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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**
} **KATHERINE C.**
} **KENDALL**

Pursuant to 28 U.S.C. § 1746, I, Katherine C. Kendall, declare as follows:

1. I am more than 18 years of age and competent to make this Declaration.
2. I am a retired wildlife biologist.
3. I received a B.A. in Environmental Sciences from the University of Virginia and an M.S. in Fish and Wildlife Management from Montana State University. I have been employed by the National Park Service and Biological Discipline of the U.S. Geological Survey. I am currently a

member of the North American Bear Expert Team, Bear Specialist Group of IUCN.

4. I have authored and co-authored dozens of professional, peer-reviewed journal articles and book chapters and scientific reports on grizzly bears.
5. I have been involved in grizzly and black bear research since the 1970s including field research in Yellowstone and Glacier National Parks, the Northern Continental Divide Ecosystem Grizzly Bear Recovery Area and the Cabinet-Yaak Grizzly Bear Recovery Area. I led several large research teams investigating bear population status in Montana using baited and unbaited methods to detect and identify individual bears. As part of that research, I have studied bear behavior in response to olfactory attractants.
6. I pioneered the technique of using baited and unbaited hair snagging methods for non-invasive identification of individual bears through DNA analysis and for population estimation. The baited hair traps use scents to attract bears which deposit hair samples on strands of barbed wire which are collected for laboratory analysis.
7. In a peer-reviewed book chapter which I co-authored, we wrote: “The efficacy of various hair collection methods is governed by the biology of the target species, the physical characteristics of the hair, and the ability of the devices to collect hair. Method effectiveness in turn determines the types of analyses that can be conducted. Capture-recapture methods, for example, require that a significant proportion of the total population be captured more than once. For sparsely distributed carnivores, achieving this level of capture typically requires a very desirable attractant capable of “pulling” animals from long distances. Species that have an acute sense of smell, like bears and wolverines, can presumably be drawn from great distances to visit bait or scent stations. Thus, high capture rates can be achieved with bears (Boulanger et al. 2002, 2005 a, b) and winter-surveyed wolverines (B. Mulders, Northwest Territories Department of Resources, Wildlife, and Economic Development, pers. comm.) using widely spaced detection stations.” This is an excerpt from Kendall, K.C. and K.S. McKelvey. 2008. Hair Collection. *Chapter in* Noninvasive survey methods for North American Carnivores. Island Press, Washington, DC., USA.

8. From extensive professional experience, I know that grizzly bears have an extraordinary sense of smell and can be attracted to scents from very long distances, including from animal carcasses or parts. Grizzly bears have large home ranges and make wide-ranging movements within that range. Capture-recapture methods, for example, require that a significant proportion of the total population be captured more than once. Scented and baited traps set for wolf, coyote, and furbearers are likely to attract grizzly bears from long distances. In those situations, grizzly bears can be highly vulnerable to being caught in traps and suffer injuries to extremities or even be killed.
9. During the fall pre-denning period, grizzly bears they enter hyperphagia, a period of intense feeding to accumulate fat reserves to survive hibernation. Grizzly bears in hyperphagia are very vulnerable to being attracted to and caught in baited and scented traps.
10. With our changing climate, grizzly bears may enter dens later and emerge earlier. It is not uncommon for grizzly bears to delay denning to feed on gut piles and unrecovered animals following hunting seasons and a few remain out into January. These bears are vulnerable to being attracted to and caught in baited and scented traps. Some grizzly bears emerge from the den as early as late February when they are very hungry and will be attracted to traps set for wolves, coyotes, and other furbearers.
11. Based upon my research, I am aware that grizzly bear distribution within Montana has increased significantly in recent decades. Grizzly bears may be encountered in all of Montana west of Billings according to the Montana Fish, Wildlife & Parks. These areas have been identified by the U.S. Fish & Wildlife Service (2023) as occupied grizzly bear habitat or where grizzlies may be present.
12. In my professional opinion, it is highly likely that grizzly bears living in and near Grizzly Bear Recovery Areas will be attracted to, and caught in, traps set by recreational trappers.
13. Based on my training and experience, the current wolf and furbearer trapping regulations approved by the Montana Fish and Wildlife Commission on August 17, 2023, will result in increased incidences of accidental capture and harm to grizzly bears because these regulations

increase the likelihood of traps being set in areas occupied by non-denning grizzly bears.

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

Dated this 22nd day of September, 2023.


Katherine C. Kendall