

Nancy Hilding
President
Prairie Hills Audubon Society
P.O. Box 788
Black Hawk, SD 57718
nhilshat@rapidnet.com
605-787-6466

Nancy Hilding
6300 West Elm
Black Hawk, SD 57718,
nhilding@rapidnet.com
April 28th, 2024

Game, Fish and Parks Commission
Joe Foss Building
523 East Capitol
Pierre, SD 57501
C/o Scott.Simpson@sd.state.us,

Dear Commissioners,

LONG PETITION FOR RULEMAKING ON BEAVER SEASON Submitted pursuant to SDCL 1-26-13.

Nancy Hilding and Prairie Hills Audubon Society of Western SD submit this petition. Nancy Hilding is a resident of Meade County, SD. Prairie Hills Audubon Society is a non-profit corporation registered in SD and as such is a person by SD law and Supreme Court decisions.

RULE TO BE AMENDED - SD beaver trapping-hunting rule(s)

[41:08:01:07.](#)

Beaver trapping and hunting season established. The season to catch, trap, or hunt beaver is open statewide and year-round, except as provided in this section. The season is open from sunrise on November 1 through sunset on April 30 to catch, trap, or hunt beaver within the Black Hills Fire Protection District south of Interstate 90 and west of State Highway 79, except U. S. Forest Service lands where the beaver season is open from January 1 through March 31.

We suggest these changes to existing rule:

Beaver trapping and hunting season established. The season to catch, trap, or hunt beaver is open statewide ~~and year-round~~, from sunrise on November 1st through sunset

on March 31st, except on Black Hills National Forest lands where the beaver season is open from January 1st through March 31.

During the period of time from January 1, 2025 till January 1, 2028 there will be no trapping and hunting permitted pursuant to this rule, for beaver on the Black Hills National Forest.

When trapper/hunters kill a beaver on a federal public land, whose management objectives include multiple-use, wildlife, recreation, storage of carbon and/or the protection of watersheds objectives, the hunter shall provide SDGFP with notice on the number of beaver killed and the location of the beaver taking. SDGFP shall provide postal address and at least one electronic means for receipt of data submission. Such notice shall be sent by hunter/trapper within one week of the killing of the beaver.

STATEMENT OF REASONS

Statewide beaver trapping/hunting Season for 5 months not 12 months

Previous to summer of 2021, the beaver trapping/hunting season was 12-months west river and six-months east river. In the summer of 2021, Keith Fisk promoted the 12-month state wide beaver trapping/hunting season, so as to make it easier for landowners to kill conflict beaver. 365-days of the year, SD codified law allows landowners to kill conflict beaver with a request to SDGFP and approval of the Secretary of GFP. It allows SDGFP to create special beaver killing rules for public lands, at any time.

41-8-23. Killing of mink, muskrats, and beavers causing damage.

*Mink may be killed at any time if doing damage around buildings but all such mink killed are the property of the state, if taken during the closed season. If muskrat or beaver are injuring irrigation ditches, dams, embankments, or public highways, or causing any other damage to property, the secretary of game, fish and parks may issue a permit to trap or kill such animals at any time. The Game, Fish and Parks Commission may authorize the killing or trapping of beaver upon public lands and game preserves at any time the commission deems necessary. **(Emphasis added)***

We believe that the July 2021 extension of the beaver season to 12 months was unnecessary due to SDCL 41-8-23 and it deprives SDGFP staff of the opportunity to communicate with land owners and offer to relocate conflict beaver or teach land owners about non-lethal control and/or help them with non-lethal control. It prevents SDGFP gaining some information about beaver distribution in the state, if it records all complaints to a data base.

The 12-month trapping/hunting rule is **especially egregious on public land**, where the people who are trapping are likely recreationists or commercial enterprise seeking fur revenue, or hunters using beavers for target practice and not the actual land managers, wanting a resource

conflict eliminated. Thus, Keith Fisk's justification is wrongly applied to public land. We hope if the Commission and staff educate themselves on all the wonderful benefits that beaver provide to the ecosystem, other wildlife, fish and humans, they will want to re-evaluate a 12-month statewide trapping-hunting season on both public and private land, that they created two years ago.

River otters have a commensal relationship with beavers, as beaver dams provide year-round open water and beaver bank dens and lodges are used by river otters as rest and as natal sites. River otters are killed as non-target species in beaver traps and year-round beaver trapping will result in more otters being incidentally killed. Between 1979 and 2019, when the river otter was still listed as a threatened species, 216 otter were "incidentally captured" in SD. Of the 216 otters, 53.7% of the otters were taken in beaver traps, 32.4% were in unknown trap, raccoon traps were 8.8%, fish traps were 2.3%, mink traps were 1.4 % and "other" was 1.4%.

In South Dakota, female otters give birth on approximately April 1st. Any lactating female otter that is trapped and killed in April will result in the loss of her offspring. To reduce the possibility of trapping female otters with dependent young, beaver trapping seasons should not extend beyond 31 March. SD's historic 6th month long Nov-April season thus resulted in otters being killed during the time they give birth and raise their young. Our change from a 12-months or 6-month to a 5-month beaver season removes the April killing of mother otters with dependent young.

SD Game, Fish and Park's River Otter Management Plan does not plan for otters in west River SD (link: https://gfp.sd.gov/UserDocs/docs/otter_plan_2020-08-28.pdf). Most of our members live west River and we want west River otters. Having a 5-month beaver hunting/trapping season west River, will move forward the date when otters recolonize west river without a GFP sponsored re-introduction program.

Moratorium on Beaver hunting/trapping in the Black Hills National Forest

Beaver are a keystone species.

They provide many benefits to the ecosystem, other wildlife, fish and to humans;

- ~Beavers are a critical and useful part of our ecosystems,
- ~Beavers increase groundwater storage and raise water tables,
- ~Beavers decrease flooding,
- ~Beavers keep ephemeral and intermittent creeks flowing year-round,
- ~Beavers filter sediments and pollutants from streams,
- ~Beavers create aquatic habitat for aquatic species as well as habitat for other wetlands and riparian associated or dependent terrestrial species. Some of these other species generate hunting/fishing license sales & wildlife watching opportunities,
- ~Beavers are fun & interesting to watch & the setting they create are beautiful & rich in biodiversity,

- ~Trapping of beaver results in incidental killing of river otters, who are strongly associated with beaver,
- ~Many public land acres are managed for wildlife, multiple use, recreation/scenery and watershed protection values,
- ~SD statute provides for landowners to contact SD GFP and get permission to remove conflict beavers 365 days of the year. SDGFP provides assistance with removing conflict beavers,
- ~Non-lethal methods exist to reduce or eliminate beaver/human conflicts,
- ~Beavers create habitat that helps store carbon and reduce threats of climate change.

Black Hills National Forest Beaver Populations

Beaver are hard to find in the Black Hills and in July of 2021 Travis Bies and some other Commissioners indicated support for a three year moratorium on beaver trapping/hunting in the Black Hills National Forest -- to allow for beaver recovery in the Hills. The staff asked the Commissioners to delay that moratorium's rule making while the staff researched data on the Forest's beaver population.

They reported back in December of 2023 with the results of an aerial survey of beaver winter caches, that showed a 73% reduction in beaver winter caches from the last BHNF survey in 2012. It also shows many drainages lost beaver over the last 11 years. I will attach the PDF of that GFP December 2023 power-point "Black Hills Beaver Information Item" on the beaver winter cache survey. I suggest folks look at the chart and maps on pages 10, 11 and 12, to see the loss of beaver in the Black Hills. We request this hunting/trapping moratorium to help the beaver recover their sinking population.

Beaver are designated as a "management indicator species" on the BHNF so the Forest Service is actually required by the 1982 Forest Planning Rule to do beaver habitat inventories, but the last BHNF inventory was in 2012. The Black Hills Land and Resource Management Plan Phase 2 Amendment, says at page II-32:

"Management Indicator Species

*The following species should be used as management indicator species (MIS). The indicators or their habitats will be monitored to indicate overall changes in the forest ecosystem. MIS will generally be monitored using trends in habitat; however, when available, population trends may be used as a strong indicator of management response. Population monitoring will be discretionary as provided by 36 CFR 219.14.f.(2005).

- Black-backed woodpecker (*Picoides arcticus*)
- Brown creeper (*Certhia americana*)
- Golden-crowned kinglet (*Regulus satrapa*)
- Grasshopper sparrow (*Ammodramus savannarum*)
- Ruffed grouse (*Bonasa umbellus*)
- Song sparrow (*Melospiza melodia*)
- Beaver (*Castor canadensis*)**
- White-tailed deer (*Odocoileus virginianus*)

Mountain sucker (*Castostomus platyrhynchus*)”
(Emphasis added)



We believe that GFP and BHNF are working to or planning to work to identify good existing beaver habitat, to relocate “conflict beaver” to the Black Hills and do beaver habitat improvements. We thank both agencies for their work and their plans to benefit beaver.

We support Travis Bies’s request for a 3-year moratorium on beaver trapping/hunting in the BHNF and we believe the Forest Service had once endorsed the moratorium.

We have listed some of the benefits of beaver above. We now refer you to an 8-page letter that conservation organizations sent to President Biden asking for an emergency closure of federal public land to beaver trapping/hunting – This letter indicates the benefits of beaver in much greater depth than this petition. Letter to President Biden from environmental groups on 2/27/23 –<https://www.westernwatersheds.org/wp-content/uploads/2023/02/Biden-Beaver-Letter.pdf>

We also include a link to the recording from June 2021 of Michael M. Pollock of the National Oceanic and Atmospheric Administration speaking at one of our meetings on: “Working with beaver for the benefit of people, fish, wildlife and biological diversity” - <https://vimeo.com/manage/videos/585509489>

Geography Clean up

SDCL explains where the Fire Protection District is:

[34-35-15](#).. Black Hills Forest Fire Protect District - Area included. To protect timber on areas subject to unusual fire dangers, there is hereby created the Black Hills Forest Fire Protection District, consisting of all that part of the state described by metes and bounds as follows: Commencing at a point on the Wyoming - South Dakota state line at the junction of Interstate Highway 90 at the state line; thence east and southeast along Interstate Highway 90 via Rapid City to the intersection of U.S. Highway 16B; thence south and southwest along U.S. Highway 16B to the intersection of State Highway 79; thence south along State Highway 79 to the intersection U.S. Highway 18; thence south along U.S. Highway 18 to the Cheyenne River; thence west and northwest along the Cheyenne River to the Wyoming - South Dakota state line; thence north along said state line to the place of beginning. The Black Hills Forest Fire Protection District does not include any area within the limits of any municipality.

Link: https://sdlegislature.gov/Statutes/Codified_Laws/2057672

The SD Department of Transportation has informed me that they consider Highway 79 to run concurrent with Highway 34, Lazelle St and I-90, with I-90 creating a bridge from Sturgis to Rapid City. However, they confirmed that 79 does stop at Maverik Junction, near Hot Springs.

Thus, the description in the existing rule excludes a small part of the Black Hills Fire Protection District, just north of the Cheyenne River and south & west of Maverik Junction. It would be better just to cite the legal description of it at SDCL 34-35-15. If you don't thus amend the rule, that small part the Black Hills Fire Protection District will have a 12-month beaver trapping season and your statements that non-Forest Service land on the Black Hills Fire Protection District has a 6-month trapping season is incorrect. Below see a link to such GFP statement on-line and a screenshot of the statement.

<https://gfp.sd.gov/events/keydates/>

Beaver Season - Black Hills - Non-U.S. Forest Service land within the BH Fire Protection District | 2023

Season Dates

Start: Nov 1, 2022

End: Apr 30, 2023

Please note that trapping/hunting are not allowed on the 3 National Park Service units that are non-Forest

Reporting on beaver take;

Beaver provide great benefits to the ecosystem, biodiversity, water quality, surface and ground water retention, and help with the storage of carbon. Beaver historically were much more widespread in America. We believe the benefits provided by recovering more of their population, far out-weigh the loss due to a reduction in the sale of furs or recreational enjoyment of hunter/trappers.

If land managers are not seeing beaver recover and exist on their lands at a stocking level they desire, they need to figure out why that is happening – is it: human or animal predators, disease, too much or too little rainfall, inadequate riparian or marsh habitat, too much cattle grazing? If they can't quantify the take by human predators, they can't analyze the impacts from this form of predation and figure out if the rate of beaver hunting/trapping needs modification to help agency maximize beaver recovery on their lands.

The collection of this data will also let land managers and SDGFP get a better inventory of beavers in SD – especially on public land where decisions should be based on societies best interests, rather than hunter's or private landowner's best interests.

The data that underlies the "Furbearer Reports" (https://gfp.sd.gov/UserDocs/nav/-_2020_Furbearer_Annual_Report2.pdf) are submitted on a volunteer basis. In 2020-21 - response rates were 39% for residents and 67% for nonresident hunter/trappers.. While they collect information on the number of beaver taken by a subset of hunter/trappers, it does not collect the absolute number taken nor exact locations of the taking (just the county taken in). The introduction provides a discussion of the percent of respondents that trap on public land – "Approximately 18% (417) of furbearer license holders trapped/hunted on public-owned land East River and 12% (274) hunted/trapped on public-owned land West River."

We have made this rule change about trapping/hunting beaver on federal public land, as the SDGFP controls much of the state owned land dedicated to wildlife and we think GFP, as land owner may be able to restrict hunting/trapping on its' own land, without an administrative rule, but we are not sure of that. If SDGFP doesn't have that power, then the rule could apply to state land as well.

Interim Rules Review Committee allows changes to proposals at finalization.

Maybe some members of the Commission may like a part of this proposed rule but might object to another part of this proposed rule and are thus afraid to move it forward to finalization. The Interim Rules Review Committee allows you to make significant changes to a proposed rule, if the changes are a result of testimony at the public hearing. So, you could modify the petitioned rule proposal after the public hearing in July, if folks object to parts of it or suggest amendments.

[1-26-4.7](#). Reversion to step in adoption procedure.

The Interim Rules Review Committee may require an agency to revert to any step in the adoption procedure provided in § [1-26-4](#) if, in the judgment of the committee:

(1) The substance of the proposed rule has been significantly rewritten from the originally proposed rule which was not the result of testimony received from the public hearing;

See this link to the law about The Interim Rules Review Committee process
https://sdlegislature.gov/Statutes/Codified_Laws/2031417

Mixing Our Petitions

We will also be proposing other possible rule changes to the beaver/hunting trapping rule. We have broken these rule change suggestions up into separate petitions, so the Commission can pick and choose from various approaches. We would support combining some elements from our various petitions into one rule change, proposal if the Commission wants to do that. We would support editing the petition for grammar or spelling errors.

Future Rule Change Proposals

We will be communicating with federal public land managing agencies to see what their beaver habitat and population situation is and what their management objectives are and if they want a moratorium on beaver trapping on their land to recover a depressed population. We may be coming forward with more moratoriums or reduced season proposals for various public land in SD in the future.

Sincerely,

A handwritten signature in black ink that reads "Nancy Hilding". The signature is written in a cursive style with a large, stylized initial "N" and a long, sweeping tail.

Nancy Hilding

President Prairie Hills Audubon Society

For the Society and myself as an individual

1 Attachment. SDGFP power-point "Black Hills Beaver Information Item" saved as a PDF