resolution #2008-2, available at http://www.projectcoyote.org/action/MAFWA_resolution_2008_against_coyote_penning_trade.pdf (2008).

⁴ *Id.*

⁵ Examiner, Florida draws line in the sand against fox and coyote penning, (June 24, 2010).

people and the issuance of 46 citations for various violations which showed how difficult—if not impossible—it is to enforce rules on a practice that is inherently fraught with illicit and unethical behavior.⁶ Florida’s stand on this issue sends a clear message to states like Virginia that, as a nation, we have banned both dog fighting and cockfighting, and it is time that we do the same for penning.

Penning encourages illegal activity.

Virginia arguably lacks the resources to enforce current and proposed regulations, indicating that an outright ban on penning makes more sense and is significantly more cost effective. There are too few Conservation Enforcement Officers in Virginia to enforce the proposed regulations and insufficient funds for the record keeping and infrastructure needed to enforce the proposed rule.

An outright ban would also avoid the potential illegal market in trapped animals. Emboldened by the profits derived from penning and the state’s under-enforcement of wildlife regulations, trappers will operate a year-round black market for live animals, as they have in other states, in spite of the prohibition to stock these preserves. As long as trappers are reimbursed (as provided for in the proposal), animals will be illegally trapped and sold into pens.⁷

While AWI applauds VDGIF for prohibiting the release of coyotes into foxhound training preserves, coyotes have been and will continue to be illegally used in pens in Virginia. Although Virginia game regulations have articulated that field trials permits are for foxes, investigators have found that both coyotes and foxes have been sold and used in Virginia penning facilities.⁸ Other states face similar problems; because there is little to no enforcement, there is no way to ensure that coyotes will not be sold and used in these facilities. Virginia will continue to face problems associated with the importation of coyotes into the state from surrounding areas.⁹

In addition, although the proposed regulations mandate habitat and escape cover requirements, evidence has shown that pen operators typically either do not provide this type of cover, or that they instead provide objects that allow dogs to trap wildlife, thus exacerbating the mauling instead of complying with the cover requirement.¹⁰ In sum, regulations attempted by other states, such as Indiana, have indicated that even the most minimal requirements for penning activities regularly go unenforced and can be costly to taxpayers—far more costly than outright bans. These patterns are common in other states and will likely be a significant issue that the VDGIF faces, indicating that the only appropriate regulation here is a ban.

Fox penning reflects unsound wildlife management and facilitates disease transmission.

Fox penning is an ineffective method of controlling fox populations and in fact perpetuates the transport of foxes and diseases into and out of Virginia. First, there is no scientific evidence whatsoever to support

⁶ Huffington Post *supra* n. 1. See also <http://trainingnottorture.org/FWCArrests12.pdf>.

⁷ “Coyote Ugly,” *supra* n. 2.

⁸ See <http://www.animalrecoverymission.org/operations/fox-coyote-penning/>.

⁹ South Carolina is one such state that faces serious coyote overpopulation issues due to the species being illegally imported into the state for hound running. See <http://www.dnr.sc.gov/wildlife/coyote/>. See also The Associated Press, “18 Are Arrested in Illegal Twist on Fox Hunts,” New York Times, available at http://www.nytimes.com/2007/11/13/us/13hunt.html?ref=foxes&_r=1& (November 13, 2007).

¹⁰ Animal Legal Defense Fund, Project Coyote, Animal Welfare Institute, “Indiana Coyote ‘Penning’ – An Inside Look at Animal Abuse and Cruelty (May 2013).

the claim that penning operations somehow help reduce coyote or fox populations on a statewide level or mitigate negative encounters with coyotes or foxes. Second, although the regulations prohibit the purchase of foxes for the purpose of stocking a preserve, this is virtually impossible to enforce and, by providing for trappers to be reimbursed, VDGIF is encouraging the trapping and import of foxes outside of the state of Virginia, potentially causing overpopulation problems and the transmission of diseases.

Inter- and intrastate trade and transportation of wildlife is one of the primary contributors to disease transmission and historically has led to the spread of rabies¹¹ and other zoonotic diseases. Penning and the associated trade in wild coyotes and foxes have also been linked to the introduction of the northern hydatid tapeworm, *Echinococcus multilocularis*, into places far removed from its natural habitat.¹² Tests often reveal evidence of canine distemper and past exposure to a variety of viral diseases, including canine parvovirus, canine coronavirus, canine herpesvirus, and canine parainfluenza virus, as well as over 20 species of parasites.¹³ The influx of wildlife to these pens presents significant public health issues.

If permitted, the demand for more coyotes and foxes will go unabated, creating an incentive to violate the regulations, and the serious threat of disease transmission will persist.

II. VDGIF should reject 4VAC15-290-160. If the state allows for penning, it should not allow operators to waive out of requirements.

By allowing for penning operators to waive out of minimal requirements, such as providing food and water to penned foxes, the proposed regulation amendment (4VAC15-290-160) effectively leaves penning operations completely unregulated. Waiver of minimal standards requiring pen operators to provide operator information such as name, address telephone number, and whether they have previously been convicted of crimes seriously undermines enforcement efforts.

In addition, requiring that all persons participating in the training of foxhounds in a preserve have a valid hunting license contributes to funds that can be used to inspect these facilities and ensure that they are in compliance with state law.

Hound density requirements are also necessary for pen operators to be able to monitor and control hounds and wildlife used in these facilities, as the regulations explain, “based on...past history of hound-related mortality events.”¹⁴ Rabies vaccinations, also required by the regulations, are similarly critical to ensure that rabies does not continue to spread in Virginia due to penning activities.

These requirements are minimal to ensure public safety and health considerations as well, as they include the ingress of wildlife such as black bears into the enclosures. To waive these requirements, as 4VAC15-290-160(B) does, is simply reckless. The philosophical and ethical issues of live

¹¹ CDC, Translocation of Coyote Rabies, available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/00038451.htm> (August 11, 1995).

¹² Examiner, “Fox and Coyote Pens: The Time is now to End More Animal Torture.” (May 21, 2010).

¹³ Maryland State Bar Animal Law Committee Newsletter, “Blood Sport of Dogs Killing and Mauling Coyotes and Foxes – A.k.a. Coyote and Fox Penning,” available at http://www.projectcoyote.org/Penning_Evans_2012.pdf (Winter/Spring 2012).

¹⁴ 4VAC15-290-160(A)(7)(a).

baiting/training notwithstanding, this environmental and public health issues are enough reason for a sensible policy to forbid the practice. For these reasons, we strongly urge you to prohibit coyote and fox penning in Virginia outright.

Thank you for your time and consideration of our comments.

Respectfully submitted,

A handwritten signature in black ink that reads "Camilla H. Fox". The signature is written in a cursive style with a large, sweeping initial 'C'.

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A handwritten signature in black ink that reads "Tara Zuardo". The signature is written in a cursive style with a large, sweeping initial 'T'.

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