

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

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

VIDEOCONFERENCE DEPOSITION OF CARTER NIEMEYER
Taken From:
Nordhagen Court Reporting
1734 Harrison Avenue
Butte, Montana
March 6, 2024
9:00 a.m.

1 I N D E X
2 Witness: Page:
3 CARTER NIEMEYER
4 Examination by Ms. Clerget . . . 5
5
6
7

8 E X H I B I T S
9 (To be provided subsequent to completion)
10 NO. PAGE DESCRIPTION
11 16 6 Notice of Deposition
12 17 112 Niemeyer miscellaneous articles/folder
13 18 116 Declaration of Carter Niemeyer
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1 APPEARANCES OF COUNSEL (Via Zoom):
2
3 FOR THE PLAINTIFFS:
4 TIMOTHY M. BECHTOLD
5 Attorney at Law
6 BECHTOLD LAW FIRM
7 P.O. Box 7051
8 Missoula, Montana 59807
9
10 FOR THE DEFENDANTS:
11 SARAH CLERGET
12 Chief Legal Counsel
13 ALEXANDER R. SCOLAVINO, III
14 Agency Legal Counsel
15 MONTANA FISH, WILDLIFE and PARKS
16 P.O. Box 200701
17 Helena, Montana 59620-0701
18
19 ALSO PRESENT:
20 Christina Bell, Paralegal, FW&P
21 Nathan Kluge, FW&P representative
22 Mike Bader, FLB Citizen Task Force (Via Zoom)
23 Lizzy Pennock, WildEarth Guardians
24 Joined Via Zoom at 10:42 a.m. (Via Zoom)
25

1 CARTER NIEMEYER
2 WEDNESDAY, MARCH 6, 2024; BUTTE, MONTANA
3 ---
4 BE IT REMEMBERED THAT, pursuant to Notice and
5 Subpoena, the Deposition of Carter Niemeyer was taken
6 at the time and place and with the appearances of
7 counsel hereinbefore noted before Candice L.
8 Nordhagen, Court Reporter - Notary Public for the
9 State of Montana.
10 It was further stipulated and agreed by and
11 between counsel for the respective parties that this
12 deposition was taken pursuant to the Federal Rules of
13 Civil Procedure.
14
15 The following proceedings were had:
16
17 COURT REPORTER: Those on Zoom, please
18 identify yourselves, and those in the room, for the
19 record.
20 MS. CLERGET: Sarah Clerget, representing
21 Defendants.
22 And with me, I have Christina Bell, my
23 paralegal; Alex Scolavino, who's co-counsel; and
24 Nathan Kluge, who's our client representative for
25 this.

1 MR. BADER: Mike Bader, representing
 2 Flathead-Lolo-Bitterroot Citizen Task Force.
 3 MR. BECHTOLD: Tim Bechtold, on behalf of
 4 the Plaintiffs.
 5
 6 CARTER NIEMEYER,
 7 having been called as a witness by the
 8 Defendants, being first duly sworn, was
 9 examined and testified as follows:
 10
 11 EXAMINATION
 12 BY MS. CLERGET:
 13 Q. All right. Is it "Mr. Niemeyer"? Am I
 14 pronouncing that right?
 15 A. Yeah, Carter Niemeyer.
 16 Q. Mr. Niemeyer, you just heard, I'm Sarah
 17 Clerget for the Plaintiffs.
 18 It is now 9:02, and we are appearing via Zoom.
 19 Well, it's 9:02 my time, I should say.
 20 It's 8:02 your time, right?
 21 A. I'm on Mountain Time. I don't know where
 22 you are, I guess.
 23 Q. Oh, okay. So we're in Helena, Montana;
 24 and Tim is in Missoula, Montana; and I think our court
 25 reporters are in Butte, if I'm guessing right.

1 A. So we're all on Mountain together, then.
 2 Q. Awesome, good. So an 11 o'clock lunch
 3 break won't be that much out of the craziness.
 4 A. All right.
 5 Q. So I want to go through a bit of
 6 housekeeping.
 7 Can you state your name and spell it for the
 8 court reporter?
 9 A. My name is Carter Niemeyer; first name,
 10 C-A-R-T-E-R; last name, N-I-E-M-E-Y-E-R.
 11 Q. Perfect.
 12 MS. CLERGET: Can we put up a copy of his
 13 Notice, please?
 14 We are going to mark this as Exhibit 16.
 15 We have to keep going on the exhibit numbers from our
 16 previous depositions.
 17 (Document marked Deposition
 18 Exhibit No. 16 for identification.)
 19 BY MS. CLERGET:
 20 Q. So I'm posting that on the screen. Is
 21 that the subpoena that you received to appear today?
 22 A. I believe so. I didn't look closely. I
 23 didn't question it.
 24 Q. All right. And then let's keep going. I
 25 know you've been to depositions before, so I'm

1 guessing you know how this works.
 2 A. Yes. I think I did one that lasted seven
 3 hours one time here a few years back.
 4 Q. So it's safe to say you know how this
 5 goes?
 6 A. Yes, generally speaking, I do. I don't
 7 know -- go ahead. I've got to stop being flippant.
 8 Q. The biggest thing I want to make sure is
 9 that you know you're under oath and that this is the
 10 same as if you were appearing in trial in front of a
 11 jury or a judge.
 12 A. Honesty is my best policy.
 13 Q. So that's a "yes" on that.
 14 A. Yes.
 15 Q. Okay.
 16 A. I'm sorry.
 17 Q. No, that's okay. That's an easy thing to
 18 say, though. In addition to the yes's and the no's,
 19 make sure that we verbalize, so not nodding your head.
 20 We need to make a record for our court reporters.
 21 I'm going to assume that if I ask a question and
 22 you answer it, that that means you understood it. Is
 23 that a fair assumption?
 24 A. Yes. I think I'll ask for a correction if
 25 I can't understand what you're getting at.

1 Q. Perfect. That was going to be my next ask
 2 is that you do that if you have any questions or if
 3 I'm unclear.
 4 Is there anything that will prevent you from
 5 giving full attention today, any medication or health
 6 issues at all?
 7 A. Hopefully not, no.
 8 Q. Great. We're on Zoom so I want to confirm
 9 and a few extra things. Can you tell me if you have
 10 anything out in front of you or on your computer
 11 screen other than the Zoom right now?
 12 A. I do not.
 13 Q. And did you bring anything? I mean, it
 14 looks like you're at home, so did you bring anything
 15 or have anything in front of you specifically for this
 16 deposition?
 17 A. No. I have papers over here, but they're
 18 certainly not in any organized fashion.
 19 Q. Are they relating to the case?
 20 A. Yes.
 21 Q. Could you go through for me what those
 22 are?
 23 A. Old notes, some newspaper clips, they're
 24 actually in a stack, just information, some old maps,
 25 things to refresh my memory I looked at yesterday and

1 last night.
 2 **Q. Okay. So anything you bring to a**
 3 **deposition, we have a right to look at so we're going**
 4 **to have to go through this a little bit in detail.**
 5 **First, can you hold up the notes for me that**
 6 **you're talking about?**
 7 A. Here's -- you need to be able to read
 8 them?
 9 **Q. Well, let's, one at a time, let's hold it**
 10 **up. So first of all, let's take what's in your left**
 11 **hand. What have you got there?**
 12 A. It's an old note to somebody named "Fred"
 13 that I sent to myself, just some notes on trapping,
 14 trapping in grizzly country.
 15 **Q. And for the record, you're holding up a**
 16 **document that is a Gmail printout. And can you give**
 17 **me the date on that?**
 18 A. March; March 1, 2024.
 19 **Q. Okay.**
 20 A. I don't know when the notes were -- I
 21 don't know the date. I do a lot of these no-subject
 22 things sent to myself.
 23 **Q. Okay.**
 24 A. It's just a way of keeping notes.
 25 **Q. Okay.**

1 **make sure that we know what it is that you're looking**
 2 **at at any given point in time. Is that okay?**
 3 A. Yes. These are all in a stack. I mean,
 4 they're not spread out. These are just stuff I did,
 5 homework last night, refreshing my memory.
 6 **Q. Yes. So that's the stuff I want to go**
 7 **through and I want to know what it is that helps you**
 8 **refresh your memory.**
 9 **So I saw the Gmail notes. Can you tell me, pick**
 10 **a next thing that's in your stack?**
 11 A. Just terminology, I guess.
 12 **Q. You've got to hold it up a little higher,**
 13 **we can't quite see it.**
 14 A. (Complying.)
 15 **Q. So this looks like "Reasonably certain**
 16 **wolf traps and snares." I'm reading out for the**
 17 **court. So you have, No. 1 is "Indiscriminate"; No. 2**
 18 **is "24-hour trap check"; No. 3 is "trapping is allowed**
 19 **but not regulated"; No. 4 is "anchoring methods, and**
 20 **that includes drags and anchors"; No. 5 is double**
 21 **swiveling; 6 is trap size; 7 is MB-750; 8 is pan**
 22 **tension; 9 is baits, lures, and attractants, and then**
 23 **there's several under there.**
 24 **And then raise it up a little bit more for me.**
 25 A. (Complying.)

1 A. Not the date that they were written.
 2 **Q. So I heard you say "March 1, 2024." Is**
 3 **that when you wrote them?**
 4 A. I think it's when my copy machine must
 5 have printed it. No, this is nothing that I did
 6 recently.
 7 **Q. Okay. Do you remember about when you did**
 8 **it?**
 9 A. I don't. I don't even know who Fred is.
 10 I'd be happy to put all these in an envelope and send
 11 them to you, I mean.
 12 **Q. That's what I was going to ask, yeah, that**
 13 **that happens, but I just want to make sure that, while**
 14 **you're here today, that we know what it is that you're**
 15 **looking at. So I understand that's the first thing,**
 16 **and it's, essentially, notes to yourself sent to Fred?**
 17 A. Yes.
 18 **Q. Okay. And let's set that aside for now.**
 19 **And when we're not talking about a specific document,**
 20 **I need to make sure that you're not looking at**
 21 **anything in front of you so your desk is clear until**
 22 **we bring something in front of you in terms of an**
 23 **exhibit.**
 24 **Or if you do need to refresh your recollection**
 25 **with your notes, or something like that, tell me so we**

1 **Q. And then we've got: "Montana held**
 2 **grizzlies until 1991; and then Idaho Fish and Game --**
 3 **well, I'm going to have to ask you to read that bottom**
 4 **part for me. I can't quite read it.**
 5 A. "Idaho Fish and Game officials estimate
 6 there's between 40 and 50 grizzly bears in the
 7 northernmost part of the state.
 8 **Q. Okay. And what's the next part:**
 9 A. "U.S. Government scientists have said the
 10 region's grizzlies are biologically recovered, but in
 11 2021 decided that protections were still needed
 12 because of human-caused bear deaths and other
 13 pressures. Bears considered problematic are regularly
 14 killed by wildlife officials."
 15 **Q. Okay. So can you tell me how this**
 16 **document came to be?**
 17 A. These are just bits of notes and pieces of
 18 all kinds of collectibles I have that I just sort of
 19 put together yesterday and assembled.
 20 **Q. Okay.**
 21 A. Trying to guess all the technical,
 22 technical questions you were going to ask me on dates
 23 and places, and things like that, which I don't really
 24 know, but I put them up there to refresh my memory.
 25 **Q. So what did you look at to help you make**

1 that document?
2 A. News clips, I think mostly a lot of these
3 are news clips, and a lot of it is stuff in my head.
4 It's just to pull it together.
5 Q. So I'm actually going to ask you --
6 A. No special notes here for me to consult,
7 or anything. This is -- I think refreshing my memory
8 is the reason that these items were here when I was
9 looking at stuff yesterday.
10 Q. Sure. I'm going to ask you to hold it up
11 one more time.
12 MS. CLERGET: And, Crissy, can you take a
13 screenshot, please?
14 Q. (By Ms. Clerget) Hold it up so we can see
15 it, up just a little bit higher for me.
16 A. (Complying.)
17 Q. Perfect.
18 MS. CLERGET: And then, Crissy, just
19 screenshot -- never mind, I got it.
20 Q. (By Ms. Clerget) Okay. Go ahead, you're
21 good. Thank you so much.
22 A. Yeah.
23 Q. And then let's go with the next thing in
24 your stack.
25 A. (Displaying.)

1 a few of those news articles that are in that document
2 that you thought were important?
3 A. In here?
4 Q. Yeah.
5 A. I think this -- this is just the entire
6 article.
7 Q. Oh, it's just one article, not many put
8 together.
9 A. Yeah, yeah.
10 Q. And I think you may have said this
11 already, I'm sorry, but where did that appear first?
12 A. This is Montana Free Press.
13 Q. Okay. So it's Montana Free Press from
14 October of 2021?
15 A. Yes.
16 Q. And the title, again, can you read it for
17 me into the record?
18 A. "Fish and Wildlife Commission pares down
19 wolf Trapping season, shrinks areas for snaring."
20 Q. Great, thank you. Let's go through the
21 next thing in your stack.
22 A. The next one is a grizzly bear map that I
23 pulled off the internet.
24 Q. Okay.
25 A. Just simply seeing what officials are

1 Q. All right. Can you describe that for me
2 or read that?
3 A. I really can't. It's just background
4 information of what's been going on with lynx and
5 grizzly bears, and some of the legislative bills that
6 have been introduced.
7 I read these things every day. But, again, I'm
8 here to testify about my skills as a trapper and my
9 trapping knowledge. All of this stuff here, I
10 couldn't possibly keep in my head. I just refer to it
11 to see what people are thinking, and what legislators
12 are doing and creating these days.
13 Q. And I see the date on that is October 29,
14 2021. And that's about when you made that?
15 A. No, I printed all these. I just printed
16 them yesterday.
17 Q. Okay.
18 A. It's just an assembly of news clips and
19 things that I thought that you may refer to today.
20 Q. All right.
21 A. And I'm not capable of knowing what's in
22 these. I speed read them and put them here, and I do
23 put them in manila folders and keep them to stay
24 current.
25 Q. All right. Can you go through for me just

1 referring to these days as grizzly bear range in
2 Montana and Idaho.
3 Q. So that that says "Grizzly Bear Recovery
4 Zone and Estimated Distributions." And what's the
5 date on that map?
6 A. There's reference to 2020 on here. There
7 is no date, other than down at the bottom, it's
8 referring to 2020.
9 Q. Okay. Do you know where that map came
10 from?
11 A. I do not. It was in some published
12 information.
13 Q. Okay.
14 A. It was the most recent that I could
15 acquire to see what people called "grizzly bear range"
16 today.
17 Q. Can you kind of go through on the side
18 there with the different things it shows in the key?
19 A. Well, there's shaded areas, it shows
20 estimated current distribution. And then it goes into
21 detail for the Bitterroot, the Cabinet-Yaak, Greater
22 Yellowstone, Northern Continental Divide, North
23 Cascade, Selkirk, Greater Yellowstone, Northern
24 Continental Divide.
25 Q. Okay.

1 A. And these things, I know from being a
 2 former government employee, these things change, so I
 3 was just trying to see what is current.
 4 **Q. Okay, great. And let's go to the next**
 5 **thing in your stack.**
 6 A. (Displaying.)
 7 **Q. So "Montana Wolf Hunting 2023" is the**
 8 **title of that document. Can you tell me what that is?**
 9 A. It's bits and pieces that I've pulled out
 10 of the 2023 regulations.
 11 **Q. Did you just cut-and-paste them?**
 12 A. Yes, I did.
 13 **Q. All right. Can you briefly go through for**
 14 **me which ones you thought were relevant?**
 15 **You don't need to read it all, but if you can**
 16 **just tell me like if there's a page or a title, or**
 17 **something like that.**
 18 A. No, I was just looking up basic things
 19 like: What does a resident pay for a wolf tag? What
 20 does a nonresident pay? I was reading about what last
 21 year's wolf take was, estimated wolf population.
 22 In past depositions I have been -- I wouldn't
 23 say "humiliated," but people ask me, "Carter, tell us
 24 about the setback policy in Montana."
 25 And I say, "I don't know what the setback policy

1 A. Absolutely everything here, I put together
 2 yesterday.
 3 **Q. And you said "official sources." What**
 4 **other official sources would you have aside from FWP's**
 5 **website?**
 6 A. The only source I have is off the internet
 7 mostly referring, referring me to Montana regulations.
 8 **Q. Okay. So when you say "off the internet,"**
 9 **did you mean you did a Google search --**
 10 A. Correct.
 11 **Q. -- and it took you to the regulations?**
 12 A. Yes. That's mostly what I do is type the
 13 topic in and try to find, when I can, take me to the
 14 official regulations or something that the agencies
 15 are putting out, not what some other sources are
 16 putting out as propaganda, or whatever.
 17 **Q. Okay. So "official source" - I'm hearing**
 18 **you say you're checking the source - other than FWP,**
 19 **what would you consider an official source?**
 20 A. I don't consider anyone else an official
 21 source but Fish, Wildlife and Parks.
 22 **Q. Okay. So all of that information came**
 23 **from Fish, Wildlife and Parks.**
 24 A. To the best of my knowledge, it did, yes.
 25 **Q. All right. The next thing in the stack?**

1 is."
 2 And they say, "Well, then you don't know the
 3 regulations."
 4 So these are things that I'm referring to just
 5 to familiarize myself with the playing field that
 6 we're going to be talking about today. That's why I
 7 put these together, just to see if I can understand
 8 what the playing field is currently.
 9 **Q. Okay. And it sounded like there was more**
 10 **than just the regulations on there because I heard you**
 11 **say "wolf counts."**
 12 A. Well, that was all part of the
 13 information. It was part of the information that I
 14 looked at. They also gave last year's take. And I
 15 believe this is all Montana information that was put
 16 out.
 17 **Q. Did you get it all off of FWP's website?**
 18 A. I assume -- I don't know, to be honest
 19 with you. I think I did. I think most of this is
 20 official information. That's what I seek when I'm
 21 looking for this stuff is, so bag limits: How many
 22 hunters can have, how many trappers can have, so
 23 forth.
 24 **Q. So when you went through this document to**
 25 **make it, that was yesterday, I think I heard you say?**

1 A. From my deposition, I enumerated all of
 2 this verbose by putting numbers in front of each bear
 3 that was part of my deposition just so I could see how
 4 many bears we were talking about more specifically
 5 than just randomly referring to each one from the
 6 article sources, and things.
 7 **Q. So I want to understand. When you say**
 8 **"deposition," do you mean the deposition from Idaho or**
 9 **do you mean from your memory?**
 10 A. It's the deposition I submitted to Tim.
 11 **Q. Okay. So the declaration that you**
 12 **submitted to Tim.**
 13 A. Declaration; I'm sorry, declaration.
 14 **Q. That's okay. And explain to me here, can**
 15 **you go through just the first one? So this is the**
 16 **first bear that you refer to in your declaration?**
 17 A. Yes, a two-year-old female grizzly bear
 18 caught in a wolf trap in 1988 on the South Fork of the
 19 Milk River, Browning. And then each other bear is
 20 delineated by drainages or age of the bear. All of
 21 this material to me is overwhelming to refer
 22 individually to, so this is -- (pause.)
 23 **Q. I want to make sure that when you say your**
 24 **declaration where you're pulling these numbers from,**
 25 **is that Paragraph 13 in your declaration?**

1 A. Yes, the 13 is evident right there --
 2 (indicating.)
 3 **Q. Okay. So all of the bears you're going**
 4 **through on that sheet are the bears that you talk**
 5 **about in Paragraph 13. Anywhere else in your**
 6 **declaration?**
 7 A. And then when you go ahead here, I
 8 itemized 14 and 15.
 9 **Q. Okay.**
 10 A. And just pulling numbers together so I can
 11 sort these out from everything else in the
 12 declaration.
 13 **Q. All right. Is there any additional**
 14 **information that you put in that document about any of**
 15 **those bears that wasn't in your declaration? Or is it**
 16 **just cut-and-pasted from your declaration?**
 17 A. I believe they're all from the
 18 declaration, best I can tell.
 19 **Q. All right. We may go through that in a**
 20 **little more detail later. Anything else on that page,**
 21 **except for what's in Paragraph 13, 14, and 15 from**
 22 **your declaration?**
 23 A. Thirteen, fourteen, fifteen, and that's
 24 all I reference.
 25 **Q. Okay, great. Let's do the next thing in**

1 A. I believe it was information I was
 2 providing to Tim.
 3 **Q. Can you give me the general type of**
 4 **information and when it was sent?**
 5 A. There's no date on this. It's just some
 6 stuff I was telling him about professional trapping
 7 for wolves in grizzly bear country, yes.
 8 **Q. And was that before you wrote your**
 9 **declaration or in preparation for this deposition?**
 10 A. Probably about the same time. I don't
 11 know.
 12 **Q. Okay.**
 13 A. There's no date on this.
 14 MS. CLERGET: Tim, we may have to talk
 15 about that more to figure out whether it's privileged
 16 or not, just a note about that. We'll come back to it
 17 later.
 18 **Q. (By Ms. Clerget) All right. What's the**
 19 **next thing in your stack?**
 20 A. A second declaration, this was to Tim.
 21 **Q. Okay.**
 22 A. I don't know what's in it.
 23 **Q. We have that one so you don't need to**
 24 **worry about that.**
 25 A. Okay.

1 **the stack.**
 2 A. This is called "Securing Wolf Traps in
 3 Bear Country."
 4 **Q. Can you hold it up a little higher? Just**
 5 **the glare, I can't quite see.**
 6 A. (Complying.)
 7 **Q. Okay. Where did that come from?**
 8 A. Some more of my -- I believe these are
 9 notes I sent to Tim, since he's the only "Tim" that
 10 comes to mind right now, my attorney.
 11 **Q. Okay, Tim. I want to be careful here**
 12 **because I don't want to get into client privilege, but**
 13 **can you tell me, were you sending those notes just as**
 14 **an FYI or were you asking Tim for some advice about**
 15 **those notes?**
 16 A. These are just, again, cut-and-paste notes
 17 on issues I talk about.
 18 **Q. So where are they cut-and-pasted from?**
 19 A. Well, I take it from an email.
 20 **Q. Without telling me the subject of the**
 21 **email yet, is that an email from Tim to you or from**
 22 **you to Tim?**
 23 A. I believe it's an email from me to Tim.
 24 **Q. Okay. And were you seeking advice for**
 25 **that email or was it just an FYI email?**

1 **Q. That's the same, the filed version, I'm**
 2 **assuming.**
 3 A. This one here, this is off Facebook,
 4 January 25th, about a grizzly bear that emerged I
 5 think over by West Yellowstone.
 6 **Q. Okay. I'm seeing a picture on the top of**
 7 **that, just for the record. Can you tell me whose**
 8 **Facebook you got it off of?**
 9 A. I looked it up on Custer Gallatin National
 10 Forest.
 11 **Q. Okay.**
 12 A. Seeking official stuff.
 13 **Q. And without reading it, we don't need to**
 14 **read it into the record, but can you tell me,**
 15 **generally, what it says?**
 16 A. There have been grizzlies documented out
 17 of dens near West Yellowstone and Gardiner in the last
 18 few weeks, and this is dated January 25th.
 19 **Q. Okay.**
 20 A. This is interest material to me to know
 21 what bears are doing.
 22 **Q. And January 25th of this year, just to be**
 23 **clear?**
 24 A. Yes.
 25 **Q. Okay, great. And that's just a straight**

1 **print-off of Facebook, nothing added to it --**

2 A. Nothing added, no.

3 **Q. -- all right, great. Then let's go to the**
4 **next thing in the stack.**

5 A. Anyway, this is more cut-and-paste up
6 here. I just cut-and-pasted what hunting units in
7 Idaho claim they have grizzly bears.

8 **Q. And just for the record, you're holding up**
9 **what has a map on it, and it says "Federal judge" --**
10 **oops, now you've turned it.**

11 A. Oh, sorry.

12 **Q. "Federal judge orders Montana to limit**
13 **wolf trapping in grizzly bear habitats."**

14 **So can you explain to me where you got this**
15 **information from?**

16 A. It is Courthouse News Service.

17 **Q. Okay. So is that just you cut-and-pasting**
18 **an article from Courthouse News Service? And it looks**
19 **like November 21, 2023 --**

20 A. That's correct.

21 **Q. -- is that right?**

22 A. Yeah. Old news but clarification for me
23 in talking to you today.

24 **Q. Okay. But let's go back to the first**
25 **page. It looks like there was some stuff that you had**

Page 25

1 **Q. All right. "The rest of this" being the**
2 **article?**

3 A. And then I believe there's some more
4 cut-and-paste, including your name in some of these,
5 from different sources again. They're just snippets.

6 **Q. I'm having trouble seeing. Can you just**
7 **run through what those are, just generally, for me?**
8 **You don't need to read them in.**

9 A. It identifies for conservation groups,
10 Timothy Bechtold, who I've actually never met face to
11 face; and refers to you, Sarah Clerget; and just some
12 dates referencing the season being starting in January
13 1st.

14 **Q. I'm sorry, can you go through for me where**
15 **you got that stuff from?**

16 A. I believe probably news clips.

17 **Q. Do you remember where the news clips were**
18 **from?**

19 A. I don't. They're just references to Lizzy
20 Pennock, who I've never met, I don't believe; and
21 there's information here, again, estimating 1100
22 grizzlies inhabit Glacier, 800 in Greater Yellowstone.
23 Again, these are all -- there's a statement by Mr.
24 Bader in quotes. Again, it's just snippets of
25 information that I've got to try and understand what's

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1 **written above the cut-and-pasted news article. Can**
2 **you explain to me again what was?**

3 A. This is just a cut-and-paste that I got
4 from an Idaho source, official source, talking about
5 what hunting units in Idaho, Idaho claims that there
6 are grizzly bears occupying or part of their range.

7 **Q. Why did you think that was relevant for**
8 **today?**

9 A. Because I have been deposed before over
10 technicalities, trivialities, and things that I can't
11 possibly know. So it's just to familiarize myself. I
12 can go to these places in a truck, no problem.

13 **Q. Okay.**

14 A. But how they're being indicated by the
15 state agencies, that can be a problem for me.

16 **Q. Understood.**

17 A. That's the reason.

18 **Q. Everybody hates lawyers because we're the**
19 **worst when it comes to trying to do stuff like this.**

20 A. I hate no one.

21 **Q. So I just want to be clear. That's all**
22 **Idaho, though. None of that's Montana, right, for the**
23 **hunting districts that you pulled out?**

24 A. Yeah, that little tidbit up there is
25 Idaho; the rest of this is Montana.

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1 going on out there in the big picture.

2 There's reference to, I have a reference to
3 Clayton Lamb. The University of British Columbia
4 researcher, Clayton Lamb, published a peer-reviewed
5 article documenting several grizzly bears captured
6 between 2016 and 2020 who lost toes to traps.

7 I have not read the complete stuff by Lamb, so I
8 will probably here, eventually as time permits, read
9 more in depth about researchers like himself, see what
10 he knows.

11 **Q. And, again, where did you pull that stuff**
12 **from? Was that all off of the internet, too, or did**
13 **that come from other places?**

14 A. I'm assuming it was probably -- well, I
15 think a lot of this, I'm going to go back to saying it
16 might have been out of the Courthouse News Service,
17 November 21, 2023, by Edvard Petterson.

18 **Q. Okay. So you're just pulling pieces out**
19 **of that?**

20 A. Yes.

21 **Q. Anywhere else that that information might**
22 **have come from on the bottom?**

23 A. No. I just highlight Flathead-Lolo-
24 Bitterroot Citizen Task Force, WildEarth Guardians,
25 people of interest.

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1 **Q. Okay.**
 2 A. I even have your name highlighted up over
 3 here so that I know who I'm --
 4 **Q. Very important.**
 5 A. Yes.
 6 **Q. Okay.**
 7 A. This highlights. And there's this
 8 terminology constantly "reasonable certainty." I
 9 highlighted it because I figured we would be talking
 10 about "reasonable certainty" today.
 11 **Q. Okay, all right. Anything else in the**
 12 **stack there?**
 13 A. Yes. Out of reference and concerns for
 14 myself again - here's from the Livestock Protection
 15 Company - their traps. I'm not here to sell them but
 16 these are the kind I use during all, nearly all of my
 17 wolf capture work working for USDA and Department of
 18 Interior.
 19 These are the traps I recommend using. They're
 20 seldom used by private trappers these days because
 21 they're expensive. But I have these for reference to
 22 jaw diameter and size, and such. So it's just a
 23 propaganda sheet right off of Livestock Protection
 24 Company's traps.
 25 **Q. Okay. And that's, essentially, their**

1 before, I don't know. I threw it down there.
 2 **Q. "Committee votes on four wolf bills as**
 3 **legislative deadline nears." I can't see the date on**
 4 **that.**
 5 A. I was just seeing if -- yeah, this is an
 6 article referenced in Montana.
 7 **Q. Okay. It looks like March 3, 2023; is**
 8 **that right?**
 9 A. March 1, 2023.
 10 **Q. Okay.**
 11 A. Written by Amanda Eggert, who does quite a
 12 few Montana Free Press articles.
 13 **Q. And that's where it's from, Montana Free**
 14 **Press?**
 15 A. Yes.
 16 **Q. Okay. And any other notes, or anything,**
 17 **on that?**
 18 A. There are no notes.
 19 **Q. Alrighty. Next up?**
 20 A. I wrote down "reasonably certain" again.
 21 And "collateral damage, non-target, by-catch," these
 22 are all terms today that people may use. So I just
 23 wrote them down as a catchall to see if we're all
 24 communicating by the same words.
 25 **Q. And then it looks there's a number down**

1 **sales information off line, something like that?**
 2 A. Yeah, you can go online and find the name
 3 of their company, and this is the information they
 4 provide.
 5 **Q. Perfect. Thank you so much. And anything**
 6 **else?**
 7 A. Here's a copy of a lynx paper that I just
 8 ran onto yesterday. And I have been part of lynx
 9 cases, so anytime I can update my knowledge of other
 10 species of concern, whether it's lynx, wolverine, or
 11 grizzly bears, I copy them. So I just threw it in the
 12 pile. It has nothing to do with grizzly bears but,
 13 yes, some of their ranges overlap.
 14 **Q. So just for the record, that says "The**
 15 **Complicated Case of the Captured Canada Lynx." I**
 16 **can't quite see the date on that. Can you --**
 17 A. This is dated January 13, 2024, written by
 18 a Tristan, Tristan Scott.
 19 **Q. Alrighty. Any other notes, or anything on**
 20 **that, or just the reproduction of the paper?**
 21 A. I believe it's just the way that the
 22 entire article printed. Yeah, no notes on it, or
 23 anything like that.
 24 **Q. Okay, great.**
 25 A. This might have been the one we looked at

1 **there at the bottom. What is that number?**
 2 A. I just wrote that down, we started at
 3 9:02.
 4 **Q. Oh, okay.**
 5 A. These are my own notes. This was going to
 6 be notepaper to write things down on.
 7 **Q. Well, I'll ask you not to write anything**
 8 **down unless you show it to us, okay, as we go through?**
 9 A. All right. I won't. I'll put my pen
 10 away. That will be easier.
 11 **Q. It's okay, you can do it, but then just we**
 12 **need to talk about it and make sure we get it on the**
 13 **record.**
 14 A. Okay. And then there's this last one
 15 here: "Wolf trap nabs grizzly on Front." This is
 16 2013.
 17 **Q. And where did that come from? I can't**
 18 **quite read it?**
 19 A. Great Falls Tribune.
 20 **Q. All right. Is there just the article**
 21 **there or is there --**
 22 A. Yeah, that's correct. I worked with Mike
 23 Madel with Fish, Wildlife and Parks for many, many
 24 years. And this article has some of his
 25 opinions/analysis back in 2013 about bears coming out,

1 staying out later, coming out earlier, and was talking
 2 about a bear that got caught.
 3 It's an interest article, again, that I stuck in
 4 my files. There's no notes or any reference for that.
 5 I found it yesterday while looking for other things.
 6 **Q. Perfect. Is that the end of the stack or**
 7 **is there more in there?**
 8 A. That's it.
 9 **Q. Alrighty. So what we're going to do is**
 10 **have you put those in an envelope for us and send them**
 11 **to us after this since we can't get them, unless you**
 12 **have a scanner and you could scan them to us,**
 13 **whatever's easier for you.**
 14 A. Well, we have a very simple scanner. I'll
 15 probably have to take these up to a -- if I got them
 16 back, I'll send them the way they are. I just want to
 17 keep them for my files, it's what I've done.
 18 **Q. Okay. We can talk about the logistics of**
 19 **that later but we are going to need copies somehow,**
 20 **whether it's mail or whether it's scan, either way.**
 21 A. I'd be happy to share them with you.
 22 **Q. Great. Then what I'll ask you to do is**
 23 **just put them in a stack facedown and not pull**
 24 **anything out unless you tell us you're pulling it out.**
 25 A. I'll put them face down right up here.

1 **Q. Perfect. Thank you so much. Then we're**
 2 **just on the same page about what we're all looking at**
 3 **at the same time.**
 4 A. Yeah.
 5 **Q. If you need to refresh your recollection**
 6 **at all, feel free to ask. As Tim says, this is not a**
 7 **memory test, so if you need to pull something out, let**
 8 **me know. I just want to make sure we're all clear**
 9 **about what you're looking at at any given point in**
 10 **time.**
 11 A. I think from now on, I'm totally on my
 12 memory.
 13 **Q. Well, I want you to feel free to ask to**
 14 **look at something if you need to. Okay?**
 15 A. Yeah. And I don't really have things to
 16 refer to here, so -- (pause.)
 17 **Q. Alrighty. And that tells me a little bit**
 18 **about what you did to prepare for the deposition.**
 19 **Obviously, you went through all of that stuff**
 20 **yesterday, right?**
 21 A. Yes, correct.
 22 **Q. Anything else that you did to prepare?**
 23 A. No. I do so many things with so many
 24 different people that I have so much information
 25 that's mind-boggling, and so sometimes I have to

1 collect my thoughts back and help me focus on what
 2 we're dealing with today with you.
 3 **Q. All right. Did you talk to anybody?**
 4 A. My lawyer Tim is the only person I've
 5 talked too.
 6 **Q. Other than Tim, I don't want to get into**
 7 **the privilege with him, but anything else that you**
 8 **talked about with Tim?**
 9 A. No.
 10 **Q. Or, sorry, not "with Tim"; "other than**
 11 **Tim."**
 12 A. I talked to no one else because I don't
 13 think anybody else really knows anything that could
 14 help me on this.
 15 **Q. How about anybody from Flathead-Lolo Task**
 16 **Force? You didn't talk to anybody from there?**
 17 A. No.
 18 **Q. Have you ever, even before prepping for**
 19 **this deposition, have you ever talked to anybody from**
 20 **there?**
 21 A. To the best of my memory or knowledge, no,
 22 I have not. That's not a familiar group with me.
 23 **Q. Okay. And what about WildEarth Guardians?**
 24 A. I have to get the groups straight now.
 25 Earth Justice, I have worked with, WildEarth

1 Guardians; recently, I have not talked to anyone.
 2 **Q. So in regards to this case, you haven't**
 3 **talked to anybody from WildEarth Guardians?**
 4 A. No.
 5 **Q. So tell me how it was that you came to**
 6 **write a declaration in this case.**
 7 A. I was approached by the attorney Tim and
 8 also a person named, it's up here on the top, Mike
 9 Bader. I have not met either person face-to-face, but
 10 I was asked to do a declaration in regard to wolf
 11 trapping in grizzly bear country.
 12 **Q. Tell me first, do you know Tim or Mike**
 13 **Bader other than in the context of this case?**
 14 A. Not to be derogatory or insulting but, no,
 15 I have not heard of these gentlemen before this.
 16 **Q. All right. Tell me about the conversation**
 17 **or emails, or whatever communication you had with Mr.**
 18 **Bader.**
 19 A. I can't remember specifically what I dealt
 20 with Mr. Mike Bader because it goes back a couple
 21 months. I don't know. I barely know Tim other than
 22 we've talked on the phone a couple of times.
 23 **Q. The request for you to write a**
 24 **declaration, did that come from Mr. Bader?**
 25 A. Maybe, I don't know. I think so.

1 **Q. Did you write your declaration on your own**
 2 **or did somebody help you with that?**
 3 A. I think Tim, I could say Tim helped me
 4 with that because it's an assembly of old depositions
 5 -- or old declaration material, new declaration
 6 material, and such, and then some communications back
 7 and forth. I told him things that he added in, but
 8 it's my declaration.
 9 **Q. So he wrote it and you edited it?**
 10 A. Yes.
 11 **Q. Okay. Any other communication with**
 12 **anybody else about this case, not necessarily for the**
 13 **deposition, but at any other time?**
 14 A. Not to my memory, no. I don't know anyone
 15 else to talk to about it.
 16 **Q. Okay. I'm working through my notes here.**
 17 **One other just point of housekeeping - it seems like**
 18 **we're all on the same page but just so I've said it on**
 19 **the record - I'm assuming that you're not going to**
 20 **communicate with anybody during the deposition since**
 21 **we're on Zoom. So no, you know, messages --**
 22 A. No.
 23 **Q. -- emails, text messages, stuff like that,**
 24 **can we agree on that?**
 25 A. Totally. I'm not capable of doing that

1 technology.
 2 **Q. All right, great, thank you so much. How**
 3 **did you find out about this case?**
 4 A. I would say probably mostly from Tim, my
 5 attorney -- our attorney.
 6 **Q. Were you talking anything about trapping**
 7 **in Montana before you talked to Tim?**
 8 A. Not specifically, no. I talk to a lot of
 9 people in a lot of states about a lot of things going
 10 on, but mostly it's them informing me of recent
 11 developments, and whatever. But I think Tim is the
 12 person that focused me on what was going on.
 13 It's an ever-changing playing field; the same
 14 living here in Idaho. Whatever the legislature comes
 15 up with, new bills, new proposals, I just try to stay
 16 abreast of them the best I can.
 17 **Q. Obviously, Idaho is your main focus,**
 18 **though, since that's where you are. Is that fair to**
 19 **say?**
 20 A. Yeah. And I have a hard time keeping up
 21 with Idaho, too, living here.
 22 **Q. You showed me that article from before**
 23 **about the legislature in 2021. Were you tracking what**
 24 **was happening with the legislature in 2021 in Montana,**
 25 **or is that something you just kind of learned prepping**

1 **for today?**
 2 A. I do not follow the Montana Legislature
 3 except by bits and pieces. I believe it was about a
 4 year ago, I tried to call in to just make a statement,
 5 and they burned out the clock and didn't even let me
 6 talk. So, essentially, I don't follow the legislative
 7 stuff very closely or in detail. I just kind of look
 8 for the finished products.
 9 **Q. How about do you understand the difference**
 10 **between Fish, Wildlife and Parks, and the Fish and**
 11 **Wildlife Commission, and then the legislature in**
 12 **Montana?**
 13 A. Essentially, I do, yes. I lived in
 14 Montana 26 years and I feel like I know those
 15 separations.
 16 **Q. So what would you say Montana Fish,**
 17 **Wildlife and Parks' role is out of those three?**
 18 A. Well, they're the state representative for
 19 fish and wildlife management; enforcement of rules and
 20 regulations and statutes; and, hopefully, looking out
 21 for our fish and wildlife resource.
 22 **Q. And, then, what about the commission,**
 23 **what's their role?**
 24 A. Well, the commission, to the best of my
 25 understanding if it hasn't changed, usually our

1 governor is elected and the governor appoints their
 2 commission members. Some states, maybe it's
 3 bipartisan, preferably. And then the commissioners,
 4 who I used to be very close friends with, Dr. Bob
 5 Ream, Ron Moody. These are both deceased members of
 6 the commission in Montana. But they advised the
 7 Montana Fish, Wildlife and Parks director and people,
 8 and I think they even have the power to hire and fire.
 9 **Q. And, obviously, we just talked about the**
 10 **legislature so I think you understand their role in**
 11 **this, too.**
 12 A. Yeah, I just -- yes. I won't say any
 13 more.
 14 **Q. Let's go back to -- well, just generally,**
 15 **can you tell me what you think this case is about in**
 16 **your understanding?**
 17 A. I think it's about keeping grizzly bears
 18 alive and keeping grizzly bears from being maimed and
 19 crippled. One of the articles said "collateral
 20 damage." I have a real strong interest in the kinds
 21 of traps that are being allowed to be set in these
 22 western states, and I think grizzly bears are a
 23 valuable resource that we've got to protect any way we
 24 can.
 25 **Q. So tell me, before this case, what you**

**1 were thinking about traps in Montana for wolves. I
2 want to focus on wolf trapping today. So tell me what
3 your thoughts were about wolf trapping in Montana
4 before anybody contacted you for this case.**

5 A. Well, I am aware of the similarities of
6 what evolves as wolf trapping is permitted in Idaho,
7 Montana, Wyoming. We can get into it later, but I
8 have traps that I use from Livestock Protection
9 Company that I, in my experience using them in grizzly
10 bear country, even black bear country, I don't hold
11 bears in them. They get out.

12 These MB-750 coil springs, as an example, and
13 there's several derivatives - the Bridgers and the
14 Dukes and all of the other trap manufacturers - in my
15 opinion, these are unprecedented strong traps. I have
16 big concerns that they're going to increase a lot of
17 non-target captures of much larger animals.

18 And I hear consistently through the trapping
19 organizations, government trappers, people I talk to
20 that MB-750 has become a real popular trap because of
21 the price - they're much cheaper, \$32-\$34 - that
22 trappers are generally going to these.

23 When I see pictures of wolves in traps on the
24 public media, I look at them and go, "Huh, MB-750." I
25 can tell by the shape, the size. So I have been very

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1 started to acquire them for their federal or
2 government trappers here in Idaho.

**3 Q. So they're using them for research traps
4 as well as for recreational traps?**

5 A. To my astonishment, yes, that was their
6 intention, I guess, research and for Judas wolves,
7 catching them to release, to have their packs killed
8 later.

**9 Q. And so I hear your concerns about the 750
10 trap. Other than that, have there been any concerns
11 you've had about trapping for wolves in Montana?**

12 A. Well, it's my professional opinion after
13 using the McBride Livestock Protection trap, which has
14 a different profile, it grabs lower than the 750, and
15 I've had tremendous luck. I've had nearly 300 wolf
16 captures in my life and I've never killed one in a
17 trap because I check the traps every 24 hours. I've
18 learned to stake the traps solid.

19 And bears, I have not held bears when they were
20 anchored solid. I have held bears when they were on
21 drags. So I perfected what worked for me as a wolf
22 trapper to avoid catching bears. The MB-750 traps
23 kind of throw all that success that I have developed
24 out the window, in my opinion.

25 Q. So you sort of started to answer this, but

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1 concerned about trappers using these large coil spring
2 traps that require trap-setting tools to set.

3 I've always been able to set traps with my feet,
4 never required trap-setting tools before. But these
5 traps today, you've got to be a pretty tough guy to go
6 out and set those all day with the edge of your boot.
7 So, anyway, that's generally my feelings.

**8 Q. And when did folks start using those 750
9 traps, do you know?**

10 A. Almost immediately upon the State's taking
11 over, a government trapper here in Idaho, who's
12 deceased now, brought me one of these first ones. The
13 minute that I retired -- I mean the year I retired in
14 2006 in Idaho, Wildlife Services here immediately
15 acquired and started distributing MB-750 traps to
16 Wildlife Service's trappers in Idaho.

17 And the trapper brought one over into my garage
18 and said, "Look at this." He was shocked and
19 astounded because we both agreed those are way too big
20 a trap to be setting for wolves.

**21 Q. So I think what I just heard you say, but
22 correct me if I'm wrong, so we started trapping wolves
23 in 2013. So in your understanding, we started, folks
24 started using those traps in 2013.**

25 A. As early as 2006, Wildlife Services

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**1 I want to make sure I completely understand, what you
2 think make those LPC traps better than the other wolf
3 traps. Is it just the size or is there other stuff,
4 too?**

5 A. It's their size, their profile. They're
6 weaker. You can step on -- they're a double-spring
7 trap. You can compress the springs with your feet and
8 set them very easily. And I was using the EZ grip
9 trap that has the hard rubber, not necessarily offset.

10 But when a bear got caught in those and they're
11 anchored solid, my most recent trapping in bear
12 country was in the state of Washington, and I didn't
13 hold any bears over there. They have many more bears
14 per square mile, in my opinion, in Washington, and all
15 of the bears that I caught in wolf traps escaped the
16 trap.

**17 Q. And it's the No. 7 LPC EZ grip trap that
18 you're using; is that right?**

19 A. Yeah. They're called the "EZ grip," is
20 the one that I used the most. They are hard-rubber
21 jawed.

**22 Q. I think I heard you talk a little bit
23 about offset. What was your offset on those?**

24 A. Well, on EZ grip, there is no offset.
25 They fit snugly, which takes us into the other realm

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1 of a 24-hour trap check. I've caught hundreds of
 2 wolves in these traps.
 3 I've never killed a wolf in a trap on purpose or
 4 accidentally because checking them every 24 hours,
 5 first thing each morning after I set them, you get the
 6 wolves out of them even without the offset feature.
 7 You get some swelling, but the feet are not injured
 8 and the wolves do well. The radio collars on them
 9 tell us that they survive and recover quickly.
 10 **Q. All right. I apologize for jumping around**
 11 **a little bit but we're going to come back to some of**
 12 **that a little later. I just want to make sure I get**
 13 **through kind of the basic background here.**
 14 **Your declaration says that you're a consultant**
 15 **on this case; is that right?**
 16 A. Yes, I guess that's the term.
 17 **Q. Have the Plaintiffs hired you to be a**
 18 **consultant?**
 19 A. They have paid for my time.
 20 **Q. You do get paid for your time?**
 21 A. Of course.
 22 **Q. Okay.**
 23 A. Or I wouldn't do it.
 24 **Q. What are they paying you for your time?**
 25 A. You mean the amount?

1 **the Defendants are the ones who are defending against**
 2 **the lawsuit, who are the ones being sued.**
 3 **So have you ever been an expert or consultant**
 4 **for the folks that are being sued?**
 5 A. Not that I'm aware of. I think I'm with
 6 plaintiffs who have asked me to consult for them or
 7 with them.
 8 **Q. Have you ever consulted or been an expert**
 9 **for any government agency of any kind?**
 10 A. Well, I have appeared in court way back
 11 during the wolf reintroduction years in Wyoming,
 12 Cheyenne, with Judge William -- I can't remember his
 13 last name. I've done that kind of expert testimony a
 14 couple of times.
 15 **Q. And tell me, just generally, what that was**
 16 **about, what you were testifying to.**
 17 A. Well, uniquely, I'm one of the only people
 18 -- I was the first wolf management specialist
 19 appointed for the Northern Rockies Region, working for
 20 U.S. Department of Agricultural, and early on, I
 21 believe, somewhat funded by the Department of
 22 Interior, U.S. Fish and Wildlife Service.
 23 So for about ten years while I was in Montana, I
 24 was the go-to guy. I was doing all the wolf trapping
 25 and all of the helicopter capture work on wolves. So

1 **Q. Yes.**
 2 A. For day-to-day phone call thing, I believe
 3 it was 250 an hour.
 4 **Q. Okay. And other than day-to-day phone**
 5 **calls, what is the charge?**
 6 A. Well, I'm hoping to get more for doing
 7 depositions.
 8 **Q. Okay. When you say "consultant," have you**
 9 **consulted on other cases?**
 10 A. In the past, I have worked with Earth
 11 Justice. And in the past on establishing the lynx
 12 zones in Montana, I worked with Attorney Matt Bishop.
 13 That's an --
 14 **Q. Have you ever -- sorry, go ahead.**
 15 A. I'm sorry. That's an example.
 16 **Q. Any others besides those?**
 17 A. That's all I can remember specifically.
 18 **Q. Have you ever been a consultant or an**
 19 **expert for a defendant at all or just a plaintiff?**
 20 A. Explain to me the difference --
 21 **Q. Sure.**
 22 A. -- because this is the terminology that
 23 might trip me up.
 24 **Q. That's fine, thank you for asking. So the**
 25 **Plaintiffs are the ones who are doing the suing versus**

1 in 1994, I testified in Cheyenne, leading up to the
 2 wolf reintroduction, answering the judge's concerns,
 3 everything from compensation to: Do you have enough
 4 adequate personnel to do the job? And all those types
 5 of technical questions about wolf-livestock conflict.
 6 **Q. And it sounds like that was a case about**
 7 **delisting. Is that fair to say?**
 8 A. No, that was a -- all of that court, that
 9 court appearance was about the very idea of
 10 reintroduction and whether it should happen or not
 11 happen, and are we prepared, and did we have the
 12 resources to carry out such a task.
 13 **Q. And at that point, what was your opinion**
 14 **on that issue?**
 15 A. Well, I was a one-man show at the time and
 16 we didn't have a lot of wolves. We just had some
 17 natural recolonization up in northern Montana,
 18 northwest Montana.
 19 I said, eventually, if wolves succeeded, then we
 20 were going to need a lot of resources and it was going
 21 to require a lot more personnel, which has come true
 22 and then some.
 23 **Q. Great. And just going back through your**
 24 **work history in your declaration, in your education**
 25 **background, can you just tell me quickly any other**

**1 education related to wolves or bears that isn't in
2 your declaration?**

3 A. I don't believe so. Most of it was
4 hard-earned on the trap line 7/24 out of a pickup
5 truck. I learned fundamental trapping from the time I
6 was a kid. And any time I became aware of expert
7 trappers, just technique alone, and became aware of
8 traps that were capable of doing the job I wanted to
9 do, I contacted those people.

10 But most of my experience wolf trapping is
11 taking all of my other experience with fox, coyotes,
12 and other species and putting that all together, and
13 then all the rest of it is experience.

**14 Q. Can you explain to me -- sorry, I'm just
15 going to go back and double-check here. Your
16 bachelor's and master's in wildlife biology, what were
17 those focused on?**

18 A. Well, Idaho State's an excellent school.
19 You learn a whole lot of everything and a whole lot of
20 nothing specific, so it prepared me to go out into the
21 field. So the curriculums are ornithology, etymology,
22 limnology, comparative anatomy, embryology.

23 They give you a broad foundation to go out and
24 do a variety of resource jobs, whether you're working
25 for state or federal agencies.

1 for ADC, so I have been familiar with that whole
2 realm.

**3 Q. How much of that was focused on wolf
4 trapping specifically?**

5 A. There was no focus on wolf trapping until
6 the first wolves arrived in Northwest Montana around
7 mid 1980s. Some graduate students, Diane Boyd and
8 others, were living up at Polebridge and doing some
9 research trapping.

10 We had the first livestock damage beginning
11 around Browning, Montana, in about 1987. We had no
12 traps, we had no experience, we had no budget. And
13 from those days forward, Carter Niemeyer became the
14 designated person. I didn't even apply to become the
15 wolf management specialist. I was given a
16 battlefield promotion and became "Carter the darter."

17 They put me in a helicopter because I had been
18 aerial gunning. I started shooting darts into wolves
19 very successfully. I helped develop the first traps.
20 We experimented, had bad luck, good luck. We finally
21 got away from some poor traps and got into these
22 Livestock Protection traps.

23 I did virtually all the wolf trapping until
24 about 2000 for Wildlife Services - we used to be "ADC"
25 - well, again, up until 2000 when I moved to Idaho to

**1 Q. I see in your declaration that you worked
2 for Animal Damage Control, ADC, for Wildlife Services.
3 Did you do that as a biologist?**

4 A. Well, again, it's going to sound
5 egotistical but I was one of the only guys with a
6 college degree that went to work for ADC in Montana.
7 Many of the trappers never finished high school. I
8 was uniquely hired, really noncompetitively, because I
9 had a master's degree in wildlife and supervised the
10 western program, roughly, the western half of Montana,
11 for 16 years before I became the wolf management
12 specialist.

**13 Q. Can you describe for me a little bit of
14 what ADC's mission is?**

15 A. ADC, Animal Damage Control, who has now
16 changed their name to Wildlife Services, we were
17 responsible for responding to and correcting damage to
18 livestock by predators.

19 My first work was with golden eagles, and I have
20 captured lions, I've foot-snared grizzly bears,
21 trapped hundreds of coyotes, did a lot of the aerial
22 gunning. Again, being flippant, we were the hired gun
23 of the livestock industry when I worked in Montana.

24 My first two years were with the Montana
25 Department of Livestock, even before I went to work

1 become wolf recovery coordinator for the U.S. Fish and
2 Wildlife Service.

**3 Q. Okay. Tell me about your experience in
4 Idaho, I guess.**

5 A. Well, when I came to Idaho, they're in
6 Region 1 of the U.S. Fish and Wildlife Service.
7 Montana and Wyoming are in Region 6. And they were
8 under the supervision of Ed Bangs at the time, who I
9 worked very closely with, even though I was with USDA
10 Wildlife Services.

11 When the person in Idaho retired, he was
12 actually a fisheries person who did not really want to
13 work with wolves. So when he retired, everyone, and I
14 say "everyone" - the livestock industry, Fish and
15 Wildlife Service, and even Wildlife Services in Idaho
16 welcomed me with open arms to come down and fill that
17 role because of all my work experience with wolves.

18 Q. How long were you in Idaho?

19 A. I worked for the U.S. Fish and Wildlife
20 Service in Idaho until January of 2006, of which I
21 then had 33 years of federal service and retired.
22 And --

23 Q. And -- go ahead.

24 A. I went to work almost immediately for
25 Idaho Department of Fish and Game, trapping and

1 radio-collaring wolves, because they said, "Who could
2 we hire better than the guy who's already been doing
3 it?"

4 **Q. And how long with them?**

5 A. Oh, I would say roughly until 2010-2011,
6 almost right up till delisting.

7 **Q. And since then?**

8 A. I have taught 300 people, roughly, in the
9 state of Washington how to do livestock depredation
10 investigations and trap wolves.

11 I have worked with the Colville tribe, helped
12 them set up their program in Washington; I helped the
13 Spokane tribe set up their program in Washington;
14 consulted with the Yakima tribe in Washington; and
15 trained people on more than one occasion in the State
16 of Oregon, who we were working first under Russ Morgan
17 and now Roblyn Brown. I have trained people by the
18 thousands, I can't even keep track any more.

19 **Q. Is that the equivalent, in Washington and
20 Oregon, of trapper education, would you say?**

21 A. Yeah, almost no one knows how to trap
22 wolves. And, lovingly, because my work involved
23 catching them uninjured, putting radio collars on
24 them, I have taught the classes along with Dr. Mark
25 Johnson, who was the vet for Yellowstone, who has a

1 once we had freezing weather in the mountain valleys.
2 That was something we did never do for research.

3 **Q. Okay. And would one of the reasons for
4 that be because the rubber on the traps get really
5 hard when it gets cold?**

6 A. It's my belief and experience, looking at
7 animals caught in the winter or in freezing
8 temperatures, just simply, it's a metal trap transfers
9 cold into the foot. And then a constriction injury,
10 just the constriction alone will lead to no
11 circulation and the feet will freeze very quickly.

12 **Q. So I just want to understand. It doesn't
13 sound to me like, for you, there's a difference
14 between using the EZ grip traps in the summer versus
15 the winter because you would never use anything during
16 the winter is what I just heard you say.**

17 A. I wouldn't, no, not for research trapping
18 or catching a wolf that you want to radio-collar and
19 release. You don't want to injure them. And freezing
20 feet is an irreparable injury.

21 **Q. And that rubber could injure them during
22 the winter because it's --**

23 A. Well, the hard rubber, in all honesty, of
24 the traps to choose from, the hard rubber on an EZ
25 grip trap is, I call it "cosmetic." It's on there.

1 private training program to these days.

2 I've taught the classes on how to immobilize,
3 chemical immobilization, ear tagging, radio collaring,
4 you know, every aspect of handling wolves safely,
5 temperature, pulse, restoration, and getting them back
6 on their feet.

7 **Q. Are those taught to, I'm going to say, the
8 research management folks as opposed to the
9 recreational trappers?**

10 A. I have never participated in any training
11 of recreational trappers.

12 **Q. Okay. I think we'll take a break here
13 because I know we're in about an hour and I don't want
14 to kill our poor court reporters.**

15 **So let's take five, so we'll be back at
16 10:20.**

17 (A brief recess was taken.)

18 BY MS. CLERGET:

19 **Q. There's a couple of follow-up things I
20 had. When you're talking about - we're going to get
21 into this more later, but just while we brought it up
22 - when you're talking about those LPC EZ grip traps
23 that have the rubber on them, did you use those during
24 the winter ever?**

25 A. I absolutely refused to trap any wolves

1 It doesn't have an offset feature. It looks nice to
2 the public, so that's kind of what people go to.

3 Livestock Protection Company also makes an
4 offset jaw that has burrs or teeth on them. I used
5 those for the first few years. But the burrs on them
6 can actually break the phalange bones in the foot just
7 from fighting the trap, not from going shut.

8 But the rubber-jawed traps, simply, it's
9 essential, though, that those traps get checked every
10 24 hours if not sooner. The majority of the wolves
11 that I ever caught in traps probably were caught
12 around midnight, and I'm checking traps at 5:00-5:30
13 a.m. the morning in the summertime.

14 **Q. Okay. And can you tell me why, I think
15 you said the LPCs didn't hold black or grizzly bears;
16 is that right?**

17 A. Yes.

18 **Q. Can you tell me why they didn't hold
19 grizzly bears?**

20 A. Well, I can't say "grizzly bears." I have
21 not, I have never caught a grizzly bear in a wolf --
22 in a trap set for wolves. The nice feature with those
23 hard-rubber traps is that when a bear steps in them
24 and if you've got them anchored solid, the bear will
25 react. And when he hits the end of the chain, they

1 slip off of them. And I'm talking little black bears,
 2 you know, more so than big black bears.
 3 But when you get into offset traps and traps
 4 with teeth, and especially these large coil springs,
 5 they're so powerful and get in behind the toes, that
 6 the animals can't pull out of them.
 7 And then people who use drags, too, you know,
 8 drags allow an animal to pull a trap and there's no
 9 resistance. The longer they pull that trap around,
 10 it's kind of ratcheting the springs. Every time
 11 there's jerking, and things, the springs are firming
 12 up. They're pushing up tighter and tighter.
 13 And that's why I was talking about trapping in
 14 known black bear range and grizzlies, if you anchor
 15 them solid with a short chain, when that bear hits
 16 that chain, there's no time for the EZ grip
 17 rubber-jawed traps to really get ahold of anything and
 18 they just, they just slip off. It's worked for me.
 19 **Q. Okay. And that's for research traps,**
 20 **though, right? I just want to be clear, we're not**
 21 **talking about recreational traps there.**
 22 A. Well, these traps are sold for whatever
 23 use people want to use them. I mean, there's no
 24 distinction that this is a research trap, and
 25 recreational trappers could use them, too.

1 **Q. Okay. But your experience is with the**
 2 **research traps, I'm going to call them "research**
 3 **management" interchangeably, but the traps that are**
 4 **set by the management agencies, not recreational**
 5 **trappers, right?**
 6 A. Yes. And the reason I believe, I'm
 7 speaking for recreational trappers, a McBride EZ grip
 8 trap probably would sell, you know, if it came with a
 9 chain and drag from the company, it would be \$160. Or
 10 you could just go buy an MB-750 with a little stub of
 11 chain for \$34 in Cabela's or Sportsman's Warehouse, or
 12 something. So, simply, trappers went to the trap they
 13 can afford.
 14 **Q. Let's talk a little bit about your**
 15 **recreational trapping experience. I think I read in**
 16 **something that you haven't recreational-trapped for**
 17 **wolves; is that right?**
 18 A. Never.
 19 **Q. So only for research purposes.**
 20 A. Research and management, yeah.
 21 **Q. Okay. And do you regularly talk to part**
 22 **of the community of folks who do recreationally trap**
 23 **for wolves?**
 24 A. Not so much in the private sector; some.
 25 But government trappers, yes, I do keep in touch with

1 some up in Montana.
 2 **Q. Recreational separate from research or**
 3 **management?**
 4 A. No, I wouldn't call them "recreational
 5 trappers." We talk about trapping.
 6 **Q. So, I guess, the way I'm trying to ask**
 7 **this is: Are you tied-in, tapped-in in the**
 8 **conversation with folks who do regularly recreational**
 9 **wolf trap?**
 10 A. I would say probably not. I mean, I know
 11 Rusty Kramer and we shake hands, but as far as sitting
 12 down -- I used to. I mean, a person like Rusty
 13 Kramer, if you know who I'm referring to here in
 14 Idaho, they used to accidentally catch wolves in their
 15 coyote traps, and I'd go over and radio-collar them.
 16 But any more, I think it's just they prefer not
 17 to talk to me and I prefer not to talk to them for
 18 who-knows-what-reasons, politically or, depending on
 19 whose-side-you're-on kind of thing. So those are very
 20 limited any more.
 21 **Q. What do you mean "whose side you're on"?**
 22 A. Well, a lot of recreational trappers, I
 23 hear a rumor of how disappointed they are that Carter
 24 has become this wolf advocate, wolf lover, and
 25 anti-trapper, whatever terminology you want to put on

1 it. I don't know if there's any truth in any of that.
 2 It's just perceptions.
 3 **Q. Do you recreationally trap for other**
 4 **species?**
 5 A. I stopped a long time ago. Actually,
 6 recreational trapping stopped about the time I went to
 7 work for the Federal Government as a federal trapper.
 8 **Q. So no recreational trapping at all for - I**
 9 **can't do that math - for 30 --**
 10 A. It's 30 years plus. It will be 40 years
 11 plus now.
 12 **Q. And would you say you're against wolf**
 13 **trapping just in general?**
 14 A. I'm against multiple, multiple catches of
 15 wolves.
 16 **Q. What do you mean by that?**
 17 A. I'm a wildlife biologist by training. And
 18 being part of the wolf recovery team, bringing wolves
 19 back to the West, I'm not anti-trapping, I'm not anti
 20 hunting wolves. I don't think anybody needs to kill
 21 20. Here in Idaho, you can kill 500, you know, one
 22 person. There's no limit here in Idaho how many you
 23 can kill. I'm opposed to that.
 24 **Q. Okay. So in Montana, we do have a limit,**
 25 **right?**

1 A. You have 20, I believe, looking at these
 2 things I referred to.
 3 **Q. So one of your problems with the**
 4 **regulations is, is it fair to say, I'll call it "the**
 5 **bag limit"?**
 6 A. Yes. That goes back to, again, my
 7 professional trapping for wolves. The more traps you
 8 set, the more traps you have out and the more
 9 privileged you are to take multiple wolves, it just
 10 creates more and more of an environment to catch
 11 wolverines, catch lynx, catch bears, and any other
 12 non-targets, especially when you've got these gigantic
 13 -- I might be exaggerating.
 14 But, anyway, these MB-750 coil springs and
 15 Bridgers, and others like them, are such powerful
 16 traps that, you know, I just say it flippantly, I
 17 wouldn't sleep at night if I had those kind of traps
 18 set out because I know they're going to hold things I
 19 don't want to catch.
 20 **Q. Do you know when the bag limit changed in**
 21 **Montana to 20?**
 22 A. Not exactly. I think everybody started
 23 out five and five. Idaho started out like five and
 24 five. And, then, incrementally, it seems like every
 25 year, the numbers kept climbing. But, no, I don't

1 know the time, exact timetable. That's why I refer to
 2 these.
 3 **Q. Is there a number that you would think**
 4 **would be acceptable or is it just one?**
 5 A. I think one's plenty. Wolves are special.
 6 The longer I've worked with them, they're like grizzly
 7 bears, they're an iconic species and I don't think
 8 anybody needs to kill 20 of them.
 9 There's a fur buyer right here outside of Boise,
 10 they pay about 200 bucks for a coyote -- I'm sorry.
 11 They'll pay 200 bucks for a wolf and 30-40 bucks for a
 12 coyote. And I think wolves are a much more precious
 13 resource than that.
 14 **Q. Okay. So you still think - again, correct**
 15 **me if I'm wrong, I'm trying to just make sure I**
 16 **understand - you still think trapping for wolves is**
 17 **okay recreationally, it's just the bag limit that's**
 18 **the problem, and then the 750 type of trap that's the**
 19 **problem; is that right?**
 20 A. Those are my concerns, yes. I'm not
 21 against anybody trapping wolves or shooting wolves. I
 22 understand. I knew that, as a federal employee when
 23 we did the wolf Environmental Impact Statement, that
 24 they would be turned over to state management. And
 25 then, eventually, there would be a certain amount of

1 harvest.
 2 **Q. Okay.**
 3 A. No surprises.
 4 **Q. Anything else? I'm sorry. Go ahead.**
 5 A. I had surprises. I mean, I fully expected
 6 we would be hunting and trapping wolves someday. I
 7 just didn't believe that they would ever go to these
 8 numbers that they're allowing for an individual.
 9 **Q. Other than the 750 trap and the bag limit,**
 10 **anything else you've got concerns with in the**
 11 **regulations for Montana?**
 12 A. Well, I believe, I firmly believe -- you
 13 know, the statement is made that trapping is
 14 regulated. I believe trapping is allowed. I don't
 15 think trapping is regulated because I was a trapper my
 16 whole life.
 17 The only witness is you and God what you do, you
 18 know. Pan tension, that's up to the individual to
 19 obey the law, but nobody knows what the pan tension
 20 is. Staking and anchoring traps, especially in
 21 grizzly country, if you get a grizzly bear and you
 22 routinely stake your trap down thinking you're going
 23 to catch a wolf, those bears can snap those cables,
 24 they can pull up those stakes.
 25 And we had a gentleman's agreement, and that's

1 something I added later to my declaration, too, is
 2 when I was trapping and in contact with Dr. Chris
 3 Servheen, I totally agreed that traps set in grizzly
 4 country should be anchored with a chain. They should
 5 be anchored to a tree.
 6 When I trapped in grizzly country, I did that.
 7 It wasn't something in writing, it was just what
 8 professionals would do. And I cabled them to trees
 9 and I even used little brass padlocks to make sure
 10 that these traps were secure. Because if you're just
 11 trapping for coyotes or wolves and catch something as
 12 big as a grizzly bear in your trap, you better -- you
 13 know, the chain is as strong as the weakest link.
 14 So there's all these concerns I have. And
 15 trappers, the skill levels vary. There's some guys
 16 that probably go out there and really, you know, pay
 17 attention to everything going on. And there's others
 18 who just think, I've just got to catch a wolf because
 19 I can get a bounty for it and maybe I can get a couple
 20 hundred bucks.
 21 And as a trapper my whole life, I have many
 22 concerns that I don't think the average recreational
 23 trapper even thinks about.
 24 **Q. That sounds to me like it's sort of**
 25 **across-the-board concerns, though, right, I mean with**

1 recreational trapping for wolves in general?

2 A. Yes. I mean, they talk about, you know,
3 down here, certification. Some of our retired
4 Wildlife Services guys were some of the first
5 trainers. They held these, I believe, eight-hour
6 classes to certify somebody to be a trapper. It's all
7 about ethics. They don't teach you anything about
8 trapping. It's teaching you to be honest and teaching
9 you to be thoughtful and, you know, take all these
10 concerns to mind.

11 So I think certification, it's window dressing,
12 but nobody's really learning how to trap wolves. I
13 think it's my concern always that there's a whole lot
14 to setting traps as big as an MB-750 in habitats with
15 so many species that are of concern or threatened or
16 endangered.

17 Q. Have you ever -- go ahead.

18 A. In passing, all these other concerns, all
19 these things bother me a lot. And I think if you
20 don't do it right, trappers are hurting themselves.
21 So I'm not against trappers and trapping. I was a
22 trapper once upon a time.

**23 Q. But, again, I think what I heard you say
24 is sort of general. Is there anything specific in
25 Montana's recreational wolf trapping that is**

1 So, yeah, I have all kinds of doubts, I guess,
2 sometimes about what we're allowing to be done and how
3 well-regulated it is. Those are my concerns.

**4 Q. So now I've heard three with Montana
5 specifically, I think: The 750 traps, the 24-hour
6 trap check you just said --**

7 A. Yes.

8 Q. -- and now I can't remember --

9 A. Anchoring concerns.

10 Q. Okay.

11 A. That people are conscious that what
12 they're -- a lot of people have gone to the earth
13 anchor, the cables. I've seen wolves break a single
14 one. So when I was using the earth anchors, I was
15 doubling and tripling them, especially where I was in
16 bear country trapping with the University of
17 Washington a few years ago, so that I didn't get a big
18 bear that pulled it out of the ground or, better yet,
19 snapped the cable.

**20 Q. Do you know of any state or, I guess I
21 should say "Canadian territory," too, that limits
22 traps to not be allowed to use the 750 trap?**

23 A. I'm not aware of restrictions. You know,
24 the biggest trap I know that's allowed is the Brawn
25 No. 9, which is that extreme limit that states allow,

**1 concerning other than those things we've already
2 talked about?**

3 A. A 24-hour trap check should be a
4 requirement in every state, not 48 hours, not 72
5 hours, not a week. Again, that's not regulated?
6 You're supposed to check them every 48 hours or 72
7 hours.

8 Back in the day, not being specific, I know all
9 kinds of trappers who don't see their traps for a week
10 and I believe it goes on today, unless you've got some
11 really good game wardens who are following somebody
12 around closely.

13 But, yeah, my concern is a 24-hour trap check
14 would eliminate a lot of problems, and being aware
15 that traps like the MB-750 potentially can catch
16 everything from a saddle horse to a coyote. And then
17 the anchoring, I'm worried about securing the traps,
18 anchoring them so that the traps are solid enough to
19 hold.

20 It's one of the concerns about catching grizzly
21 bears, you know, if your trap is ripped off the tree
22 in the morning and there's nothing there, how do you
23 know you didn't catch a grizzly bear unless you're
24 really sharp with, you know, finding a track or hair
25 or scat, or something?

1 you know, the 9-inch opening when the trap is set.
2 The Brawn trap is the only trap I'm aware of.

3 And that's what a lot of Canadians were using.
4 And the first traps Fish and Wildlife Service provided
5 me back in 1987 were Brawn traps. And they're
6 obscene, they're so big. If you haven't seen one,
7 they're bigger than the 750, MB-750 trap.

**8 Q. But I think what I just heard you say was
9 all of the states that allow wolf trapping allow those
10 traps. Am I right?**

11 A. Idaho, and Montana, Wyoming, I believe all
12 do.

13 Q. And Idaho?

14 A. Yes, definitely, in Idaho, they're using
15 them.

16 Q. And British Columbia, do you know?

17 A. Well, I can say safely that one of the
18 articles that I just saw today, I don't think I even
19 printed it, shows a grizzly bear, I think it was in
20 British Columbia. You can find it on the internet
21 very easily. It was held in a -- I zero'd in on the
22 track on its foot because the provincial authorities
23 had to come and sedate bear, and it was caught in a
24 750.

25 Q. But fair to say that's not Montana

1 **specific; that's, again, a general problem with**
 2 **everybody.**
 3 A. Yes. I don't think there's any
 4 limitations.
 5 **Q. And the anchoring, again, do you know of**
 6 **anybody, any other state or territory, that requires**
 7 **the anchoring that you're talking about?**
 8 A. I don't believe they require any kind of
 9 anchoring. They recommend. That's the trouble with
 10 trapping, too. There's a lot of recommendations, but
 11 I don't believe they tell you, you have to use an
 12 earth anchor versus a metal stake versus cable versus
 13 chain. I think those are choices the trappers make.
 14 Or you can put them on a drag hook, which
 15 they're not anchored at all. They just catch an
 16 animal, and the animal drags the chain and the hook
 17 around until they get entangled in brush around a
 18 tree, a trunk, or something.
 19 **Q. But again, that's sort of a general**
 20 **concern of yours, not Montana specific.**
 21 A. General concern, yes.
 22 **Q. And then you talked a little bit about the**
 23 **personal experience that you've had. I just want to**
 24 **be clear: Have you ever seen a grizzly bear, in your**
 25 **personal experience, caught in a wolf trap?**

1 A. No. I've been involved in foot-snaring
 2 grizzlies, a lot of them in Montana. The incidents
 3 where a wolf -- or a grizzly bear has been caught in a
 4 wolf-sized trap has been another person's decision to
 5 set, and that person's nightmare to deal with.
 6 But, for an example, one of the trappers that
 7 worked under my supervision, Kenneth Wheeler out of
 8 Valier, set one of the old Newhouse wolf traps for
 9 wolves near a dead calf in those early days, in the
 10 late 1980s, and caught a grizzly bear in that trap on
 11 a drag. And, luckily, they were able to locate it,
 12 and the Park Service people from Glacier came and
 13 sedated the bear and got it out of the wolf trap. But
 14 I was not there for that when it happened.
 15 **Q. Okay. And that was a research trap or**
 16 **monitoring trap?**
 17 A. It was set under management. It was to
 18 catch a wolf associated with dead livestock that he
 19 felt the wolf had killed it, and they were going to
 20 radio-collar the wolf.
 21 **Q. Okay.**
 22 A. Except the bear got in it first.
 23 **Q. So you've never seen a grizzly bear caught**
 24 **in a recreational wolf trap?**
 25 A. No.

1 **Q. Then you also talked a little bit about**
 2 **the trapper education, and I think you were talking**
 3 **about in Idaho. Have you ever been through the**
 4 **Montana or seen the Montana trapper education course?**
 5 A. No.
 6 **Q. And you talked a little bit about how the**
 7 **trapper education that you've seen didn't say anything**
 8 **specifically about wolves. But here in Montana, we**
 9 **have a special wolf-trapping course that you have to**
 10 **go through if you're going to do wolf trapping. Have**
 11 **you ever experienced that at all?**
 12 A. I have not experienced any trapper
 13 training in Montana. What Idaho initially was doing
 14 was an eight-hour course showing items to people but,
 15 mainly, it was an ethics kind of course.
 16 **Q. When about was that that you saw that**
 17 **training?**
 18 A. Well, I think about the time of delisting,
 19 around 2011.
 20 **Q. Okay.**
 21 A. And they used some of the retired Wildlife
 22 Services personnel that I worked with here, who were
 23 the initial teachers who shared their impressions with
 24 me when they first started teaching the course.
 25 **Q. Then you just talked about the 24-hour**

1 **trap check. You said, I think, in your experience**
 2 **back when you were trapping, that you thought people**
 3 **weren't doing those 24-hour trap checks or 48-hour**
 4 **trap checks, whatever was required by law. Have I got**
 5 **that right?**
 6 A. Well, I'm aware Wildlife Services don't
 7 necessarily have any limits on their trap checks. I
 8 think, at least here in Idaho, they can go beyond 72
 9 hours if they choose to. Recreational trappers,
 10 you're on your best behavior; otherwise, 48 hours is
 11 recommended. But again, you have to -- you recommend
 12 48 hours by law, but it doesn't mean people will
 13 necessarily conform to that.
 14 **Q. Do you have any personal experience or**
 15 **personal knowledge of somebody who was required to**
 16 **check their traps by law within 48 hours and didn't do**
 17 **it?**
 18 A. Back in the good old days, yes, lots and
 19 lots and lots. Currently, no, I can't point fingers
 20 at anyone, other than the occasional person whose dog
 21 steps in a trap, and surprise, surprise, there's no
 22 tags on it. And how long it's been sitting there, who
 23 knows?
 24 **Q. And have you seen that personally?**
 25 A. We just had the chairman of the Democratic

1 Senate here a couple of years ago, Michelle Stennett,
 2 had her dog caught in such a trap over in Blaine
 3 County just east of Ketchum.
 4 She was on a hike on public land, a couple miles
 5 back in, and her dog stepped in one of these enormous
 6 traps. Two men, at first, couldn't even get the trap
 7 off the dog. She got bit, had to go to the hospital.
 8 The trap was confiscated, and there were no tags so no
 9 one even knows who set it.
 10 **Q. Idaho, though, not Montana, right?**
 11 A. Idaho, yes.
 12 **Q. Okay.**
 13 A. I can't speak -- as I mentioned to Tim
 14 when I talked to him the other day was, to me, the
 15 playing field is the same. We can specify Montana,
 16 but the playing field is British Columbia, it's
 17 Alberta, it's Montana, it's Idaho, it's Wyoming.
 18 We're all connected.
 19 The circumstances, I think, are comparable, in
 20 my professional opinion. People are people, grizzly
 21 bears are grizzlies, occupied ranges by grizzlies are
 22 the same, and the potential conflicts and things that
 23 happen are potentially the same.
 24 But I can't sit down here and say, "Yes, all
 25 these things I know are going on in Montana, Montana

1 I didn't know exactly for sure, but very privy to that
 2 these things were happening, yes.
 3 **Q. But that's not wolves and wolf traps and**
 4 **grizzly bears, right?**
 5 A. Clarify.
 6 **Q. Sorry. Those instances you were just**
 7 **talking about, I think you said "lynx," so they**
 8 **weren't grizzly bears incidentally taken in wolf traps**
 9 **that weren't getting reported, right?**
 10 A. No, in my experience working in Montana,
 11 it was shepherders shooting grizzly bears, I had a
 12 lot of that happen, and cutting feet off, but not
 13 foothold traps.
 14 **Q. And that's them shooting them, not**
 15 **trapping them, right?**
 16 A. Yes.
 17 **Q. All right. I'm guessing you probably had**
 18 **some instances where -- well, it's a long time ago.**
 19 **We don't need to go back that far.**
 20 **All right. I'm just checking my time here**
 21 **before I break off.**
 22 **Did you ever use drags when you were doing your**
 23 **research or monitoring trapping?**
 24 A. Almost exclusively for years, we used the
 25 drag, 8-foot chain with a drag. But I learned quickly

1 is a bad place," no.
 2 **Q. Well, obviously, all we, FWP and the**
 3 **commission, can control is that what goes on in**
 4 **Montana, so that's why I'm kind of focused on that.**
 5 A. Okay.
 6 **Q. I want to double-check that you don't have**
 7 **any evidence of folks breaking the law, in your**
 8 **knowledge, in Montana when it comes to recreational**
 9 **trapping.**
 10 A. No. If I did, I would be making phone
 11 calls to people very quickly.
 12 **Q. Yes. And I'm guessing that probably in**
 13 **your experience as a recreational trapper or Wildlife**
 14 **Services, you probably did get a bunch of or make a**
 15 **bunch of those phone calls, right?**
 16 A. Yes. We had even to deal with our own
 17 personnel many times over the years.
 18 **Q. Did you have folks who weren't -- did you**
 19 **have folks who were recreational trappers reporting**
 20 **incidental takes to you?**
 21 A. Many years ago, what's that called, seven
 22 years is the stat --
 23 **Q. Statue of limitations?**
 24 A. Yeah. Yes, there were some animals caught
 25 30-40 years ago in Montana - lynx, wolverines, things

1 in bear country, that was not acceptable. And so I
 2 quickly stopped using drags in black bear country
 3 because a bear can climb a tree with a trap with a
 4 drag on it. And the bear can hang, dislocate
 5 shoulders. You might have to cut the tree down to get
 6 the bear out. So that's when I started having
 7 problems with drags in bear country. I went to solid
 8 anchoring to avoid that.
 9 **Q. And that was all research or management**
 10 **traps?**
 11 A. Yes.
 12 **Q. And all black bears, I think you just**
 13 **said, right?**
 14 A. Yeah. I've never caught a grizzly bear in
 15 a wolf trap or a foothold trap.
 16 **Q. Okay.**
 17 A. Nor did I want to.
 18 **Q. Do you think if we limited the trap checks**
 19 **to 24 hours that that would decrease the chance of a**
 20 **grizzly bear being incidentally taken in a wolf trap?**
 21 A. It would diminish its injuries. It would
 22 diminish the injuries of any non-target -- grizzly
 23 bear, specifically, we're talking about today. But
 24 wolverine, lynx, and other animals would have a much
 25 greater chance of survival if the traps were checked

1 every 24 hours.
 2 **Q. But not any change in the likelihood?**
 3 A. No. I mean, it's unpredictable how soon
 4 an animal will visit your trap once you set it.
 5 **Q. Okay. I've got to look through my notes**
 6 **here for a second, hang on.**
 7 **And just logistically, we don't actually have to**
 8 **leave at 11. We got them to bounce out of this room**
 9 **so we're okay to keep going as long as you are. Speak**
 10 **up if you need a break.**
 11 A. No, I'm fine, thank you.
 12 **Q. All right. I heard you, in your**
 13 **declaration, and I'm looking at Paragraphs 4, 5, and 6**
 14 **in your declaration, you talk about animals that you**
 15 **trapped in Montana.**
 16 **I think you may have said this before. I**
 17 **apologize if I'm making you repeat yourself. But**
 18 **you've never trapped, recreationally, wolves in**
 19 **Montana, right, you yourself?**
 20 A. I've never recreationally trapped wolves
 21 in my entire life.
 22 **Q. Okay. Sorry if I made you repeat that.**
 23 **And the 6,000 animals that you referenced in your**
 24 **declaration in Paragraph 4, were those wolves or**
 25 **bears?**

1 A. Yeah, easily, because I was a licensed
 2 taxidermist for 52 years of my life, so I have skinned
 3 almost everything except a whale in my life. So I've
 4 skinned dozens of bears, I've skinned dozens of
 5 mountain lions.
 6 I've skinned, safely to say, I've skinned
 7 probably well over a hundred wolves, because every
 8 wolf taken during my employment with the U.S. Fish and
 9 Wildlife Service, I skinned them by choice or a lot of
 10 them would have been destroyed or left to rot.
 11 And I was a stickler. I skinned every wolf that
 12 was taken that we could save for educational purposes.
 13 And I've seen to getting them tanned. And I cleaned
 14 every skull of nearly every wolf killed accidentally,
 15 on purpose, or presented to law enforcement during my
 16 work career, simply to not let those items spoil.
 17 **Q. You talked about doing some necropsies. I**
 18 **think I'm saying that right.**
 19 A. Yeah.
 20 **Q. Did you do any on bears ever?**
 21 A. Not purposely. But, see, when you skin
 22 these animals, take the hide off of them, it was
 23 common for me to see what the bullet did, see what the
 24 trap did. I've even taken pictures of feet, you know,
 25 looking at fractured phalange bones.

1 I'm always interested in: What did a snare do?
 2 What did a trap do? What did a bullet do?
 3 So, invariably -- and the same with necropsy in
 4 livestock. I've necropsied hundreds of livestock and
 5 looking just for predation, but I've also assisted the
 6 rancher. I've opened up the cow and showed him that
 7 it died of an ulcer. So I'm a very inquisitive kind
 8 of person.
 9 **Q. So I'll call them "informal" necropsies.**
 10 **Does that work?**
 11 A. Yes.
 12 **Q. So when you did the informal necropsies on**
 13 **bears, in your experience, and I heard you say some of**
 14 **them were missing toes, or things like that, were you**
 15 **ever able to identify what caused that?**
 16 A. No. Experience tells you when you have
 17 two or three toes missing at an angle like a nice,
 18 clean knife cut, it would be - what's the technical
 19 term again, the term you use as attorneys about -- I'm
 20 certain that those are caused by a trap that's been
 21 caught in the foot.
 22 I'm well aware of many animals who have run
 23 around, including wolves, where the trap clings to
 24 their foot, the toes or the foot that's on the outside
 25 of the clamp jaws mummifies. And then, eventually, it

1 dries up and a trap falls off with the toes in it, and
 2 you often get that nice, straight slice.
 3 So I can't prove it beyond the shadow of a
 4 doubt, but you kind of get a feeling for what happened
 5 with certain animals by the type of injury they have.
 6 **Q. Any way to tell, when you're doing that,**
 7 **whether it's been -- what the type of trap is that did**
 8 **it?**
 9 A. No. I often assume that, you know, when
 10 you're out on the toes, they're probably -- you assume
 11 they're coyote traps because there's certain makes of
 12 coyote trap, like a Sterling, and that. And easily,
 13 they're very strong for their size, too, and if they
 14 get ahold of two or three toes, they just hang on.
 15 And that trap will not come off that foot until those
 16 toes fall off.
 17 **Q. But no evidence that it's recreational**
 18 **wolf traps in Montana?**
 19 A. Specifically, no.
 20 **Q. Okay. Then the bears that you saw that**
 21 **have the missing digits or, you know, injuries to**
 22 **their foot, would you say that, in your experience,**
 23 **those bears had died because of those injuries, or**
 24 **were they shot?**
 25 A. These bears ended up dead by other causes,

1 and we were able to see that they were missing digits.
 2 I've seen bears shot that had their foot gone right at
 3 the wrist. And I have no doubt in my mind, in my
 4 opinion, that those were foot-snared bears, probably
 5 by agency people, perhaps, where the cables came
 6 undone and the bear ran off with the foot snare on it
 7 until its entire foot came off. I can't prove those
 8 things but you get a gut feeling.
 9 **Q. And, then, in those instances, how often**
 10 **would you say the injuries were old, like the bear had**
 11 **been living for some time with those injuries?**
 12 A. Very often, they had -- it was scarred
 13 over. You know, they lived that way for a long time.
 14 **Q. And still I'm assuming if somebody shot**
 15 **them and wanted them taxidermied, that they were**
 16 **probably good-looking bears?**
 17 A. Yeah, unless you wanted a life-size mount
 18 and realized that you only had 3 feet. And radio
 19 collars cause taxidermists nightmares, too, because
 20 they wear the hair off their neck and they take away
 21 the trophy quality.
 22 **Q. But for the most part, the bears that**
 23 **you're looking at for taxidermy are trophy kind of**
 24 **quality bears: They're healthy, they're big, they're**
 25 **-- whatever.**

1 also, because of bird seasons and all of the other
 2 uses of the resources out there by people.
 3 **Q. Have you done any research on bears - and**
 4 **I'm speaking, when I say "bears," I'm speaking**
 5 **specifically of grizzly bears - when bears den in**
 6 **Montana?**
 7 A. Specific research, no; just curiosity,
 8 reading, and trying to keep track. You know, with
 9 climate change, I'm always interested when the first
 10 bears emerge and when the last bears are seen, just
 11 talking to colleagues, but I don't do research
 12 directly.
 13 **Q. So you haven't looked at any data, or**
 14 **collar data, or anything like that?**
 15 A. No.
 16 **Q. Have you talked to any biologists or**
 17 **management folks in Montana at all about that?**
 18 A. No. The latest thing was an email I got
 19 from Dan Staller in Yellowstone, and I believe they
 20 had a bear out like December 31st in Yellowstone.
 21 **Q. In the park, just to be clear?**
 22 A. Yeah. I guess probably a Wyoming bear.
 23 **Q. Okay. Have you looked at all at the**
 24 **floating start dates for our wolf-trapping season in**
 25 **Montana?**

1 A. Yes.
 2 **Q. All right. We've gone through a bunch of**
 3 **these questions already so I don't want to re-ask them**
 4 **to you.**
 5 MS. PENNOCK: Hey, Sarah, it's Lizzy here.
 6 I just wanted to let you know that I'm listening in
 7 now.
 8 MS. CLERGET: Perfect.
 9 So, Candi, just to make sure that you've
 10 got that on the record.
 11 MS. PENNOCK: I put it in the chat at
 12 10:42 is when I signed in, but I just wanted to make
 13 sure you knew.
 14 MS. CLERGET: Okay, thanks.
 15 **Q. (By Ms. Clerget) I just want to touch base**
 16 **quickly on the time of year. I think I understand all**
 17 **of the management and research trapping that you were**
 18 **doing was done during the spring and summer when the**
 19 **bears are out; is that right?**
 20 A. Yes. We start wolf trapping usually after
 21 the last frosts and before the first frosts in the
 22 fall.
 23 **Q. And when about was that?**
 24 A. Usually, wolf trapping starts in mid May
 25 and usually ends by mid September. And that can stop,

1 A. Part of these documents I was showing you
 2 today, I got the understanding that it was the first
 3 Monday after Thanksgiving, potentially the earliest.
 4 There was reference, and that's one of the reasons I
 5 was looking at that. That should --
 6 **Q. And so -- go ahead.**
 7 A. That should normally leave the season open
 8 until March 15th.
 9 **Q. Do you understand about the floating trap**
 10 **date inside grizzly bear occupied or estimated**
 11 **occupied grizzly bear range at all?**
 12 A. Yes. A year ago, I understood that they
 13 were looking at opening it sooner but had a floating
 14 date that if bears showed up, they were going to
 15 postpone it until, I believe, later in December. So,
 16 generally speaking, I know what you're talking about.
 17 **Q. Do you think that assuages some of your**
 18 **concerns about incidentally trapping grizzly bears in**
 19 **wolf traps, "recreational wolf traps," I should say?**
 20 A. Yes. I'm enlightened or happy that it's
 21 being considered and thought about, that there is this
 22 concern, because this milder weather, it certainly
 23 does have bearing on bear behaviors.
 24 **Q. When we're monitoring that on the ground**
 25 **and folks are looking at the bears to see if they're**

1 **out, that kind of stuff, that would account for the**
 2 **milder weather changes, right?**
 3 A. Well, I assume so, yes. I mean, when the
 4 weather stays so warm and you're talking November, in
 5 Idaho, it's even more pronounced than Montana, it's
 6 like summer down here until almost Christmas now and
 7 sometimes no snow in the mountains.
 8 And I know from talking to colleagues who are
 9 bear researchers that, definitely, bears react to
 10 that; and if certain temperatures stay certain
 11 degrees, that they're out later and they're out
 12 earlier.
 13 **Q. But like we just said, if we're**
 14 **monitoring that on the ground, if we're looking at**
 15 **that with collar data, does that make you feel**
 16 **comfortable that we're accounting for that kind of**
 17 **weather adjustments?**
 18 A. Absolutely. I think it's critical that we
 19 be aware of those things.
 20 **Q. Have you looked at any of the research or**
 21 **methods that our folks use - I don't know if**
 22 **you've looked at Dr. Costello's work at all - to**
 23 **determine where the grizzly bears are, the estimated**
 24 **occupied grizzly bear range? Have you looked at that**
 25 **at all?**

1 A. No, I haven't.
 2 **Q. Okay. That's going to mean we get to skip**
 3 **a bunch of questions. Talking about snaring, you know**
 4 **that a grizzly bear has never been caught in a**
 5 **recreational snare in Montana, right?**
 6 MR. BECHTOLD: Misstates the facts.
 7 **Q. (By Ms. Clerget) Go ahead. You've got to**
 8 **answer, anyway.**
 9 A. What was -- I don't really know about
 10 grizzlies caught in snares in Montana. I know we had
 11 a couple down in Idaho.
 12 **Q. Okay.**
 13 A. That happens.
 14 **Q. But you don't know about it ever happening**
 15 **in Montana?**
 16 A. No. In my work experience up there, black
 17 bears, I know, were caught in snares, but not -- I
 18 can't think of anything about a grizzly.
 19 **Q. All right. Hang on one second, I want to**
 20 **ask my colleague here something.**
 21 (Off-the-record discussion.)
 22 BY MS. CLERGET:
 23 **Q. So I want to talk about baits and scented**
 24 **lures a little bit. In your experience, what kind of**
 25 **baits and scented lures are used by recreational wolf**

1 **trappers?**
 2 A. Repeat your question again.
 3 **Q. Sure. In your experience, what kinds of**
 4 **baits and scented lures are used by recreational wolf**
 5 **trappers?**
 6 A. Oh, well, there's a full spectrum.
 7 There's urines, wolf urine, wolf anal glands, wolf
 8 scat, feces. And then there's just a multitude of
 9 whatever you want to call them - "baits, lures,
 10 attractants" - made out of pheromones of other
 11 species. Skunk essence is used an awful lot in an
 12 awful lot of the attractants and baits. And then some
 13 people use beaver scent and badger scents and other
 14 kinds of scent.
 15 I've done that a lot where I'm trapping for a
 16 wolf and I just use some badger scent. And the wolf
 17 is curious and checks it out, and I catch them with
 18 that. So there's just a multitude of attractants out
 19 there to use.
 20 **Q. Do you know anything about the type of**
 21 **scents or lures or baits that grizzly bears might be**
 22 **attracted to?**
 23 A. Well, the tutti frutti stuff is real good.
 24 That's what the bear trappers use a lot, you know, a
 25 berry scent, fruit smell. But they're attracted to

1 doughnuts, they're attracted to -- back in the days,
 2 when we were snaring grizzlies, you might even take a
 3 bucket of McDonald's grease out of their bunk, you
 4 know, and pour that out; and then, of course, all the
 5 animal carcasses that are out there that would attract
 6 them. So bears come to a lot of things out of
 7 curiosity.
 8 **Q. And those, the berries and what you called**
 9 **the "tutti frutti," and all that kind of stuff, that's**
 10 **not going to be used for wolf trapping, obviously,**
 11 **because wolves don't like berries.**
 12 A. No.
 13 **Q. Okay. And any of the stuff that you**
 14 **talked about, like the wolf scat, glands, urine, and**
 15 **stuff like that, are grizzly bears going to be**
 16 **attracted to that?**
 17 A. They can. Any bear can be attracted to
 18 that. I've had bears approach, smell, just take a
 19 whiff and keep going. And other times, I don't know
 20 what they smell, but we actually had a bear in the
 21 trap, and it pulled out and escaped.
 22 But almost any kind of smell, there's a bear out
 23 there that will probably have to go see what happened
 24 there in that location. Just like you get coyotes
 25 check out wolf scent, wolves check out coyote scent.

1 So all species sometimes check on other species out of
 2 some curious reason.
 3 **Q. And the one experience you just talked**
 4 **about, that was a black bear, right?**
 5 A. Yeah, I don't think I've ever -- see, I
 6 purposely don't trap in grizzly country. The most
 7 recent trapping experience was for the University of
 8 Washington in 2014 to 2016. We had grizzlies up at
 9 the Sullivan Lake area in the northeast part of the
 10 state. I walked in, I found grizzly tracks. I stayed
 11 out almost a mile from that core area, and I caught
 12 wolves and collared them.
 13 So, again, speaking for myself, I don't even
 14 take the risk. If I know there's grizzlies there, I
 15 stay away from them. So far, knock on wood, I don't
 16 have experiences, bad experiences with grizzly bears
 17 in my wolf traps.
 18 **Q. And the wolf traps that you do set for**
 19 **research and monitoring management, do you use baits**
 20 **and lures, and things like that, for those traps?**
 21 A. Yeah. I have my special lures and
 22 attractants I use. A lot of them, a lot of them are
 23 skunky, I think it would be safe to say. I could go
 24 into all the brands, but I don't think it would make
 25 any difference.

1 **Q. No, I just want to make sure that if**
 2 **you're using the baits and the lures and the scents**
 3 **for your research and monitoring traps for wolves,**
 4 **those are out on the landscape during the summer when**
 5 **the bears are out, right?**
 6 A. Yes.
 7 **Q. Okay.**
 8 A. And I would recommend, you know, again,
 9 specific urine, anal glands, and scat by wolves are
 10 preferably what you want to use. You bring in scat
 11 from other areas into the area you're trapping to make
 12 the wolves -- it's like dogs, you know, to a fire
 13 hydrant. They've got to go see who's trespassing.
 14 And using those specific species attractants minimizes
 15 the chance of other species getting into those traps
 16 and it targets wolves.
 17 **Q. I think you just answered the question I**
 18 **was about to ask, which is that there are ways that**
 19 **you can set those baits and lures, and stuff,**
 20 **specifically to target the wolves and limit the**
 21 **likelihood that a bear is going to be attracted to**
 22 **those, right?**
 23 A. That is my ultimate goal, to target only a
 24 wolf, catch that wolf, and be done with it and get out
 25 of there so, yeah.

1 **Q. I think it's probably fair to say that**
 2 **most people who are trapping wolves don't want to have**
 3 **to deal with a trapped grizzly bear, right?**
 4 A. Well, I'd say they're incapable of dealing
 5 with it. They're either going to have to kill the
 6 bear and hide it, or they're going to have to hike out
 7 and find agency people with ketamine, Telazol, or some
 8 sedative to immobilize that animal and get it out of
 9 there. So I don't think a trapper is capable of
 10 dealing with a grizzly bear in a trap.
 11 And that's part of, you know, another thing,
 12 talking about Chris Servheen and our relationship,
 13 too, is that you're setting wolf traps in grizzly
 14 country. Speaking for the U.S. Fish and Wildlife
 15 Service, you don't want to set them where you can't
 16 see them from an enclosed truck. So you don't hike in
 17 200 yards to find out that you've got a grizzly bear
 18 cub in a trap. That may be too late for you so, I
 19 mean, for your own safety.
 20 **Q. Yes. And you just referenced, you know,**
 21 **that they're going to shoot the bear and not say**
 22 **anything about it. When you were working for Wildlife**
 23 **Service, did you ever see an instance where that had**
 24 **happened?**
 25 A. No. All my grizzly trapping, every

1 grizzly I was involved in catching, we relocated
 2 safely, and never killed any that we caught in foot
 3 snares during my career.
 4 **Q. Well, I meant more: Did you ever come**
 5 **across a grizzly, in your experience, that looked like**
 6 **somebody trapped it and shot it, and shut up, not say**
 7 **anything?**
 8 A. No.
 9 **Q. The carcasses we were talking about, you**
 10 **said a carcass is bait. Would you ever use a carcass**
 11 **as bait for your wolf traps?**
 12 A. Only if you trap 35 feet or further away
 13 from it. But, yeah, very often with dead livestock,
 14 especially one that's killed by wolves, if I -- I
 15 would never trap near that carcass because of eagles,
 16 and crows, ravens, magpies, and assorted other
 17 scavengers.
 18 But I often set my traps 30, 40, 50, even
 19 hundreds of feet away, using the wind and everything
 20 to -- when the wolves come in and feed on the carcass,
 21 it's a great attractant to get them into the area and
 22 then to go over and get caught in one of your sets.
 23 But you never set the traps near the carcass because
 24 that's bad news in non-target catches very often.
 25 **Q. So even with using the carcass, as long as**

1 you set those wolf traps back so that you weren't
 2 catching the birds and other carrion, even with the
 3 carcass and even when the bears were out in the
 4 summer, you still never incidentally caught a grizzly
 5 bear in any of those traps, right?

6 A. I never have, but some of my employees
 7 that I supervise did.

8 **Q. Okay. Tell me about those.**

9 A. Well, again, it was Kenneth Wheeler up in
 10 that Valier area. Most of our trappers didn't work in
 11 occupied grizzly range and we were very careful. A
 12 lot of guys just didn't set traps, and so we just --
 13 you've got to use judgment again. If you know there's
 14 grizzlies around, you're very careful setting large
 15 traps, too, that might catch them.

16 **Q. So tell me about the instances you know
 17 about where the grizzlies were caught, incidentally
 18 caught in the wolf traps around the carcass.**

19 A. Well, to the best of my memory, it was
 20 Kenneth Wheeler. He caught at least one. And there
 21 were some times, a couple times that traps disappeared
 22 that we don't know what got in them. But that was up
 23 in that Valier country and along the Rocky Mountain
 24 Front. I don't believe we've caught any others that I
 25 can recall.

1 **Q. I know you wrote down on your notes, you
 2 said "reasonably certain." Let's talk about what that
 3 means to you. Can you tell me what that means?**

4 A. Well, it's a term I've never normally used
 5 in the past. I anticipated we'd be talking about it.

6 **Q. That's a lawyer word?**

7 A. Yeah. Just, to me, it means that in a
 8 certain set of circumstances on a certain area of real
 9 estate, when you set large traps capable of holding a
 10 650-pound male grizzly and you set those traps for a
 11 wolf, knowing grizzlies are there, I think it's
 12 reasonably certainty that the potential is high that
 13 there could be -- I always call it a "wreck," you
 14 know.

15 **Q. So would you say you attribute, I don't
 16 know, a percentage likelihood when you say "reasonably
 17 certain"? You know, is that 100 percent? Is it 75
 18 percent? Fifty-one percent? Twenty percent?**

19 A. I think a lot of it hinges on personal
 20 judgments, and those percentages are minimized by the
 21 amount of experience people have. If you're a
 22 professional trapper and you're well aware that bears
 23 are in the area and you take all kinds of proper
 24 precautions, those percentages are going to drop.

25 If you're an inexperienced person that just

1 **Q. And that one you just referenced, that was
 2 monitoring --**

3 A. 1988 --

4 **Q. Sorry, go ahead.**

5 A. '88, maybe, thereabouts, '87 or '88.

6 **Q. And monitoring a research management trap?**

7 A. I don't think we had any other wrecks that
 8 way.

9 **Q. In the summer or spring?**

10 A. Yeah, I attribute that to good judgment.
 11 I think most of the guys knew that to do that, you
 12 were asking for trouble. We could deal with them
 13 other ways: Helicopter; you know, removal, if we had
 14 to, or whatever.

15 **Q. We kind of talked about the floating start
 16 dates, and stuff like that. Do you have any reason to
 17 disagree with FWP's determination of where the grizzly
 18 bears are based on their data and the research?**

19 A. Well, they should be the experts, that's
 20 the way I look at it.

21 **Q. Okay.**

22 A. It's just the bears that take off and go
 23 these great distances lately, but I assume Fish,
 24 Wildlife and Parks are the first people to hear about
 25 those.

1 bought your brand-new traps and you're going out and
 2 you're going to set them on a road because a wolf
 3 track was there and you don't look for evidence of
 4 anything else, the percentages increase dramatically.

5 So that's kind of where I'm kind of flippant
 6 about I'm not sure trapping is regulated, but is
 7 definitely allowed. In human experiences, there's a
 8 whole spectrum there that open up potential problems.

9 **Q. So what's the difference for you between
 10 "possible" and "reasonably certain"?**

11 A. That's a really good question.
 12 "Reasonably certain" might be just a little stronger
 13 than "possible."

14 **Q. So I'm going to reframe the thing you just
 15 said, and you tell me if I'm wrong because I don't
 16 want to put words in your mouth.**

17 **Is it "possible" that if you have somebody out
 18 on a road with wolf traps, like you just described,
 19 that you can catch a grizzly bear, or is it
 20 "reasonably certain"?**

21 A. Well, it could be either one again because
 22 it depends what that person's using. It's possible
 23 when you're using wolf scat, glands, and urine. If
 24 you're using something in a dirt hole set, who knows
 25 what that could be, from McDonald's grease to -- I

1 mean, these attractants, they can be whatever these
 2 guys determine they're going to use.
 3 If you poured McDonald's grease down that hole
 4 or doughnut oil, or something, then the reasonable
 5 certainty goes up considerably. So it's a lot of what
 6 that person chooses to use.
 7 **Q. Okay. So let's make the scenario you've**
 8 **got somebody who's educated, you know, who's done**
 9 **their education and they're following the law.**
 10 **They're putting traps out, wolf recreational traps out**
 11 **only when the grizzly bears are asleep.**
 12 **Would you say that it's reasonably certain**
 13 **somebody in those circumstances would trap a grizzly**
 14 **bear?**
 15 A. Well, if the bears aren't out, then
 16 they're not going to catch them.
 17 **Q. Okay. And if folks are following the law**
 18 **and they're educated, then they shouldn't catch them**
 19 **either, right?**
 20 A. Well, a good trapper, when I refer to a
 21 "good trapper," that's someone who's done it for a
 22 long time and understands the risks and has a wide
 23 view of the countryside and not focused.
 24 That's the trouble with trapping, I mean, in my
 25 60-some years of trapping, you just have people with

1 approached a couple months ago by a person on Face --
 2 or email that said he just took some training how to
 3 catch coyotes and now he wanted to learn to catch
 4 wolves. And he pretty much said, "How much is it
 5 going to cost me to get you to teach me?"
 6 And that strikes me wrong. So I just -- I
 7 haven't offered it and I haven't taught it to people.
 8 It has a lot to do with attitude.
 9 **Q. Do you think sometimes that some of - I'll**
 10 **call them "younger; maybe "newer" is a better word -**
 11 **trappers, fresh education might be sometimes more**
 12 **cautious than the older/more experienced guys who kind**
 13 **of get sloppy?**
 14 A. I think through my life, it's the
 15 individual. There's so many people with attitudes.
 16 And it's refreshing -- I mean, I've had a lot of
 17 people go with me over the years that have been in on
 18 wolf captures. And so in a way, I guess I mentor
 19 people. It's not because they want to learn, it's
 20 just -- so, yeah, I mean, I would always rather teach
 21 someone to do it the right way than the wrong way.
 22 So I don't have any vendetta against
 23 recreational trappers, I just haven't had them
 24 approach me. I think most of them think they know
 25 more than I do already from attitudes I've

1 various levels of experience. And the ones with the
 2 least amount of awareness are the ones that you
 3 usually read about who have a wreck.
 4 How you level that playing field, I don't know
 5 how you do that, but you have certification, training.
 6 All of these things are very important to, I think,
 7 lower the risks.
 8 **Q. I think you'd say those same risks for**
 9 **professional trappers as much as for recreational**
 10 **trappers, right? And by "professional," I mean agency**
 11 **trappers.**
 12 A. Absolutely. It can happen to the best. I
 13 mean, we haven't used the word yet today, but traps
 14 and snares are "indiscriminate." They will catch
 15 whatever steps in or through them. So a lot of it is
 16 that human judgment of who put it there, how they put
 17 it there, and why they put it there.
 18 **Q. I know that you've done a lot of mentoring**
 19 **from the stuff I've read. You do a lot of mentoring,**
 20 **right?**
 21 A. I have, yes.
 22 **Q. And have you ever mentored young**
 23 **recreational trappers, not professional ones?**
 24 A. Well, back in the day for fox and coyote,
 25 yes, a lot. With wolf trapping, in all honesty, I was

1 experienced. And I don't put myself out there.
 2 I think if I hung my shingle out and said, "Hey
 3 3,000 bucks a day, I'll teach you how to catch a wolf
 4 in 3 days," I'm betting my door would be beat down
 5 because I know trappers in Montana who charge 1500
 6 bucks a day, and they're booked solid all year long
 7 with people wanting to learn to trap.
 8 **Q. Because those inexperienced folks, they**
 9 **want to learn, right?**
 10 A. They do, yeah.
 11 **Q. And even if they're inexperienced, they**
 12 **can go get that help or training from other folks who**
 13 **have been doing it for longer.**
 14 A. Yeah. They just need to be aware that if
 15 you learn to trap coyotes on the east side of Montana,
 16 it's a whole different playing field than when you
 17 learn to trap coyotes on the west side because there
 18 are all these other large carnivores that you're going
 19 to be dealing with that you don't deal with over on
 20 the Montana prairie. So, again, it's being aware of
 21 where you are, what you're doing, because things can
 22 be different.
 23 **Q. I think what I just heard you say was that**
 24 **it depends more on the individual and less on the**
 25 **experience. Somebody who's newer to it could, because**

**1 of awareness and, again, education, desire to learn,
2 all of that kind of stuff, could be more careful. It
3 just depends on the individual. Am I saying that
4 right?**

5 A. Yeah, yeah. I mean, there's people who
6 are just naturals at this and think about what they're
7 doing. I mean, that's training federal trappers, too,
8 I mean.

9 All the people I've taught, I mean, we take it
10 to a higher level. You don't trap near water. You
11 don't trap near a barbed-wire fence. You don't put
12 traps or snares where there's sharp sticks where, you
13 know, they cleared road edges of debris and brush.
14 You minimize drowning. You minimize impalement.

15 I mean, those are the kind of training I do in
16 depth. You didn't just set a trap. And it's not just
17 worrying about a grizzly bear, it's worrying about
18 catching a wolf and not hurting it. So there's a lot
19 that goes into the training.

**20 Q. And I think it's fair to say that anybody
21 who's trapping, the goal is to do the least amount of
22 damage to either the species that you're trying to
23 catch or any incidental take, right?**

24 A. Yeah. Some people can minimize that by
25 saying, "Well, I'm just going to kill them anyway, so

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1 tree root and animals break their pace to step over
2 it.

3 And you can put your trap right there in that
4 spot where that animal is going to go, break its pace
5 and step. But that could be a whitetail deer, a mule
6 deer, an elk. It could be a bear, it could be a lion,
7 it could be a coyote. That's where you get into
8 indiscriminate, by just placing a trap with nothing
9 there, putting it on a pathway that a multitude of
10 species travel.

11 And then you can become more specific and less
12 discriminate by the choice you pick. You know, you
13 pick spots where you know a wolf will urinate so he'll
14 be attracted to a clump of grass. And you use a
15 specific kind of attractant with the scat and the
16 urine and the gland lure at that bunchgrass. And
17 immediately, you've reduced the chances of catching a
18 lot of other species who aren't going to go over there
19 because they're not a wolf.

20 So you get a coyote to come over, or a bobcat or
21 -- there's still species that are going to go over
22 there and will urinate. You can see that with trail
23 cameras. There's a lot of the species that you aren't
24 trapping for that are going to go over there.

25 And then you get into pan tension, you know,

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1 what the hell," you know. But you're trying to save a
2 -- catch a trophy wolf and sell the fur, you don't
3 want it tangled up in a barbed-wire fence or rip
4 itself to shreds on a bunch of Stobbs of sharp wood.

5 So, I mean, yeah, the consideration ought to be
6 the same. Just the difference is I want mine alive
7 and I want to release it; you're just going to shoot
8 yours in the head.

**9 Q. So I heard you just say the word
10 "indiscriminate," that traps are indiscriminate. I
11 want to dive into that a little bit more because we
12 talked a lot today about the types of baits that you
13 would use when you're trapping for wolves versus when
14 you're trapping for grizzly bears, or the kinds of
15 traps that you would use to catch a mink versus a
16 grizzly bear, that kind of stuff.**

**17 So explain to me how traps can be indiscriminate
18 when all of that sort of thought and target goes into
19 those trapping.**

20 A. Well, they're indiscriminate. I mean, a
21 type of set is called a "trail set." A lot of
22 trappers still use those. I never use a trail set
23 because what you're doing is you're just setting it
24 where the trail narrows down. You just think about a
25 footpath where you walk in the mountains and there's a

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1 that we haven't talked about today, is 10 pounds of
2 pan tension will get a bobcat or a coyote, or these
3 lighter animals step on that trap and walk away.
4 Where if you didn't have that pan tension, you're
5 going to -- in the early days of trapping wolves when
6 we didn't have the best equipment, it was very common
7 to catch coyotes in wolf traps. So --

8 Q. So -- sorry, go ahead.

9 A. So, anyway, I'm just saying that there's
10 pan tension and you eliminate some of the
11 discrimination. And the attractant you use, that
12 helps getting your trap off the trail a ways where you
13 try to pull -- that's how I trap wolves.

14 I tell them I trap on a main highway where
15 there's a rest stop. And my rest stop is that place
16 off the road a ways that I can pull that wolf over
17 because he's not that far away, and he'll walk 15-20
18 feet to go visit that.

19 But if I set it off, you know, in other
20 conditions, you might put it in a place, you know, 100
21 yards away behind a pine tree up on a hillside, he's
22 not going to go up there.

**23 Q. So it's that traps, in and of themselves,
24 might be indiscriminate, right, just a trap set
25 anywhere? But then what makes them discriminate**

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1 between the species is how they're set at, and where
2 they're set, and when they're set. Is that fair?
 3 A. It helps. Because, I mean, I can
 4 anecdotally tell you stories all day. I've set traps
 5 for a coyote and had a turkey in it because the turkey
 6 decided, wow, that looks like a good spot to go dust.
 7 They're not attracted to the trap, they just saw a
 8 spot that looked like a nice little dusty stop. "I'm
 9 going to go over there and fluff my feathers," and
 10 instead, they step in a trap.
 11 So, I mean, there's all these crazy situations
 12 that can happen when traps are set.
13 Q. But those crazy situations are possible
14 situations, not likely situations, right?
 15 A. Yeah, that's more of a possibility.
16 Q. Okay. So I think what I'm hearing you say
17 is that there are ways that we can make traps
18 discriminate between animals, right?
 19 A. Well, you can up the likelihood that
 20 you're going to catch what you're trapping for and
 21 minimize catching non-targets.
22 Q. And a good example of that is the fact
23 that in all of your time trapping wolves, you were
24 able to do that, right?
25 You were able to set those traps for wolves and

1 Q. But it's also possible that somebody could
2 be a good trapper, like you or the folks that you've
3 trained, and they could put out 20 traps, and all of
4 those traps could be set as you've described, you
5 know, in the right places, at the right time, with the
6 right kind of bait. And so those could all also, even
7 though there's more of them, be set, I'll call it
8 "discriminately," right?
 9 A. Yeah, but by no means am I a saint. I
 10 catch -- I have caught non-targets, even all the
 11 effort I go to. I have learned to, over time, I've
 12 learned to minimize, fewer traps, more specifically,
 13 and anchoring them so the bear can slip out if I catch
 14 him, other than a drag in bear country where I know
 15 I'm going to probably have a 75-pound bear caught
 16 somewhere in the brush.
 17 So, I mean, there's -- again, your level of
 18 experience and how you anticipate what's going to
 19 happen out there, you can minimize but you don't
 20 totally eliminate.
21 Q. No, never eliminate, I recognize that.
22 We're talking possibilities here versus the certainty.
 23 A. Right.
24 Q. So I want to be sure that the number of
25 traps that are out, it's not automatic that the number

1 never catch grizzlies. So you did that well, you made
2 your traps discriminate between wolves and grizzlies?
 3 A. Well, then there's a whole other topic.
 4 When I trap for wolves to collar, I'm usually trapping
 5 for a wolf in a pack because there's no -- generally,
 6 with the GPS collars, there's no need to catch two or
 7 three or four of them to collar. We want to catch
 8 one. So I normally set three or four traps. And I
 9 catch a wolf in three days with two or three traps,
 10 four traps.
 11 But fur trappers, recreational trappers, very
 12 commonly, they set a lot of traps, and the
 13 indiscriminate catch goes up. Because if you set 4
 14 traps for a wolf, that's different than 20 traps for a
 15 wolf, because then you've got 20 sets out there that
 16 might get a porcupine, might get a coyote, might get a
 17 lion, might get a bear.
 18 So the more traps a recreational trapper puts
 19 out to catch their 10 wolves or their 20 wolves or, in
 20 Idaho, your 500 wolves, there's that temptation: The
 21 more traps I set, the more I'm going to catch.
 22 And, yes, that's true, but very often, it's
 23 indiscriminate. You get a lot more non-target catch,
 24 too. So that ups the proportion of indiscriminate
 25 catch that you could get, too.

1 of traps necessarily mean that those traps are set
2 poorly or indiscriminately, right? They could be set
3 well even if there's 20 of them out there.
 4 A. Well, I'm really hoping that the trapping
 5 associations and -- I'm hoping there's a lot of
 6 recreational trappers. I wish they all were highly
 7 skilled, but it does vary.
8 Q. Yes.
 9 A. When you start offering up bounties and
 10 these other incentives, I mean, if a guy thinks he can
 11 get bounty on a wolf, he'll quit selling Kirby vacuum
 12 cleaners and start trying wolf trapping, I mean.
 13 So it's what the incentive is, why a person's
 14 out there, what skill levels they have. Certainly, I
 15 know a lot of guys that trap their whole life and
 16 they're good at it. So I'm not trying to paint the
 17 picture that everybody out there doesn't know what
 18 they're doing. I hope and pray that most of them do
 19 know what they're doing, but it's pretty variable.
20 Q. I want to tie it back to what you're
21 saying about the bag limit. I think we can agree that
22 if you've got a good trapper, a good person who knows
23 what they're doing, a bag limit isn't going to make a
24 difference for that person, right?
 25 A. No. And it's actually, in reality,

1 catching 20 -- or 10, I guess, in Montana, it's shoot
 2 10 and trap 10; in Idaho, you can shoot them, trap
 3 them, and move your tags back and forth, and all that.
 4 But even catching 20 wolves, there's very few
 5 guys, I think, that even come close to that. I know
 6 here in Idaho, they don't. I think a couple of the
 7 guys get 10 a year if they're lucky, and the rest are
 8 down from there.
 9 **Q. So the increase in the bag limit doesn't**
 10 **necessarily mean more traps on the landscape or worse**
 11 **traps on the landscape, right?**
 12 A. Again, it just depends on the people and
 13 the skill levels, which are so variable.
 14 MS. CLERGET: Okay. I think we need to
 15 take a break now. Can we take 20 minutes? Would that
 16 work for everybody to get a little bite to eat?
 17 THE WITNESS: Okay.
 18 (A brief recess was taken.)
 19 BY MS. CLERGET:
 20 **Q. Mr. Niemeyer, I'm hoping that this is**
 21 **going to go relatively quickly here. Famous last**
 22 **words for a lawyer, though.**
 23 A. Thank you.
 24 **Q. I want to talk a little bit about your**
 25 **declaration and the chart that we have of incidental**

1 **try and point to where it is on the chart. They are**
 2 **done chronologically. So that's my plan. Let me know**
 3 **if you get lost or if there's something missing on the**
 4 **chart.**
 5 A. I recognize the names of lots of old
 6 colleagues and comrades on there.
 7 **Q. I suspect. So in your declaration in**
 8 **Paragraph 13, you list 21 instances. We can scroll**
 9 **through here if you want just to show you that there**
 10 **are 21 on this chart.**
 11 Then I want you to tell me - it says in your
 12 declaration: "I'm also aware of other verified
 13 instances." So I wanted you to tell me what instances
 14 you are aware of.
 15 A. I don't have my declaration in front of me
 16 so --
 17 **Q. Okay. You can pull it out if you want to.**
 18 **You can look at it.**
 19 A. No, I said I do not have it.
 20 **Q. Oh, okay. Let's do it this way. Well, we**
 21 **can't pull it up side-by-side, I don't think, so I can**
 22 **read to you from it. If for some reason what I'm**
 23 **reading doesn't comport with your memory, let me know**
 24 **and we can pull it up on the screen. We'll take this**
 25 **chart down and pull it up. Okay?**

1 **takes of grizzly bears, which is our Deposition**
 2 **Exhibit 4. We can put it up for you here on the**
 3 **screen.**
 4 MS. CLERGET: You might need to zoom in,
 5 Crissy.
 6 **Q. (By Ms. Clerget) So have you seen this**
 7 **chart before?**
 8 A. I don't know if I have or not. It doesn't
 9 look familiar. I think I've seen more in a writing
 10 format than I have in a graph.
 11 **Q. This chart is in the filings in the case.**
 12 **So did you look at any of those? It's attached to Mr.**
 13 **Ken McDonald's declaration. If you haven't looked at**
 14 **it, that's okay. I just want to make sure.**
 15 A. No, I don't recognize this. It doesn't
 16 come back to me, anyway.
 17 **Q. Okay. Then this might take a little bit**
 18 **longer to walk through, but you went through in**
 19 **writing some of the instances that you knew about of**
 20 **incidental takes, and I just want to make sure that**
 21 **we've got all of those accounted for in this chart and**
 22 **that there aren't any that we don't have a record of,**
 23 **so that's why I'm cross-referencing your declaration**
 24 **to this chart.**
 25 **As We go through your declaration, I'm going to**

1 MR. BECHTOLD: Sarah, can you tell us what
 2 paragraph number before you read?
 3 MS. CLERGET: Yes.
 4 MR. BECHTOLD: Thank you.
 5 **Q. (By Ms. Clerget) So first, I'm reading**
 6 **from Paragraph 13.**
 7 A. I will say that I think, you know, 13, 14,
 8 and 15 are in this stack of papers that I revealed to
 9 you.
 10 **Q. Yes.**
 11 A. I could probably go to my cut-and-paste
 12 and sort of have a semblance.
 13 **Q. That would be fine. Yeah, we can do that.**
 14 **Why don't you pull that out?**
 15 A. Let's see if I can figure out which one it
 16 is. Here we go.
 17 MS. CLERGET: Just for the record while
 18 you're doing that, what we're going to do is - Candi,
 19 you tell me if this is right - when we get copies of
 20 those documents, we will attach them to this as
 21 Exhibit 17, but that's going to be an after-the-fact
 22 exhibit. Does that work?
 23 COURT REPORTER: That's fine.
 24 (Document marked Deposition
 25 Exhibit No. 17 for identification.)

1 BY MS. CLERGET:
 2 **Q. So, Mr. Niemeyer, do you have the**
 3 **substance of Paragraph 13 from your declaration in**
 4 **front of you?**
 5 A. Yes. This is where I cut-and-pasted, so I
 6 think I have 13 in front of me here for sure.
 7 **Q. So I want to go through and I want to**
 8 **focus on the ones that are wolf, recreational wolf**
 9 **trapping. So can you look through your list that you**
 10 **have in Paragraph 13 and can you tell me which**
 11 **instances of those are recreational wolf-trapping**
 12 **incidental takes?**
 13 A. You're referring to what's on this chart?
 14 **Q. No, you can look what you have in front of**
 15 **you which is the equivalent of your Paragraph 13 in**
 16 **your declaration.**
 17 A. Do you want me to enumerate them on here
 18 as we go?
 19 **Q. The ones that are recreational wolf traps,**
 20 **yes, so not research or management.**
 21 A. Oh, okay. Without names attached, I don't
 22 know if I could tell you.
 23 **Q. Okay. So let's maybe try it this way.**
 24 **The instances that you have listed in Paragraph 13,**
 25 **let's start with a general question: Are any of those**

1 news clips that I have.
 2 **Q. So did you compile this whole list or did**
 3 **you get the list and then confirm it?**
 4 A. I think I would say mostly I got the list
 5 and confirmed it and recognized some, and others, I
 6 did not.
 7 **Q. When you say you recognized some --**
 8 A. This is probably data, I guess, I would
 9 call it.
 10 **Q. When you say you recognize them, what do**
 11 **you mean you recognize them?**
 12 A. Well, I recognize some of the locations,
 13 not all, certainly.
 14 **Q. Like the locations where they happened or**
 15 **the actual incident location and date itself?**
 16 A. Most of these, I would say -- I have never
 17 been present when a grizzly bear was caught in a
 18 foothold trap. So this is all assembled, I guess, the
 19 attorneys, myself, news clips, and data that's out
 20 there that apparently documents that these incidences
 21 happened. But to say I'm personally aware of and can
 22 sit here and go through these specifically, I cannot.
 23 **Q. Okay. So let's go through them one by**
 24 **one, I guess, is probably the easiest way.**
 25 MS. CLERGET: And, Crissy, if you want to

1 **that you have listed in Paragraph 13 things that you**
 2 **have personal knowledge or experience about?**
 3 A. Looking at the chart right now, I
 4 recognize the names of the agency people.
 5 **Q. So forget the chart for a minute and just**
 6 **focus on what you've got in front of you in your**
 7 **Paragraph 13 of your declaration.**
 8 A. No, I couldn't sit here and tell you
 9 exactly whether this is recreational or agency
 10 because some of the recreational guys might have
 11 reported to the agency person, and that person would
 12 be the one reporting it.
 13 **Q. Do you have any personal knowledge? Like**
 14 **were you present for any of the instances that you**
 15 **describe here?**
 16 A. That's an easy one to answer. No, I was
 17 not.
 18 **Q. So all of these came from you either**
 19 **talking to somebody or looking at some piece of**
 20 **information that gave you that information?**
 21 A. That is correct.
 22 **Q. And where did you get this information**
 23 **from?**
 24 A. I would say some through the attorneys
 25 that I'm working with and some I probably got off of

1 go ahead and put up his declaration.
 2 **Q. (By Ms. Clerget) I'm just going to put the**
 3 **declaration, 13, in front of you. If there's some**
 4 **point where what you're looking at in the piece of**
 5 **paper you have in your hand differs from Paragraph 13**
 6 **that we're going to post up here that's from your**
 7 **declaration, would you let me know?**
 8 A. Yeah, yes.
 9 **Q. Okay.**
 10 MS. CLERGET: And we're going to mark
 11 this, Candi, as Exhibit 18.
 12 (Document marked Deposition
 13 Exhibit No. 18 for identification.)
 14 MS. CLERGET: Let's scroll down to 13, and
 15 then you'll probably need to zoom in a little bit.
 16 BY MS. CLERGET:
 17 **Q. Have you had a chance to look at that for**
 18 **a second?**
 19 A. At a fast glance, I'm almost certain that
 20 what I cut-and-pasted onto this paper I'm holding
 21 represents 13. I'd have to see the end of 13.
 22 **Q. We'll scroll on down as we go through**
 23 **here.**
 24 A. Okay.
 25 **Q. So the first one is the two-year-old**

1 **female grizzly bear caught in the wolf trap in 1988,**
 2 **right?**
 3 A. Yeah. I'm assuming that's the one I'm
 4 talking about with Kenny Wheeler that worked for me.
 5 That would have been an agency capture.
 6 **Q. All right. So "agency" meaning in a**
 7 **monitoring or a research trap, not a recreational**
 8 **trap?**
 9 A. No, it would have been management.
 10 **Q. Okay. And then the second one, if I'm**
 11 **delineating right, is the one in 1995, and that's in**
 12 **Glacier National Park?**
 13 A. I'm going to make assumptions here because
 14 it's all I can do, but Newhouse 14 wolf traps were in
 15 use by agency people at that time. I don't think
 16 there were any recreational trappers trapping in
 17 Montana with Newhouse 14s.
 18 **Q. Okay.**
 19 A. Those were some of the early traps that we
 20 had as agency personnel provided by the Fish and
 21 Wildlife Service, so I can only assume those are
 22 agency catches.
 23 **Q. All right. And then in 1994 to 1995, an**
 24 **adult female grizzly caught in a Newhouse 14 wolf**
 25 **trap, is that the same or different than the Glacier**

1 all part of the beginning, you know, the grizzly was
 2 killed by another grizzly while caught.
 3 **Q. Do you know whether or not that one was a**
 4 **recreational wolf trap or even a trap at all?**
 5 A. It seems to me it could have been a foot
 6 snare.
 7 **Q. Okay.**
 8 A. I don't know. I don't remember.
 9 **Q. And you weren't there, right? We've**
 10 **established that.**
 11 A. No, I wasn't present at any of these.
 12 **Q. Okay. And then the male grizzly bear**
 13 **caught in a wolf trap in 2007.**
 14 A. I can only tell you I think it was Val
 15 Asher, worked for Ted Turner, or my other trapping
 16 colleague, Jim Roust. I think each of them caught a
 17 grizzly up in that country in wolf traps by accident.
 18 **Q. And, again, that --**
 19 A. They were hunting for wolves, so they were
 20 agency people.
 21 **Q. Perfect, that's what I was going to**
 22 **clarify. Then the next one is a coyote trap, right,**
 23 **so not a wolf trap. And that was the 2010 catch; is**
 24 **that right?**
 25 A. Yes, and I don't know who caught that. I

1 **National Park one we just talked about?**
 2 A. Again, I'm going to assume they were
 3 different.
 4 **Q. Okay. Could that have possibly been in**
 5 **1996? Or are you certain it was in 1994 to 1995?**
 6 A. I'm not certain.
 7 **Q. And then in the 1998 one which, I think,**
 8 **is the next one -- tell me if I'm skipping any in your**
 9 **line.**
 10 A. It all looks the same here to me.
 11 **Q. Okay.**
 12 A. I believe, if my memory serves me right,
 13 there's a video of that grizzly. The one grizzly
 14 killed by another was in a foot snare, I believe.
 15 **Q. Okay. Again, a monitoring trap or a**
 16 **management trap?**
 17 A. Yeah, a management.
 18 **Q. And then you have --**
 19 A. A presumed wolf trap, but I think it was a
 20 foot snare. But some people call snares "traps" so,
 21 again, that's -- (pause.)
 22 **Q. Yeah. Then you have the adult male**
 23 **grizzly bear missing an entire foot and wrist caught**
 24 **in a presumed wolf trap at Glen Lake in 1998, right?**
 25 A. Well, that's why I was wondering if that's

1 can't remember any more.
 2 **Q. And then we've got adult male in pistol**
 3 **Creek on the Flathead Reservation.**
 4 A. Do we have a date on that?
 5 **Q. There isn't one in your declaration so I**
 6 **was wondering if you knew.**
 7 A. No, I'm only -- I'm aware of the
 8 600-pound, 650-pound male caught on the Flathead
 9 Indian Reservation by a former colleague named "Ted
 10 North." That could be referring to that one.
 11 **Q. Okay. And, again, that was during**
 12 **monitoring or --**
 13 A. That was actually trapping for wolves to
 14 collar and an accidental catch in an agency trap.
 15 **Q. Would 2012 sound like a reasonable year**
 16 **for that?**
 17 A. I believe so. I'm going to jump ahead
 18 here, but I think that's probably the one that we are
 19 referring to. But that's the only one I'm aware of
 20 that was ever caught in a foothold on Flathead Indian
 21 Reservation was the one that Ted caught by accident.
 22 **Q. And then we have a grizzly bear caught in**
 23 **the wolf trap at Bear Creek in 2012.**
 24 A. I can't tell you, I don't know.
 25 **Q. Okay. If I told you that was done by Frey**

1 from FWP, do you have any memory of that?
 2 A. What was the name?
 3 Q. Frey, F-R-E-Y.
 4 A. No.
 5 Q. No, okay.
 6 A. I don't know who that is. That would be
 7 an agency catch, though, I presume.
 8 Q. Then a yearly male grizzly bear caught in
 9 a coyote trap, that one's a coyote trap so we're going
 10 to skip it if that's okay.
 11 A. Yeah.
 12 Q. Oh, sorry, I missed one. So there's the
 13 grizzly bear caught in the wolf trap at Kleishman Flat
 14 in 2012.
 15 A. No memory of that.
 16 Q. All right. And then the next one is the
 17 coyote trap I'm going to skip. And then we've got
 18 another one. A cub in 2013 was caught in a coyote
 19 trap, right?
 20 A. Yeah. I'm presuming those, when you say
 21 "in a coyote trap," it's probably -- well, you can't
 22 always assume that because it could be agency or
 23 recreational.
 24 Q. When you say "assume that," you mean you
 25 can't assume that it's recreational.

1 2013, that was on the prior page on the bottom of
 2 page 6.
 3 A. I don't know.
 4 Q. Okay.
 5 A. Maybe if we had the chart up, if it's got
 6 more detail, that might explain some of these, too.
 7 Q. Well, the main thing is I want to know --
 8 you know, we can show you the chart, too, but I'm
 9 trying to figure out what you meant when you talked in
 10 your declaration first.
 11 A. It's foggy, too many things to remember.
 12 Q. I completely understand. So then in the
 13 next one, go down, in this paragraph here, Paragraph
 14 13 at the bottom of your declaration, you say:
 15 "I am also aware of other bear fight
 16 instances, including two grizzly bears caught in wolf
 17 traps in FWP Region 3."
 18 And so I was wondering --
 19 A. It would just be through reports. I don't
 20 have personal knowledge of them.
 21 Q. Okay. Do you remember what you -- when
 22 you say you're aware of, what are you aware of?
 23 A. Well, again, it's information that I'd
 24 come across either in printouts or people have
 25 provided. I don't have any personal -- I wasn't

1 A. I don't think necessarily, because we did
 2 have -- I'm trying to remember -- I don't if we left
 3 it out or not, a wildlife service's trapper named --
 4 no, that was, never mind, that was a wolf caught in a
 5 coyote trap by the agency.
 6 Q. And that one we were just looking at was a
 7 coyote trap, too, not a wolf trap, right?
 8 A. Yeah. Those references in a coyote trap,
 9 I guess could be either, I mean who set it.
 10 Q. By "either," you mean either Wildlife
 11 Services or FWP?
 12 A. Yeah, or a private person who reported it
 13 to Fish, Wildlife and Parks.
 14 Q. Okay. But you don't have any specific
 15 knowledge about that one?
 16 A. No; no, I don't.
 17 Q. And then the next one is in 2015 in the
 18 Swan.
 19 A. I don't, I don't have any knowledge of
 20 that.
 21 Q. All right. And after that, we've got
 22 another coyote trap, so I'm going to skip that.
 23 Hang on one second. Did I miss one on that page
 24 -- oh, sorry, I missed one on the last page.
 25 So the subadult male grizzly in Dupuyer Creek in

1 personally involved.
 2 Q. So where did you get this --
 3 A. So when they talk about according to Fish,
 4 Wildlife and Parks, I'm just assuming that those
 5 things happened.
 6 Q. Okay. And where did you --
 7 A. I emphasize the word "I'm aware of"; I
 8 certainly don't know all the intimate details.
 9 Q. So how did you become aware of them?
 10 A. Well, some of these, I believe the
 11 attorneys provided, and some of these could be off of
 12 reprints, newspaper clippings, or articles that I
 13 have.
 14 Q. Can you remember what things or articles
 15 those might have been or when you might have read
 16 them?
 17 A. I do not. That was partly while I was
 18 working on the stack of documents I was showing you
 19 yesterday. I was beginning to go back and look
 20 through a bunch of this stuff to try to pull it
 21 together, and I was unable to even get close.
 22 Q. Okay. Let me just finish up with the
 23 declaration. So, then, the other thing you said is:
 24 "According to Montana Fish, Wildlife and
 25 Parks, another two grizzly bears were caught in wolf

1 traps in 2013."
 2 Do you know anything about those?
 3 A. No.
 4 Q. All right. Then the last, it's about
 5 coyotes so I'm going to skip those.
 6 MS. CLERGET: So let's put the chart back
 7 up, Crissy.
 8 Q. (By Ms. Clerget) So again, this is Exhibit
 9 4. So let's look at 2013, which would be lines 10,
 10 11, 12.
 11 A. These charts are a lot more helpful to me
 12 because it's more detailed by far, and I recognize the
 13 names --
 14 Q. So I'm looking at -- sorry, go ahead.
 15 A. No, I say this chart is much more helpful
 16 and there's more detail in this.
 17 Q. Okay. So looking at this, you said in
 18 your declaration we just read, two other verified
 19 instances in Region 3.
 20 A. And those are, they'd be the 17th and 18th
 21 one because this is where I was enumerating -- trying
 22 to put numbers to all these to try and sort them out.
 23 Q. Okay.
 24 A. But I don't know if they're showing up on
 25 the chart that's visible right now.

1 that is in this chart was also captured in your
 2 declaration?
 3 A. I believe they are, yes.
 4 Q. All right. And no other ones that you
 5 know about that aren't either in your declaration or
 6 on this chart that we haven't talked about already?
 7 A. Nothing comes to my mind.
 8 Q. Okay, good. I just want to make sure I'm
 9 not missing any.
 10 MS. CLERGET: All right. That's all I
 11 have.
 12 MR. BECHTOLD: I have no follow-up.
 13 (The deposition concluded at
 14 approximately 12:40 p.m.)
 15
 16 * * * * *
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1 Q. So you say two grizzly bears, another two
 2 grizzly bears were caught in wolf traps in 2013. So
 3 we have on this chart three grizzly bears who were
 4 caught in 2013. And 10, 11, and 12 are the numbers of
 5 the rows there.
 6 Can you look at that and tell me if those
 7 grizzly bears that you're referring to in your
 8 declaration are the same ones that appear on that
 9 chart?
 10 A. It appears -- yeah, I think they are.
 11 Q. Okay. And then --
 12 A. Because they were both handled by Madel
 13 and they were both public coyote trappers, so that's
 14 probably the couple that Madel had to go out and deal
 15 with.
 16 Q. Okay. So I think it's fair to say,
 17 correct me if I'm wrong, that all of the ones that you
 18 have gone through in your declaration are also on this
 19 chart. Do you need me to walk you through that again?
 20 A. Yeah, and some of them are verified. I
 21 mean, like we were talking about the one in Pistol
 22 Creek on the Flathead Reservation, that Corville one,
 23 it's more detailed here, that's that large bore
 24 grizzly.
 25 Q. So are you comfortable that everything

1 STATE OF MONTANA)
) : ss.
 2 County of Silver Bow)
 3
 4 I, Candice L. Nordhagen, Court Reporter - Notary
 5 Public in and for the County of Silver Bow, State of
 6 Montana, do hereby certify:
 7
 8 That the witness in the foregoing Deposition,
 9 Carter Niemeyer, was by me first duly sworn according
 10 to law in the foregoing cause; that the deposition was
 11 then taken before me at the time and place herein
 12 named; that the deposition was reported by me in
 13 machine shorthand and later transcribed by computer,
 14 and that the foregoing one hundred twenty-seven (127)
 15 pages contain a true record of the witness, all done
 16 to the best of my skill and ability.
 17 IN WITNESS WHEREOF, I have hereunto set my hand
 18 and affixed my notarial seal this ____ day of
 19 _____, 2024.
 20
 21
 22
 23 Candice L. Nordhagen
 24 Notary Public for the State of
 25 Montana residing at Butte,
 Montana. My commission
 expires October 26, 2024.
 (NOTARIAL SEAL)