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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

) **THIRD DECLARATION**
) **OF DAVID J. MATTSON**

Pursuant to 28 U.S.C. § 1746, I, David J. Mattson, declare as follows:

1. I am over 18 years of age and competent to provide this declaration.

2. The first grizzly bears verified outside of dens each year in Yellowstone National Park during 2014-2023 were observed between February 9th and March 7th (National Park Service Media Releases).

3. Male grizzly bears in the Greater Yellowstone Ecosystem exit dens earlier during years when March temperatures are higher (Haroldson et al. 2002).
4. Grizzly and black bears enter their dens later and exit their dens earlier when snowpack is lacking and/or when high-quality vegetal foods are available (Fowler et al. 2019). On average, bears of both species enter dens later when and where high-quality foods are abundant late in the year or accumulations of snow ≥ 10 cm occur later. Likewise, bears exit dens earlier when and where high-quality foods are available earlier in the year or snow melt occurs early. Four grizzly bear studies have documented instances where at least one individual was active the entire winter. All these phenomena will become more common as regional and global climates continue to warm.
5. Snow Water Equivalent – which positively correlates with snow depth – is predicted to decline by around 12% in mountainous areas of Montana > 5900 feet in elevation (Whitlock et al. 2017).
6. Extended growing seasons and mild meteorological conditions can result in shorter denning periods for grizzly bears (Pigeon et al. 2016).
7. Wildlife poaching is defined as *the intentional or unintentional act of non-compliance with wildlife laws and regulations* (Spencer 2020).
8. Bjornlie et al. (2014) did not intend that their method for estimating area “occupied” by grizzly bears be used for delineating a presence-absence boundary.

They stated, “Clearly, not all grizzly bears in the Greater Yellowstone Ecosystem are radio collared or otherwise detected, and this is especially true of lone bears inhabiting the edges of the main distribution. Consequently, our estimate should be considered a minimum known area of occupancy, not an extent of occurrence, because we have many outliers that are not included in the main grizzly bear distribution map. Thus, this map should not be used as a presence–absence boundary, because grizzly bears undoubtedly occur outside this line.”

9. During 1983-2021, six Cabinet-Yaak Ecosystem grizzly bears were known to have home ranges completely within British Columbia whereas 45 bears were known to have home ranges that spanned the international boundary of Montana and British Columbia. In addition, some grizzly bears in the Cabinet-Yaak Ecosystem were known to have home ranges that spanned the borders of Montana, Idaho, and British Columbia (Kasworm et al. 2022). These numbers do not account for home ranges of numerous bears that were not radio-tracked.

10. The Cabinet-Yaak Ecosystem grizzly bear population is composed of two totally separate populations, one in the Cabinet Mountains and the other in the Yaak River watershed north of U.S. Highway 2 (Kasworm et al. 2022).

11. An isolated population of grizzly bears numbering between 600 and 800 individuals is not viable (Allendorf et al. 2019).

12. Costello et al. (2016) calculated that only 19% of poached or maliciously killed grizzly bears with radio-collars were independently reported by the public (i.e., a 19% reporting rate absent the use of radiotelemetry). Similarly, Ciarniello et al. (2009) and McLellan et al. (2018) respectively estimated that, absent the aid of radiotelemetry, only 10-12% of unpermitted killings of grizzly bears were reported by the public. Lamb et al. (2023) estimated that, even with the aid of radiotelemetry, only 32% of total grizzly bear deaths were recorded.

13. Even with the aid of radiotelemetry, grizzly bears harmed or killed illegally or for suspect reasons are documented at only a low rate (Cherry et al. 2002, Costello et al. 2016). In areas with few or no radiotelemetered bears – as outside the Cabinet-Yaak Ecosystem Recovery Area (Kasworm et al. 2022) and Greater Yellowstone (Van Manen et al. 2023) and Northern Continental Divide (Costello et al. 2022) Demographic Monitoring Areas (DMAs) – only around 10-20% of bears dying for suspect reasons in the backcountry are likely to be reported and tallied by managers.

14. Lamb et al. (2022) made the following observations: “We knew that grizzly bears could be caught in foothold traps set for wolves given that in recent years several bears had either been killed in, or required release from, wolf traps in southern British Columbia.” “We were also aware of multiple reports of grizzly bears being caught in foothold traps set for wolves, and we believe this is another

possible source of toe loss...Between 2010 and 2020, at least 5 grizzly bears were caught in wolf foothold traps (with the trap often closing right behind the toes) and had to be released by conservation officers and biologists.” “Grizzly bears were accidentally captured by trappers in foothold traps set for wolves on at least 3 occasions during the study in the Selkirk and Purcell Mountains, but no evidence of toe loss due to incidental grizzly bear capture in footholds was reported, likely because bears were either released from the traps or killed.” “A similar solution has previously been used in southeast British Columbia to avoid catching and killing bears in neck snares set for wolves, an issue first documented by the Flathead Grizzly Bear Project.”

15. Researchers have documented several grizzly bears that lost claws, toes, and feet after being caught in baited body-gripping conibear traps set for marten in cubby boxes (Lamb et al. 2022). In response to this risk, British Columbia requires the opening size on the front of cubbies be <8.9 cm (3.5 inches) in size. This is narrower than most bear paws other than those of cubs, yearlings, and small adolescents (Mattson 2003).

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 12th day of April, 2024.

A handwritten signature in black ink that reads "David J. Mattson". The signature is written in a cursive style with a large, looped initial "D".

David J. Mattson