



**THE HUMANE SOCIETY
OF THE UNITED STATES**

January 26, 2024

Leslie Robinson, Commission Chair
Dustin Temple, Director
Montana Fish, Wildlife & Parks
1420 East Sixth Avenue
P.O. Box 200701
Helena, Mt 59620-0701

Submitted via email: FWComm@mt.gov

Re: Recommendations for Montana's proposed black bear (*Ursus americanus*) regulations changes

Dear Chair Robinson and Director Temple:

On behalf of our members and supporters, the Humane Society of the United States, Friends of the Bitterroot, WildEarth Guardians and Wyoming Wildlife Advocates thank the Montana Fish, Wildlife & Parks (FWP) for the opportunity to comment the staff's proposed regulations changing black bear hunting regulations. We oppose the proposed changes to increase the spring black bear hounding season by an additional two weeks, which would now permit a spring bear hounding season from Apr. 15 to Jun 15. Second, FWP should not rely on mailed-in bear teeth submissions. Both measures will harm grizzly bears and increase take and encourage poaching.

1. **FWP must permit only "fair chase" practices.** We urge the Commission to oppose the 2-week increase in bear springtime bear hounding. Hounding is not "fair chase" bear hunting. It puts grizzly bears into jeopardy, and subjects houndsmen and hounds to bear attack. It increases the possibility of orphaning bear cubs (of either bear species). It will increase grizzly bear poaching incidents. Hounds threaten non-target animals including winter-stressed ungulates with neonatal fawns and calves.
2. **We urge the Commission to oppose the inclusion of the Ninemile watershed as part of a new black bear hounding area because it is known grizzly bear country.**
3. **We urge the Commission to require that bear hunters bring bear carcasses to the FWP for inspection and tooth extraction to avoid grizzly bear poaching.** Without a bear carcass, and unless FWP conducts DNA analysis on each set of teeth, bear hunters could be poaching grizzly bears.

Our fully cited comments follow here.

1. FWP must permit only "fair chase" practices and abandon hounding, spring bear hunting

Highly sentient, bears have the largest brain size of any carnivore and can use tools,¹ and they spend prolonged periods raising and nurturing young.² Bears know when they are hunted and change behaviors in response to

¹ V. B. Deecke, "Tool-Use in the Brown Bear (*Ursus Arctos*)," *Animal Cognition* 15, no. 4 (2012); Ian Stirling, Kristin Laidre, and Erik W. Born, "Do Wild Polar Bears (*Ursus Maritimus*) Use Tools When Hunting Walruses," *Arctic* 74, no. 2 (2021).

² Black bears are highly sentient. See e.g., John L. Gittleman, "Carnivore Life History Patterns: Allometric, Phylogenetic, and Ecological Associations," 127, no. 6 (1986); T. E. Reimchen and M. A. Spoljaric, "Right Paw Foraging Bias in Wild Black Bear (*Ursus Americanus* Kermodei)," *Laterality: Asymmetries of Body, Brain and Cognition* 16, no. 4 (2011); Jennifer Vonk, Stephanie E. Jett, and Kelly W. Mosteller, "Concept Formation in American Black Bears, *Ursus Americanus*," *Animal Behaviour* 84, no. 4 (2012); Jennifer Vonk and Michael J. Beran, "Bears 'Count' Too: Quantity Estimation and Comparison in Black Bears, *Ursus Americanus*," *ibid.*, no. 1; Rachel Mazur and Victoria Seher, "Socially Learned Foraging Behaviour in Wild Black Bears, *Ursus Americanus*," *ibid.* 75, no. 4 (2008); M. Cattet et al., "An Evaluation of Long-Term Capture Effects in Ursids: Implications for Wildlife Welfare and Research," *Journal of Mammalogy* 89, no. 4 (2008).



hunting pressures—which occur during that time they should concentrate on feeding themselves to survive after months of starvation during wintertime hibernation.³ For over a century, bear hunters in Montana hunted bears using methods that did not involve hounds, a highly controversial method.

a. Hounding bears is unethical, unsporting and jeopardizes grizzly bears, houndsmen, hounds and all other terrestrial wildlife

Hounding, or using packs of dogs to find and pursue bears, is considered unsporting and not “fair chase” hunting even among most hunters themselves because it gives unfair advantage to hunters.⁴ Springtime hounding exposes houndsmen to potential grizzly bear attacks. Hounding in grizzly country puts hunters and guides into legal jeopardy if a grizzly bear “take” occurs, as they are protected under the Endangered Species Act.

Chasing bears in springtime also harms them after a prolonged winter of no food. Using hounds to chase down starving bears is inherently unfair and unethical. In springtime, bears have gone without eating for months, how can chasing them be fair chase hunting? While pursuing bears, hounds also chase, startle and kill non-target wildlife.⁵ It puts neonatal fawns, calves and indeed any other species’ young into harm’s way.

Authorizing private citizens to hunt black bears and mountain lions with the aid of hounds risks causing unlawful take of federally protected grizzly bears that will expose the FWP to liability under the Endangered Species Act. Occupied grizzly bear range in Montana overlaps substantially with occupied black bear and mountain lion ranges where hound hunting will be permitted under the proposed regulation. The risk of contact is magnified when hounds roam beyond the visual or auditory range of hunters.⁶

Hounding black bears and mountain lions constitutes take under the federal Endangered Species Act (“ESA”). Section 9 of the ESA prohibits the unauthorized “take” of an endangered species. 16 U.S.C. 1538(a)(1)(B). The ESA defines “take” to mean “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct.” *Id.* § 1532(19). “Take” includes direct as well as indirect harm and need not be purposeful. See *Babbit v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687, 704 (1995). A take may even be the result of an accident. See *National Wildlife Federation v. Burlington Northern Railroad*, 23 F.3d 1508, 1512 (9th Cir. 1994).

Dogs may even chase bears into roadways, where oncoming vehicles could strike either. Hounds invariably trespass on lands—whether on private land or on special refuges such as national parks where hounds are not permitted. This creates strife between landowners and hunters.⁷ Using hounds to chase bears pits dogs against bears, and either species can be injured or killed, particularly if the bear is bayed on the ground. Dogs may even kill the bears themselves, especially dependent cubs of either species.

³ A. Ordiz et al., “Do Bears Know They Are Being Hunted?,” *Biological Conservation* 152 (2012).

⁴ C.W. Ryan, J.W. Edwards, and M.D. Duda, “West Virginia Residents: Attitudes and Opinions toward American Black Bear Hunting,” *Ursus* 2 (2009); T. L. Teel, R. S. Krannich, and R. H. Schmidt, “Utah Stakeholders’ Attitudes toward Selected Cougar and Black Bear Management Practices,” *Wildlife Society Bulletin* 30, no. 1 (2002).

⁵ Hank Hristienko and Jr. McDonald, John E., “Going in the 21st Century: A Perspective on Trends and Controversies in the Management of the Black Bear,” *Ursus* 18, no. 1 (2007). Stefano Grignolio et al., “Effects of Hunting with Hounds on a Non-Target Species Living on the Edge of a Protected Area,” *Biological Conservation* 144, no. 1 (2011). Emiliano Mori, “Porcupines in the Landscape of Fear: Effect of Hunting with Dogs on the Behaviour of a Non-Target Species,” *Mammal Research* 62, no. 3 (2017).

⁶ Adrian. P. Wydeven et al., “Characteristic of Wolf Packs in Wisconsin: Identification of Traits Influencing Depredation,” in *People and Predators: From Conflicts to Coexistence*, ed. Nina Fascione, Aimee Delach, and Martin E. Smith (Washington, D.C.: Island Press, 2004).

⁷ Hristienko and McDonald, “Going in the 21st Century: A Perspective on Trends and Controversies in the Management of the Black Bear.”



If the mother is killed, young-of-the-year cubs will die from starvation, exposure or predation. In research conducted in Maine, houndsmen were ineffective in determining if a female had cubs, because the mother would secure her cubs in a separate tree other than the one she occupied.⁸

The main purpose of hounding is to tree the bears for the purpose of close-range identification and shooting. While some argue that hounding is a selective method for choosing the age or sex of an animal,⁹ yet researchers who have done empirical study contend it is difficult for hunters to determine the age and sex of a treed bear.¹⁰ Inman and Vaughan (2002) found that houndsmen accurately determined the sex of treed bears 67% of the time. In other words, approximately one-third of treed bear were wrongly sexed by houndsmen.¹¹ That is too many.

So many aspects of hounding are unsavory. It causes stress and distress to winter-stressed and starving wildlife who have dependent young, including non-target species, and to the hounds themselves. Hounds can kill bear cubs of their species, and hounds can be killed by bears.

b. Springtime bear hunts are cruel, unethical and should be abandoned

Springtime black bear hunts are plagued with problems. Despite agencies' best intentions, hunters kill nursing mothers, which orphans cubs, leaving them to suffer from starvation, predation, or exposure.¹² In studies cited by Hristienko and McDonald (2007), who researched the effects of spring hunting on bears, only 40% of orphaned cubs survived until hibernation—which means that the other 60% died.¹³ Cubs depend upon their mothers for survival for up to two years.

Springtime bear hunting occurs when cubs are just a few months old and still nursing, or when yearling cubs are living as part of a family group that consists of their siblings and mother.¹⁴ Bear cubs are usually born between December and February, and generally emerge after hibernation with their mothers between April and May, depending upon latitude and food availability.¹⁵ The proposed prolonged bear hounding season will expose black bear and grizzly bear cubs to killing by hounds and houndsmen, and risk houndsmen being attacked by grizzly bears.

Bears experience “significant physiological stress” during the spring because the available food supply is neither sufficient for bears to maintain body weight, nor for replacing the loss of nutrients following months of hibernation.¹⁶ Because of this, and because bears are lethargic for the first few weeks after they emerge from the

⁸ Thomas D. Beck et al., “Sociological and Ethical Considerations of Black Bear Hunting,” *Proceedings of the Western Black Bear Workshop* 5 (1995).

⁹ Hristienko and McDonald, “Going in the 21st Century: A Perspective on Trends and Controversies in the Management of the Black Bear.”

¹⁰ Beck et al., “Sociological and Ethical Considerations of Black Bear Hunting.”; M. C. Boulay, D.H. Jackson, and D.A. Immell, “Preliminary Assessment of a Ballot Initiative Banning Two Methods of Bear Hunting in Oregon: Effects on Bear Harvest,” *Ursus* 11 (1999).

¹¹ K. H. Inman and M. R. Vaughan, “Hunter Effort and Success Rates of Hunting Bears with Hounds in Virginia,” *ibid.* 13 (2002).

¹² Beck et al., “Sociological and Ethical Considerations of Black Bear Hunting.”

¹³ “Ursus Americanus,” *USDA-Forest Service Rocky Mountain Research Station-Fire Sciences Laboratory* <http://www.fs.fed.us/database/feis/animals/mammal/uram/all.html> (2007).

¹⁴ Hristienko and McDonald, “Going in the 21st Century: A Perspective on Trends and Controversies in the Management of the Black Bear.”

¹⁵ Ulev, “Ursus Americanus.”; Julie A. Miller et al., “The Late-Denning Activities of the American Black Bear in Utah,” *Ursus* 27, no. 2 (2017).

¹⁶ Beck et al., “Sociological and Ethical Considerations of Black Bear Hunting,” p. 124

den, they make easy targets for hunters.¹⁷ A springtime hunt subjects bears to the unnecessary and unfair stress of being chased and killed while they are in poor physical shape—after months of starvation—a practice that would be unthinkable for other big game species such as ungulates.¹⁸

Some researchers assert that mothers with cubs of the year can be spared from a spring hunt, because nursing mothers are the last demographic of the black bear population to emerge in springtime, after all the other sex and age classes of bears.¹⁹ But Colorado Division of Wildlife bear researcher Tom Beck (now retired), along with a cohort of five other Western states wildlife managers, has warned that even as most studies indicate males emerge from dens earlier than females, that time differential is nominal.²⁰ Beck et al. (1995) write:

Data from Colorado clearly demonstrate that most bears are killed in the last two weeks of the spring season, regardless of the ending date . . . The [spring bear hunt] regulation looks good on paper but is very difficult to implement in the field because of bear behavior.²¹

Miller et al. (2017) found no distinction between time of den emergence among cohorts of bears (lone females, females with cubs of the year, females with yearlings and yearling cubs).²² In other words, the spring bear hunt seasons do not protect nursing females. The assertion that a spring season will close early enough to protect nursing females is confounded by other researchers' data and the fact that Planet Earth is warming and den emergence has shifted (discussion herein):

- Johnson et al. (2018) found that black bears birthing cubs entered the den earlier and exited later *as did older age bears*, while females with yearling cubs exited earlier to maximize foraging opportunities.²³
- A 2017 study in Utah found that black bears at the same elevations had different den departure dates because the land was more productive in one area, and females were in better body condition.²⁴
- Bears in northern New Mexico entered and left their dens at different times, depending on their sex. But this was not the case for bears in the southern region, whose denning chronology was the same for both sexes.²⁵

For all these reasons, cubs, *and especially grizzly bear cubs*, cannot be protected by FWP's drastically long springtime hunting season.

¹⁷ Hristienko and McDonald, "Going in the 21st Century: A Perspective on Trends and Controversies in the Management of the Black Bear."; Lynn L. Rogers, "Effects of Food Supply and Kinship on Social Behavior, Movements, and Population Growth of Black Bears in Northeastern Minnesota," *Wildlife Monographs, The Wildlife Society* 51, no. 97 (1987).

¹⁸ Beck et al., "Sociological and Ethical Considerations of Black Bear Hunting."

¹⁹ e.g., H. Hristienko et al., "Using Reproductive Data to Model American Black Bear Cub Orphaning in Manitoba Due to Spring Harvest of Females," *Ursus* 15, no. 1 (2004); G.B. Kolenosky and S.M. Strathearn, "Winter Denning of Black Bears in East-Central Ontario," *International Conference on Bear Research and Management* 7 (1987); Hristienko and McDonald, "Going in the 21st Century: A Perspective on Trends and Controversies in the Management of the Black Bear."; Miller et al., "The Late-Denning Activities of the American Black Bear in Utah."

²⁰ Beck et al., "Sociological and Ethical Considerations of Black Bear Hunting."

²¹ *Ibid.*, p. 122

²² Miller et al., "The Late-Denning Activities of the American Black Bear in Utah."

²³ H. E. Johnson et al., "Human Development and Climate Affect Hibernation in a Large Carnivore with Implications for Human-Carnivore Conflicts," *Journal of Applied Ecology* 55, no. 2 (2018).

²⁴ Miller et al., "The Late-Denning Activities of the American Black Bear in Utah."

²⁵ R. M. Inman et al., "Denning Chronology and Design of Effective Bear Management Units," *Journal of Wildlife Management* 71, no. 5 (2007).



2. We urge the Commission to oppose the inclusion of the Ninemile watershed as part of a new black bear hounding area

The Ninemile watershed has been occupied by grizzly bears, including females with cubs, as the FWP has documented since 2001. This area is particularly important because it is the natural corridor between the Bitterroot Ecosystem and the Cabinet-Yaak Recovery Area.

3. We urge the Commission to require that bear hunters bring bear carcasses to the FWP for inspection and tooth extraction to avoid grizzly bear poaching

Without a bear carcass, and unless FWP conducts DNA analysis on each set of teeth, bear hunters could be killing grizzly bears and the agency would not detect bear poaching.

Conclusion

For all the reasons stated herein, we ask that you abandon black bear hounding and certainly not increase it by two weeks. It jeopardizes grizzly bears, subjects houndsmen to grizzly bear attack and will increase poaching activities. It is harmful to bears and all species on the ground. We urge you to abandon hounding expansion into the Ninemile watershed because it is known grizzly bear country and we urge the FWP require that bear hunters bring their bear carcasses to the FWP for inspection and tooth extraction to avoid grizzly bear poaching.

Sincerely,

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