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Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FLATHEAD-LOLO-BITTERROOT CITIZEN TASK FORCE and WILDEARTH GUARDIANS, Plaintiffs, vs. STATE OF MONTANA, LESLEY ROBINSON, and GREG GIANFORTE, Defendants.	CV 23-101-M-DWM **DECLARATION OF CARTER NIEMEYER**

Pursuant to 28 USC §1746, I, Carter Niemeyer, hereby declare:

1. I hold a bachelor's degree and a master's degree in Wildlife Biology from Iowa State University. Since 1973, I have been trapping wild animals both privately and professionally. For more than 35 years, I was employed by the federal government as a Wildlife Biologist. For 25 of those 35 years, I worked as a trapper and supervised trapping activities for the Animal Damage Control ("ADC") program of Wildlife

Services, an agency within the U.S. Department of Agriculture.

2. Currently, I am a consultant and private contractor with state fish and game agencies, Indian Tribes, and non-governmental organizations. I provide mentoring, instructional training, and advice in the capture, handling, radio collaring, and tagging of gray wolves. My work with wolves includes the use of foothold (or leghold) traps, methods of setting traps, immobilization techniques, and monitoring techniques.

3. I have dedicated my entire adult life and professional career to the trapping and capture of wild animals. I am intimately familiar with the designs and functions of a variety of foothold (or leghold) traps and neck and foot snares. I have assembled, disassembled, and modified thousands of foothold traps and neck and foot snares. I have assembled both neck and foot snares from cable and other components (keepers, locks, swivels, ferrules). I have used snare traps (Belisle) in France. I am skilled in the use of foothold traps and foot snares. I have worked with professional trappers in the United States and Canada who were experts in the use of neck snares.

4. I have trapped or snared thousands of animals for fur, control, and research purposes, including most species of smaller mammals, furbearers, and large predators. I have trapped or snared wolves, grizzly bears, black bears, bobcats, coyotes, foxes, muskrats, beavers, mink, raccoons, badgers, and opossums. I have used different sizes and types of traps. I have used wolf traps to catch gray wolves. I have used foot snares to trap grizzly bears and black bears. I have trapped, snared, or shot from the air

animals in Idaho, Iowa, Montana, and Washington. I have helicopter-darted three wolves and further trapped one wolf in New Mexico for radio collaring and release.

5. I have observed, skinned, processed, and/or necropsied roughly 6,000 wolves, coyotes, bobcats, and foxes for pelt and skull salvage; for the fur market; and for state, federal, and tribal agencies. These animals were caught in foothold traps, neck or foot snares, conibear traps, or shot via aerial gunning. These experiences have made me acutely aware of the lethal and non- lethal effects that traps and snares can deliver. I have observed the often-significant physical effects of different types of traps and snares on animals when I have skinned them for pelt salvage. I have performed necropsies to examine animals after they were killed in traps and snares.

6. My opinions come from my use of traps and snares and my understanding of their functions in capturing birds and animals. To formulate my opinions, I rely mostly on my own experience using traps and snares. My field experience is based on thousands of hours in the field observing birds and animals in traps and snares, the behavioral responses of trapped or snared birds and animals, and the wounds inflicted on live and dead animals. I have spent thousands of hours on trap lines, and I have accompanied other trappers, which has exposed me to a variety of trapping scenarios. In addition to my direct experiences, I have spent a considerable amount of time reading and studying trapping and snaring techniques used by others in books, magazines, and videos. I have improved and modified my skills as a trapper by

studying the techniques of others. I have also reported my own trapping experiences in various publications and presentations. I am one of the individuals that the U.S. Fish and Wildlife Service asked to review and provide input on proposed measures under consideration to help reduce the risk of incidental take of lynx from trapping.

7. I am familiar with wolf-trapping laws and regulations in Montana. I am reasonably certain that these wolf-trapping laws and rules will cause the accidental capture of grizzly bears in wolf traps in Montana.

8. The Montana trapping requirements are not specific, restrictive, or protective enough to prevent the capture of grizzly bears in traps and snares set for wolves. Moreover, Montana recently expanded its regulations to cover a more extensive area of grizzly bear habitat during the non-denning seasons.

Wolf Foothold Traps

9. The State of Montana allows licensed trappers to use foothold traps where wolf trapping is allowed in Montana beginning as early as November 27 and extending through March 15. Regulations approved on August 17, 2023, by the Montana Fish & Wildlife Commission significantly expand the area where wolf trapping is allowed during the non-denning seasons for grizzly bears.

10. Foothold traps are restraining devices used to capture birds and animals for research, to control problem species, and to harvest furs. Although foothold traps come in a variety of designs from different manufacturers, they function in similar

ways. A foothold trap functions when someone compresses either one or two spring-steel springs downward until the trap jaws rest over the springs. The dog of the trap is placed over one of the jaws and placed in a notch on the pan. The upward pressure of the springs on the jaws is transferred to the dog, which holds the trap jaws open. At this point, the trap is in a "set" position. Foothold traps that function with one or two long spring-steel springs are referred to as "longspring" traps. Some foothold traps have additional coil springs built into the framework that create torsion on the spring-steel springs and are known as "coilspring" traps. When a foothold trap is set with the two jaws open, the pan must be pushed downward (by the weight of a bird or animal's foot) to trigger the trap. That is why some people call it a foothold trap. These traps seldom hold an animal by the leg but, rather, hold the animal by the paw or toes. A leg catch is usually the result of a large trap catching a small animal.

11. The State of Montana permits recreational wolf trappers to use foothold traps with an inside jaw spread of up to 9 inches when targeting wolves. Foothold traps with a 9-inch jaw spread are large enough to capture grizzly bears and all furbearers. Due to the massive size and weight of these traps, they can cause toe fractures and toe amputations in grizzly bears. Additionally, traps with a jaw spread of 9 inches or less may clamp bears just by their toes, a situation that may result in toe amputations when grizzly bears fight to free themselves.

12. In Montana, a minimum trap pan tension of 10 pounds is required for traps

set for wolves. Two swivels, including a center swivel on the base of the trap are required for all ground set foothold traps. The swivel can be attached directly to the base plate at the center, attached to a D-ring centered on the base plate, or can be included in the chain at a point no more than five normal chain links from a centered D-ring or base plate attachment at the center.

13. I am aware of numerous instances of grizzly bears being caught in traps set for wolves or coyotes in Montana. These are: a two-year-old female grizzly bear caught in wolf trap in 1988, South Fork Milk River, Browning; an adult female grizzly bear caught in a Newhouse 14 wolf trap, Dutch Creek, Glacier National Park in 1995; in 1994-95 an adult female grizzly bear caught in a Newhouse 14 wolf trap. This grizzly was killed by another grizzly bear while caught; an adult male grizzly bear missing an entire front foot and wrist caught in presumed wolf trap at Glen Lake in 1998; a male grizzly bear caught in a wolf trap at Reeder Creek/Tom Miner Basin in 2007; a female grizzly cub of the year caught in coyote Trap #3 at Edna Creek/Fortine Creek in 2010; an adult male grizzly caught in a wolf trap at Pistol Creek, Flathead Indian Reservation; grizzly bear caught in wolf trap at Bear Creek, Cameron, Montana in 2012; a grizzly bear caught in a wolf trap at Kleinschmidt Flat in 2012; a yearling male grizzly bear caught in coyote trap at Thirsty Lake in 2013; a cub of the year female grizzly caught in coyote trap at Birch Creek in 2013; subadult male grizzly bear caught in wolf trap in South Fork Dupuyer Creek in 2013; cub of the year female

bear in Swan in 2015; a yearling female grizzly bear caught in coyote trap at Lion Creek in 2018. I am also aware of other verified instances including two grizzly bears caught in wolf traps in Fish, Wildlife & Parks Region 3; according to the Montana Fish, Wildlife & Parks another 2 grizzly bears were caught in wolf traps in 2013; according to Montana Fish, Wildlife & Parks two grizzly bears were caught in coyote traps in October, 2021.

14. In addition to the 21 incidents of accidental grizzly bear capture described above, black bears have also been caught in traps in Montana. I have personally caught several black bears in my career and released them all. Because of the substantial similarities between black bears and grizzly bears, these incidents further show that wolf foothold traps set in grizzly bear territory in Montana will also capture grizzly bears.

15. Grizzly bears have also been captured in coyote traps. I know of at least 11 grizzly bears in Montana that have been caught in coyote traps. The fact that grizzly bears are caught in coyote traps supports a conclusion that grizzly bears can and will be caught in wolf traps. Coyote and wolf traps are very similar, though wolf traps are generally larger and stronger and therefore more likely to capture and injure a grizzly bear. Coyotes in Montana can be hunted and trapped year-round without a license.

Wolf foothold traps and grizzly bears

16. I am reasonably certain that recreational wolf trappers will accidentally

capture grizzly bears in foothold traps set for wolves in Montana. I base this conclusion on my intimate knowledge of wolf foothold traps, which I've gained during thousands of hours of wolf trapping. I also base this conclusion on numerous prior trapping incidents of which I am aware. As discussed below, I am aware of: (1) At least 10 confirmed accidental grizzly bear captures in foothold traps intended for wolves in Idaho, British Columbia, and Montana since 2007; (2) five additional confirmed accidental grizzly bear captures in foothold traps intended for wolves in Wyoming as of 2014; (3) one unconfirmed report of a grizzly bear capture in a wolf foothold trap in Montana in 2014; (4) five confirmed reports of grizzly bears captured in coyote traps in Montana since 2010; (5) twelve confirmed reports of black bear captures in wolf foothold traps in Idaho since 2012; and (6) three additional black bear captures in traps that Idaho presumes were wolf traps since 2012. I also count 23 black bear captures in foothold traps set in Idaho since 2012 for which Idaho is unable to identify the target species. As discussed in a later section of this declaration, I am also confident these reported incidents do not fully illustrate the danger that wolf foothold traps pose to grizzly bears. Many of these bears suffered the loss of claws and toes. Lamb et al. (2021) noted that the loss of digits may influence conflict behavior, which was common in these animals; three of four grizzly bears that were missing toes were involved in human-bear conflicts.

17. In 2012, an Idaho Fish and Game trapper, Bryan Aber, accidentally captured

a grizzly bear in a Minnesota Brand MB-750 trap intended for wolves. A Minnesota Brand MB-750 trap has an inside jaw spread of approximately 7 1/16 inches, which is significantly smaller than the maximum jaw spread of 9 inches permitted for recreational wolf trappers in Montana. Montana permits recreational wolf trappers to use traps that are much larger and more powerful than Minnesota Brand MB-750 traps. Due to their size, these wolf foothold traps are even more likely than a Minnesota Brand MB-750 trap to capture, hold, and injure a grizzly bear.

18. Bryan Aber's capture of a grizzly bear in a wolf trap is not an isolated incident. I am aware of at least 5 incidents of grizzly bear capture in foothold traps intended for wolves in British Columbia between 2010 and 2020. I am also aware of at least 6 incidents of grizzly bears being captured by recreational trappers in traps intended for wolves (1) or coyotes (5) since 2010 in Montana. Montana permits the use of wolf foothold traps with an inside jaw spread of up to 9 inches. The only major difference between a wolf foothold trap and a coyote foothold trap is that wolf traps are generally larger and more powerful than coyote traps. A wolf foothold trap is more likely than a coyote foothold trap to capture, hold, and injure a grizzly bear. Examples of grizzlies caught in coyote traps provide additional evidence that wolf traps will also capture grizzly bears. In addition to the confirmed incidents described above, I am also aware that Montana Fish, Wildlife, and Parks noted reports of a "grizzly running around with a [presumed wolf trap] on its foot" in 2014.

19. Even the most experienced trappers risk capturing a grizzly bear when deploying wolf foothold traps in grizzly bear territory. This is confirmed by the fact that Bryan Aber accidentally captured a grizzly bear in a wolf foothold trap in Idaho in 2012 and at least 8 grizzly bears have been captured by wolf traps set by wolf researchers in Montana. It is also illustrated by additional incidents involving Wildlife Services trappers—some of the most experienced trappers in the country—who have accidentally trapped five grizzly bears in Wyoming as of 2014, and two grizzly bears in wolf foothold traps in Montana since 2007. Similarly, a Montana Fish and Wildlife Services trapper, Brady Dunne, accidentally captured a grizzly bear in a wolf foothold trap in 2015.

20. On May 15, 1987, when employed as a trapper for Wildlife Services, a trapper I was supervising accidentally trapped a yearling grizzly bear in a #114 Newhouse wolf trap with a jaw spread of approximately 6 inches. The trap was anchored by a chain connected to a 17 pound bolt with spikes welded to the bolt designed to dig into the soil and brush if a wolf was caught. The bear dragged the trap for some distance before being stopped by the drag bolt. Had the grizzly bear been of larger size it may have escaped with the trap since the area was mostly wide-open range land.

21. Wolf foothold traps set in grizzly bear habitat risk capturing grizzly bears, and trapped bears pose dangers to trappers. In 2014, the Fish and Wildlife Service

examined the potential for grizzly bear capture from Wildlife Services trapping activities in Idaho and found that incidental take of grizzly bears in foothold traps was likely, including in wolf foothold traps. I agree with this assessment, and in my opinion, the same dangers identified by the Fish and Wildlife Service are magnified when it comes to recreational wolf trapping in Montana. Recreational wolf trappers are also likely to be less experienced than professional wolf trappers and are therefore likely to take fewer precautions, which leads to higher rates of non-target capture.

22. In my view, the State of Montana's rules for recreational wolf trappers do not in any way appreciably reduce the significant risk that grizzly bears will be incidentally trapped in foothold traps intended for wolves. Montana permits recreational wolf trappers to set foothold traps in grizzly bear territory during the grizzly bear non-denning season. Montana permits the use of wolf foothold traps with a 9-inch jaw spread, which are more than big enough to capture grizzly bears. Additionally, as discussed further below, the lawful use of baits and lures by recreational wolf trappers further heightens the trapping risk to grizzly bears by drawing grizzlies directly to wolf traps, where they risk capture and injury.

23. Montana allows wolf trappers to be paid bounties of $500. This incentivizes trappers to set more traps to enhance the chances of a payoff.

24. While Montana requires a mandatory wolf-trapper education course, this course is no substitute for the thousands of hours of field time required of expert

trappers. Expert wolf trappers are better equipped than most recreational wolf trappers to avoid accidental captures, and even these experienced experts are known to capture grizzly bears in wolf foothold traps. In short, I am reasonably certain that recreational wolf trappers will accidentally capture grizzly bears in foothold traps set for wolves in Montana even when complying with all applicable trapping rules.

Wolf Snares

25. The State of Montana regulations allow licensed trappers to use wolf snares on public lands beginning as early as November 27 and extending through March 15. Regulations approved on August 17, 2023, by the Montana Fish & Wildlife Commission significantly expand the area where wolf trapping is allowed during the non-denning seasons for grizzly bears.

26. Neck snares are cable devices designed to noose around an animal's neck or foot. When animals pass through a snare and gently tug on the snare loop, a cable equipped with a sliding lock mechanism gradually tightens and is designed to be unable to loosen. As the animal pulls or resists the snare, the locking mechanism will eventually tighten the snare until the animal is strangled; restrained by the foot, leg, or body; or dies. Trappers frequently use neck snares when wolf trapping because they are cheap and easy to carry in large numbers. A novice trapper can set dozens of snares in relatively little time.

27. Neck snares are usually placed on trails or in narrow, constricted corridors or

pathways where animals are forced to pass through the elevated loop created by the snare. Neck snares can quickly kill a snared animal because, as a snared animal struggles to get free, the snare becomes tighter and can either asphyxiate the animal or break its neck. However, sometimes a neck snare will effectively and quickly kill an animal for other reasons. Sometimes the locking mechanism will fail or will jam in an animal's fur. Neck snare locks can be modified to "relax" or loosen to prevent strangulation or instant death, and snare locks can be modified to break away under extreme forces (example: 350 pounds of pull tension or more). The breakaway design (shear pin, tear-away locks, and S hooks) allows large non-target species, like domestic livestock, deer, elk, and moose to escape snares in most instances.

28. Neck snares are non-selective and indiscriminate by design and will capture, hold, or kill non-target or unintended species. Grizzly bear size varies depending on age and sex. Smaller bears may not be able to break a neck snare set for wolves. There are examples of grizzly bears observed with snares around their necks. The way snares are normally set—on narrow trails and corridors—makes them capable of ensnaring almost any animal that steps into or through them.

29. Certain devices may be used to reduce the danger of harm to non-target animals once caught in a snare, but such devices do not prevent or minimize the danger that non-target animals will be caught in the first place. In particular, snares may be fitted with a loop stop, which is designed to stop a struggling animal from

pulling a snare loop tighter than a prescribed circumference. Loop stops protect against strangulation of animals smaller than the target species but not animals larger than the target species. Snares may also be fitted with breakaway devices, which may enable animals larger than the target species to activate a mechanism to break the snare and ultimately escape. In Montana, snares are a lawful method of trapping during the wolf trapping season. Snaring is permitted on public and private lands consistent with trapping season dates, except that snaring is not allowed on public lands within the Lynx Protection Zones. Snares must be equipped with a loop stop that will close to a loop no smaller than 2.5 inches in diameter (stop placed at no less than 8 inches from end of loop). Snares must have a breakaway device rated at 1,000 lbs. or less installed on the loop end. Snares must be placed such that the bottom of the snare loop is at least 18 inches above the surface. Power-assisted (e.g., spring-loaded) snare locks are prohibited on wolf snares on public lands.

Wolf snares and grizzly bears

30. I am reasonably certain that recreational wolf trappers will accidentally capture grizzly bears in snares set for wolves in Montana. I base this conclusion on my knowledge of wolf snares, which are often set with loop sizes and at heights that place grizzly bears in danger. I also base this conclusion on numerous prior snaring incidents of which I am aware.

31. In 2020, two grizzly bears were killed in northern Idaho in incidents involving wolf snares. One of these grizzly bears was killed directly by two snares, one around its neck and the other around its leg. The second grizzly bear was shot by hunters, who thought it was a black bear, and it was found to have a wolf snare around its neck.

32. The Fish and Wildlife Service has also noted an additional instance in which a Wildlife Services trapper accidentally captured a grizzly bear in a wolf snare in Wyoming. I am further aware of reports of a grizzly bear killed in a wolf snare in Alberta in 2011, and seven incidents in Idaho since 2012 in which black bears were accidentally caught in snares.

33. Montana has taken virtually no precautions to protect grizzly bears from the dangers of recreational wolf snaring. Also, loop stops and breakaway devices do not minimize the likelihood of a grizzly bear being captured in a wolf snare in the first place. Instead, a loop stop is intended to limit the potential for strangulation of animals smaller than the target species by placing a limit on how small the snare may tighten around a captured animal's neck (thus, loop stops on wolf snares offer no protections to grizzly bears, which have a much larger neck circumference than wolves). A breakaway device could allow an already ensnared adult grizzly bear to break free depending on the size of the bear and the specifications of the breakaway device.

34. Grizzly bears have also been caught in snares set for coyotes including one

grizzly bear in Idaho near the Montana border that had a snare cable embedded in its neck and would have died without intervention.

35. In Montana between 2012-2017 bycatch caught in snares set for coyotes died 73% of the time.

36. Based on my knowledge of snares and a review of prior snaring incidents, I am reasonably certain that recreational wolf trappers will capture grizzly bears in wolf snares, even when complying with all applicable laws and rules.

37. Because snares are indiscriminate, I recommend that Montana prohibit the use of snares in grizzly bear habitat during the non-denning season, which, with climate change, is now the months of January and February.

Use of Baits and Scented Lures

38. The use of baits and attractants during wolf trapping activities further heightens the risks that grizzly bears will be drawn directly to wolf traps and snares. The State of Montana permits wolf trappers to place traps 30 feet from visible bait. No such limitation is placed on the use of scented lures, which may be placed directly next to wolf traps and snares. The prohibition on trapping within 30 feet of visible bait is intended to prevent capture of raptors. It will not prevent capture of grizzly bears. Trappers' use of bait involves placing the bait—often a carcass—in an area and then surrounding the area with multiple snares located along trails or openings leading to the bait. When terrestrial animals are drawn to the bait, they are captured in the snares.

39. This illustrates the fundamental danger of trapping wolves in grizzly bear habitat. Trappers almost always use bait or scented lures (such as urine, anal glands, or ground up meat) to attract prey to their traps or snares. Any bait or lure that will attract a wolf will also attract grizzly bears, which are omnivores and have an acute sense of smell. The only time a trap or snare is set without bait or a lure is a trail set, which is a trap set on a game trail. This form of trapping is perhaps the most indiscriminate of all. It is designed to capture anything that uses the game trail.

Unreported Captures

40. I am confident that the reported incidents of accidental grizzly bear capture in traps and snares set for wolves do not show the full scope of the danger to grizzly bears from wolf foothold traps. Grizzly bears are fully capable of tearing wolf foothold traps and snares from their anchors and walking away with the trap or snare still attached, like in the 2020 incident where a grizzly bear shot and killed by a hunter was found with a snare around its neck. A missing trap or snare would likely go unreported.

41. Based on my conversations with various members of the trapping community, many trappers will not report incidental captures out of fear that these reports will result in increased regulation of trapping activities. To illustrate this point, neither of the 2020 grizzly bear snaring incidents in north Idaho were reported by the

trapper who set the snares but were instead reported by a mushroom picker and a hunter, respectively.

42. Based on the above, including decades of engagement with the trapping community, I believe that many incidental captures go unreported and that many more grizzly bears are captured in Montana than are reported to Montana Fish, Wildlife & Parks.

Traps and snares harm captured animals

43. Traps and snares of any kind are designed to capture, hold, and sometimes kill animals. By their design, placement, and function, traps and snares can be immensely effective at capturing animals. But the design, placement, or function of traps or snares controls whether they are discriminate, or indiscriminate, in terms of the animals that are trapped or snared. Generally, foothold traps are designed to catch specific-sized animals, but depending on the size of the trap, non-target captures remain a major risk. Various species of animals are at risk for incidental capture from traps and snares.

44. Grizzly bears caught in foothold traps frequently sustain foot injuries and toe amputations.

45. Injuries caused by foothold traps and neck snares can vary from rapid mortality to injuries that kill or impair the animal after release, as well as lacerations and blunt force trauma. Traps and snares by their very nature and function cause

compression or constriction injuries that can damage tissue, restrict vascular flow, and can have harmful effects beyond the extremity that is actually constricted. The physiological effects of stress, trauma, desperation, and shock can also cause death after release. Toxins can be released into the blood system after traps and snares are removed, resulting in organ damage and death.

46. Other injuries from traps and snares include bone fractures, sprains, dislocations, tooth and gum damage from biting the traps and snares, hypothermia or hyperthermia, and dehydration. Bone fractures to the phalanges and legs can be debilitating and result in death.

47. Oftentimes these injuries are discovered only if the grizzly bear is subsequently trapped for research or management. There are several reasons grizzly bear mortalities from traps would not be detected, including scavengers or predators consuming carcasses, animals dying in concealed places, carcasses decomposing quickly, radio transmitters malfunctioning, or animals fitted with radio transmitters emigrating from the study area.

48. Montana trapping regulations encourage trappers to use secure methods of attaching traps to hold the largest species occurring in the area in the case of an incidental capture. This means grizzly bears may be captured and held, causing injury and possible death. Since Montana only requires that wolf traps be checked every 48 hours, this elevates the potential of death to any held grizzly bear.

49. Animals that are trapped or snared and then released cannot be presumed to be unharmed. As a trapper, I have experienced undesirable and harmful outcomes when using traps and snares due to conditions and situations beyond my control. There can be a high degree of risk to wild animals when using traps and snares. I have skinned hundreds of animals, and performed necropsies on others, to examine how being caught in a trap or snare can affect an animal. I know that well-placed traps or snares can kill some animals and cause extensive injury, pain, and suffering when they fail to function. I have found significant impacts on animals from trapping or snaring, including the loss of digits in paws; neck snare injuries such as "waterhead" injuries, meaning significant edema; and neck snare injuries such as snares cutting through flesh, which causes bleeding and leads to eventual death of the animal.

50. Trapped or snared and subsequently released animals must be monitored to determine whether and how they were affected by being trapped or snared. The most useful way to determine whether an animal that has been trapped or snared was affected by the trapping or snaring is to collar it with a radio collar and monitor it to determine the extent of its injuries.

Frequently checking traps helps reduce the severity of trapping/snaring injuries

51. Montana currently requires wolf trappers to check their traps every 48 hours. Best practices dictate that traps should be checked at least every 24 hours to minimize injuries and mortality to grizzly bears. A trapped grizzly bear must be released within

24 hours or there is a high risk of irreparable harm and injury from prolonged restraint, constriction, stress and dehydration leading to death.

52. One of the most important factors in determining the extent to which a trapped or snared animal is injured is the amount of time it spends in a trap or snare. Skin, blood, and nerve tissue can be damaged the longer an animal is in a trap or snare. Another important factor is ambient temperature. When temperatures are below freezing, traps and snares are more likely to cause severe and irreparable harm to skin, bone, and vascular and nerve tissue at and below the constriction caused by a trap or snare. Upon release, the loss of function in an animal's extremities will limit its ability to hunt, travel, and escape predation (such as the ability to escape by climbing a tree). An animal could also simply freeze to death. For these reasons, in my experience, researchers work hard to limit the time a bird or animal is restrained in a trap; researchers use frequent trap/snare checks or electronic monitors to minimize injury. When I trap, I check my traps at least once a day, usually first thing in the morning.

Summary

53. Under Montana's regulations approved on August 17, 2023, I am reasonably certain that recreational wolf trappers will accidentally capture grizzly bears in traps and snares set for wolves in Montana, even when fully complying with all applicable laws and rules. The only way to appreciably eliminate the risk of trapping grizzly bears is to institute protective safeguards in areas where grizzly bears may be present.

54. Traps and snares should only be allowed during the non-denning season for grizzly bears. Continued trapping when grizzly bears are active in Montana is reasonably certain to continue to result in the non-target capture of and harm to grizzly bears.

55. Trappers should not be allowed to use snares where grizzly bears may be present. According to Montana Fish, Wildlife & Parks, grizzly bears may be present in all of Montana west of Billings.

56. Trappers should be required to check their traps at least once per day, every day.

Under penalty of perjury, I declare the foregoing is true and accurate.

Dated September 11, 2023.

Carter Niemeyer