

MAINE STATE LEGISLATURE

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July 6, 2004

Representative Linda Rogers McKee
Walton Road
RR 1 Box 280
Wayne, Maine 04284

Dear Representative McKee:

This is in response to your letter of June 29, 2004, wherein you requested that I clarify my opinion letter of June 21, 2004 regarding the State's coyote control law. Specifically, you asked that I clarify the final sentence in my June 29 letter, in which I stated "[W]e believe that the law does not legally compel the Department [of Inland Fisheries and Wildlife] to carry out a particular coyote snaring program." You asked that I more directly address your original question: "Does the Commissioner of Inland Fisheries and Wildlife have the power to end coyote snaring if he sees fit, or is he mandated by the Legislature to carry out the program by the Legislature?"

It certainly was not my intent to create any ambiguity in my June 21 opinion. The relevant statutes, Title 12 M.R.S.A. §§10001, 10051, 10053(8) and 10105(3), confer upon the Commissioner discretionary authority to maintain coyote control programs. They do not, however, *require* that the Commissioner maintain a particular coyote snaring program, or, for that matter, any coyote snaring program at all. As I explained in my earlier letter, while §10105(3) states that "the commissioner *shall* maintain a coyote control program as follows," what then follows is that the "commissioner *may* employ qualified persons to serve as agents of the department for purposes of coyote control." The statute further grants to the commissioner discretion regarding the determination of "where predation by coyotes is posing a threat to deer or other wildlife." §10105(3)(A).

As head of the Department of Inland Fisheries and Wildlife, the Commissioner has the responsibility "to preserve, protect and enhance the inland fisheries and wildlife resources of the State; to encourage the wise use of these resources; to ensure coordinated planning for the future use and preservation of these resources; and to provide for effective management of these resources." 12 M.R.S.A. §10051. Wildlife management includes predator control. 12 M.R.S.A. §10001(73).

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The Legislature has given the Commissioner, as part of his responsibility to manage and protect wildlife resources, the authority to initiate and maintain wildlife predator control programs, including the coyote snaring program contemplated by §10105. However, for the reasons set forth in this and my June 21 letter, we do not believe that these statutes require the Commissioner to maintain a coyote snaring program.

I hope that this fully and unambiguously answers your question. Thank you for giving me this opportunity to clarify my earlier response.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Steven Rowe". The signature is fluid and cursive, with a prominent initial "G" and a long, sweeping underline.

G. Steven Rowe
Attorney General

GSR/djp