

MEMORANDUM OF UNDERSTANDING
BETWEEN
MONTANA FISH, WILDLIFE & PARKS
AND
UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES
REGARDING THE COOPERATIVE WILDLIFE DAMAGE CONTROL PROGRAM FOR
GRIZZLY BEARS, GRAY WOLVES, BLACK BEARS, AND MOUNTAIN LIONS
IN THE STATE OF MONTANA

ARTICLE I – Purpose

The purpose of this Memorandum of Understanding (MOU) is to document and enhance the cooperative relationship between Montana Fish, Wildlife & Parks (FWP) and Wildlife Services (WS), collectively hereinafter “the parties,” for planning, coordinating, and implementing wildlife damage control programs to minimize damage caused by grizzly bears, wolves, black bears, and mountain lions to agriculture, animal husbandry, forestry, wildlife, and public health and safety.

ARTICLE II – Authorities

FWP is responsible for management of the state’s wildlife. FWP is authorized to control wildlife damaging livestock or property or for public health and safety by Montana Codes Annotated, Sections 87-1-201 Powers and duties of the department and 87-1-225 Regulation of wild animal damaging property.

WS is authorized by the Animal Damage Control Act of March 2, 1931 (7 U.S.C. 426-426b), and the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (P.L. 100-202) to cooperate with States, local jurisdictions, individuals, and public and private agencies, organizations and institutions.

ARTICLE III - Agreements

FWP and WS agree that when working with grizzly bears, gray wolves, black bears, and mountain lions:

- A) Both parties will cooperate by providing facilities, equipment, personnel and funds to conduct a joint program in the State of Montana, which will prevent or minimize the economic effects of depredations caused by wild animals.
- B) WS will be responsible for capture of grizzly bears, wolves, black bears, and mountain lions, which are involved in livestock depredation, including domestic bees and beehives. Livestock (including livestock guarding and

herding animals) depredation responses involving grizzly bears and wolves will be conducted as described in Articles IV and V. All livestock complaints involving black bears and mountain lions will be referred to WS, as described in Articles VI and VII.

- C) FWP will be responsible for responding to non-livestock complaints involving grizzly bears, wolves, black bears, and mountain lions. All non-livestock complaints will be referred to FWP.
- D) FWP is responsible for management of the state's wildlife. Except as provided in ARTICLES IV, V, VI, and VII below, FWP will make decisions regarding when, where or how many grizzly bears, wolves, black bears, and lions will be subject to lethal control by WS.
- E) FWP and WS will encourage joint participation at training sessions involving wildlife damage prevention and control, necropsy procedures, disease information and education, and animal handling procedures including chemical immobilization and euthanasia.
- F) Wildlife damage control involves both capture/removal of offending animals and working proactively with livestock producers to decrease the risk of loss and prevent further incidents. FWP and WS will identify areas and notify the other party where preventative measures may be taken to reduce the threat of wildlife damage. Both FWP and WS will emphasize preventative efforts with producers to minimize depredation incidents in the future. Such preventative measures could include recommendations on clean up and disposal of attractants such as bone yards that can bring wildlife into contact with livestock, funding and cooperative efforts with non-government organizations to erect and use electric fences, and outreach and education with producers on how they can minimize future conflicts.
- G) Whereas FWP has developed electric fencing designs that have demonstrated to be effective in reducing wildlife damage to beehives and livestock bedding areas, WS and FWP agree to cooperatively disseminate information and coordinate efforts to prevent depredation at sites where prevention measures can be implemented.
- H) FWP agrees to make available printed information on electric fence designs and certain fence materials for distribution by WS personnel when responding to wildlife damage complaints on beehives and livestock depredations. WS agrees to promote the use of electric fencing to prevent beehive damage and protect small livestock where applicable.
- I) Not all livestock losses can be prevented and a combination of lethal and non-lethal management tools may be required to address and resolve wildlife-livestock conflicts. Field responses will be directed at the offending animal(s). The parties agree to try to connect efforts to address the problem as closely in space and time to the site of the damage as practical.
- J) All wildlife damage control activities will be conducted in accordance with applicable Federal, State and local laws and regulations.
- K) Control activities and field investigations conducted pursuant to this MOU will emphasize sound management practices and due regard for the protection

of domestic animals, public safety, non-target wildlife, endangered species and the environment.

- L) It is important that both FWP and WS are responsive to livestock producers. Both FWP and WS will promote mutual respect and effective communication between the agencies and with livestock producers.
- M) WS and FWP are responsible for obtaining permission from the landowner prior to entering onto, or conducting control actions on any lands, private, state, or federal. For FWP lands, WS will notify FWP after receiving a request to conduct a field investigation of injured or dead livestock. FWP may elect to accompany WS during the field response on FWP lands. Permission for and coordination of WS non-lethal and lethal control activities on FWP lands will occur through the FWP wolf or grizzly bear management specialist. In the case of WS depredation investigations and control work on lands adjacent to FWP lands, FWP will grant WS authority to pursue target animals onto FWP lands, providing actions are consistent with WMA management objectives.
- N) Frequent and open communication between the agencies at the field, District/Regional and state levels is essential to an effective program. Both parties will consult as often as necessary to review depredation complaints received and actions taken to resolve the complaints.
- O) By December 15 each year, WS will submit a report of activities conducted by Federal Fiscal Year, including a summary of the total number of incidents reported and animals removed by species for grizzly bears, wolves, black bears and mountain lions.
- P) The parties will meet at least once each year to review the WS and FWP management actions that occurred during that calendar year, the protocols for those actions, and discuss any proposed modifications to this MOU based upon that experience.

ARTICLE IV – Grizzly Bears

The Parties agree that:

- A) Upon notification of a livestock depredation or domestic beehive damage where grizzly bear may be involved, the receiving party will contact the other party and a joint investigation will be conducted. If there is a dispute whether there is a grizzly bear involved, it will be elevated to the FWS Grizzly Bear Recovery Coordinator, FWP Wildlife Management Bureau Chief, and WS State Director for a joint decision. Every effort will be made to handle grizzly bears jointly. When not possible, WS will be authorized to immobilize a bear and place it in a culvert trap or cage until FWP arrives.
- B) Grizzly bear control activities will follow the action procedures for determining grizzly bear nuisance status and for controlling nuisance grizzly bear in the Interagency Grizzly bear Guidelines (attached) and 50 CFR 17.40 (b), whereby FWP will be responsible for the immobilization and collaring, relocation, or welfare of the animal.

- C) Because grizzly bears are protected under the Endangered Species Act, use of lethal control tools may be restricted either in space and/or time within the range of the species. Specific restrictions include:
- 1) WS may not use M-44's between March 1 and December 1 within occupied grizzly bear habitat unless specifically authorized.
 - 2) Neck snares, with or without stops, may not be used for control actions within occupied grizzly bear habitat between March 1 and December 1. Neck snares may be used outside that area and outside that time frame but extreme caution should still be used as neck snares can catch non-target wildlife. Neck snares should never be used in areas where any grizzly bear sign has been observed. If any listed species, such as grizzly bear or lynx, is incidentally captured, U.S. Fish and Wildlife Service Law Enforcement personnel will be notified immediately. If any game or non-game species are captured and cannot be released unharmed, FWP will be notified.
 - 3) When trapping for bears in areas with suspected grizzly bear activity all snares used will be grizzly sized snares with ¼ inch steel cables anchored to fixed positions and equipped with appropriate swivels. Loose drags on grizzly snares are to be avoided unless there is no fixed location to attach snares. In cases where there is no fixed attachment available, heavy drags may be used. Heavy drags are those in excess of 250 pounds that would be very difficult for grizzly bears to move. Black bear snares (made from less than ¼ inch braided steel cable) shall not be used in areas where grizzly bears are present.
- D) Control activities and field investigations conducted pursuant to this MOU involving grizzly bears will emphasize sound management practices and due regard for the protection of domestic animals, nontarget wildlife, endangered species and the environment. FWP and WS field personnel will emphasize to livestock owners that relocation and disposition of grizzly bears is a joint decision under IGBC guidelines and not made by field level personnel.
- E) When trapping for grizzlies the only persons in the vicinity of WS and FWP activities should be those individuals affiliated or representing the agencies. Where capture operations occur on private lands or on allotments on public lands the landowner or livestock owner may be unobtrusively present at a safe distance, but not involved in the immobilization of the bear. Every precaution should be taken to avoid confrontations between grizzly bears and the public, including but not limited to closure or signing of trapping sites.
- F) WS and FWP will prepare grizzly/livestock depredation investigation reports. Copies of reports will be exchanged as soon as practical following each incident. FWP reports will be sent to the WS State Supervisor. WS field investigative reports will be routed as appropriate within WS and the final report will be sent to the FWP Wildlife Headquarters and then routed to the appropriate FWP regional grizzly specialist. FWP will send their reports to Defenders of Wildlife for reimbursement consideration of verified livestock losses. WS will provide their report to the landowners, who may send it to Defenders for consideration of reimbursement.

- G) FWP and WS agree to identify livestock or beehive depredation sites and notify the other party where preventative measures may be taken to minimize or prevent grizzly bear damage. Cooperative preventative efforts will be undertaken whenever possible.
- H) FWP will routinely monitor grizzly bears captured and marked as part of either a population-monitoring program or as a result of management actions. On occasion, WS may be requested to search for specific frequencies that cannot be relocated as part of these monitoring flights. WS will not routinely monitor grizzly bear frequencies.
- I) FWP will share with WS radio frequencies of grizzly bears captured and monitored by FWP or the U.S. Fish & Wildlife Service for the following purposes:
- 1) To increase personnel safety by providing WS the capability to identify the presence of marked grizzly bears in the vicinity of livestock depredations and near traps set for such bears. It is understood, however, that marked bears constitute a small percentage of total bears within a given geographic area, and that any investigation must be undertaken with the assumption that unmarked grizzly bears are present and appropriate safety and capture methods will be employed.
 - 2) To provide assistance in identifying individual depredating grizzly bears in combination with other indicators encountered in the vicinity of the investigation area and to monitor the return of previously relocated bears to a depredation site.
 - 3) To provide WS the capability to discern the presence of a marked bear, especially an adult or sub-adult female bear, in a situation where they are authorized to lethally remove a depredating bear that is continuing to kill livestock and cannot be captured.
 - 4) To use this information as a proactive and preventative measure in working with producers to reduce potential livestock conflicts.
- J) In dealing with individual livestock producers and specific conflict situations, WS may provide the general location of marked bears but agrees to keep confidential the radio frequency of these bears so as to avoid the following situations:
- 1) Pre-judging the "guilt" of a radio-instrumented bear simply because that bear was in the vicinity of a new depredation conflict. This could include requests to capture and relocate bears even when their behavior has not been problematic.
 - 2) Creating a false sense of security for the public that the radio-instrumented bear(s) is the only bear(s) in the immediate area. In most locations, a majority of the grizzly bears present will be unmarked individuals.
 - 3) Concern over potentially unmet expectations of the public demanding frequent relocations of marked bears beyond normal survey schedules.
- K) WS will report the lethal control of any grizzly bear within 24 hours and will provide to the following to the FWP Regional Office as soon as practical unless other arrangements are made on a case-by-case basis:

- 1) WS will complete Depredation Investigative Reports of each incident which will include the investigators name; landowner's name, address, and phone number; type of livestock and number of livestock damaged, physical evidence of damage; and actions taken by WS on a form jointly agreed to by the parties. The WS field investigative reports will be routed as appropriate within WS and the final report will be sent to the FWP Wildlife Headquarters and then routed to the appropriate grizzly management specialist.
- 2) The entire carcass or the head and hide (including claws) of the grizzly bear shall be retrieved and field staff from both agencies will coordinate the carcass transfer. WS may request assistance from FWP with carcass retrieval. Additional biological specimens may be requested on a case-by-case basis. WS personnel may not retain any part of grizzly bear taken in a control action.

ARTICLE V – Gray Wolves

The Parties agree that:

- A) WS is the lead agency for determining whether wolves were the cause of injured or dead livestock. If a livestock producer reports a wolf depredation to WS and the WS field specialist suspects that wolves were responsible based on location or previous experience, WS may make a courtesy call to his/her counterpart in FWP to notify of the incident. If a livestock producer reports a suspected wolf depredation to FWP, FWP will refer the call to WS. WS will complete the investigation and notify FWP of the results. Field staff of both agencies will share information, confer with the producer, and coordinate on the appropriate response. FWP has the primary responsibility for the decision and to convey the decision and its rationale to the producer. Decisions will be based on the results of the WS investigation, the federally approved state wolf plan, and the applicable federal regulations.
- B) Differences of opinion between field staff regarding the appropriate course of action will be elevated to FWP Regional Wildlife Program Manager, the FWP Wolf Program Coordinator, or the FWP Wildlife Management Bureau Chief, and WS State Director for a joint decision.
- C) Because gray wolves are protected species under the Endangered Species Act, use of lethal control tools may be restricted either in space and/or time within the range of this species. Specific restrictions include:
 - 1). WS may not use M-44's at any time in areas occupied by wolves.
 - 2). Neck snares, with or without stops, may not be used for control actions within occupied wolf range unless wolf is the target species and then snares with stops may be used. Neck snares may be used outside that area and outside that time frame but extreme caution should still be used as neck snares can catch non-target wildlife. Neck snares should never be used in areas where any wolf sign has been observed. If any listed species, such as wolf or lynx, is incidentally captured, U.S. Fish and Wildlife Service Law Enforcement personnel will be notified

immediately. If other non-target species are captured and cannot be released unharmed, FWP will be notified.

- D) WS may non-injuriously harass wolves or otherwise non-lethally intervene in any case where wolves are observed in the vicinity of livestock or present a threat to livestock on lands for which WS has permission from the landowner to conduct control actions, including the use of WS aircraft to drive or herd wolves out of areas in proximity to livestock. WS will report any actions taken under this provision to FWP within 48 hours.
- E) FWP and WS agree to identify livestock depredation sites and notify the other party where preventative measures may be taken to minimize risk of or prevent wolf damage. Cooperative preventative efforts will be undertaken whenever possible.
- F) Lethal wolf control actions will be based on the USFWS-approved Montana state wolf plan. While wolves are listed under the federal Endangered Species Act, both FWP and WS activities will also comply with the applicable federal regulations: the 2005 experimental population rule for the experimental areas across southern Montana (CFR50, Part 17 Vol. 70, No. 4 1286-1311) and the 1999 Northwest Montana Interim Control Plan. Except as provided in J), below, lethal control of wolves will be authorized only after confirmed depredation involving wolves, as determined by WS, and will be subject to the following:
 - 1). The number of wolves to be taken, the location of control efforts and the duration of control efforts will be determined by FWP in consultation with WS and affected livestock producers and/or landowners.
 - 2). The method of removal will be determined by WS in consultation with FWP and affected livestock producers and/or landowners.
 - 3). Traps or snares used will be checked every 24 hours, preferably by 10am. If WS cannot complete the trap check by mid-morning, WS may request FWP to do the trap check.
 - 4). The entire carcass of any wolf taken by WS will be submitted to FWP within 24 hours, unless other arrangements are made on a case-by-case basis.
- G) FWP authorizes WS to carry out lethal control opportunistically, without prior verbal or written authorization under the conditions specified below. While wolves are listed under the federal Endangered Species Act, both FWP and WS activities will also comply with the applicable federal regulations: the 2005 experimental population rule for the experimental areas across southern Montana (CFR50, Part 17 Vol. 70, No. 4 1286-1311) and the 1999 Northwest Montana Interim Control Plan across northern Montana. The ability to opportunistically take a wolf is accompanied by the responsibility to know enough about the circumstances to reasonably believe that the action would be consistent with the state plan and applicable federal regulations. In the experimental area, the wolf or wolves are observed actively attacking (chasing, molesting, harassing) or taking (biting, grasping, tearing) livestock that are lawfully present on state, federal or private lands on which WS has authority from the landowner to conduct lethal control. In

the endangered area, the wolf or wolves are observed actively taking (biting, grasping, tearing) cattle, sheep, horses, and mules that are lawfully present on state, federal or private lands on which WS has authority from the landowner to conduct lethal control.

1. No more than two wolves can be taken during one incident;
2. Wounded or dead livestock must be present with clear evidence that the injury or death was directly caused by a wolf or physical evidence such as trampled vegetation, broken fences, wolf and livestock tracks must clearly indicate that a wolf attack on livestock was occurring when the wolf/wolves were taken.
3. There must be no evidence of artificial or intentional feeding of wolves.
4. On Federal lands, animal husbandry practices previously identified in existing approved allotment plans must have been followed.
5. Any lethal control conducted under this section will be reported to FWP and U.S. Fish and Wildlife Service Law Enforcement within 24 hours. U.S. Fish and Wildlife Service law enforcement agents and/or FWP wardens will investigate any instance of take under this provision.
6. Any wolves taken under this section will be submitted to FWP upon completion of the U.S. Fish and Wildlife investigation.

H). FWP will routinely monitor gray wolves captured and marked as part of either a population-monitoring program or as a result of depredation management actions. FWP will notify WS with the frequencies of newly radio-collared wolves. On occasion, WS may be requested to search for specific frequencies that cannot be relocated as part of these monitoring flights or to opportunistically radio collar packs while doing other routine work. WS will not routinely monitor wolf frequencies.

I). WS will report the lethal control of any wolf to the appropriate FWP wolf management program staff within 24 hours. WS will attempt to retrieve the entire carcass and WS may request FWP's assistance with retrieval efforts. Field staff from both agencies will coordinate the carcass transfer. Additional biological specimens may be requested on a case-by-case basis.

J). WS will complete Depredation Investigative Report of the incident which will include the investigators name; landowner's name, address, and phone number; type of livestock and number of livestock damaged, physical evidence of damage; and actions taken by WS on a form jointly agreed to by the parties. The WS field investigative reports will be routed as appropriate within WS and the final report will be sent to the FWP Wildlife Headquarters and then routed to the wolf program staff designee.

K). FWP and WS will collaborate and share information during the preparation of an Interagency Wolf Program Annual Report. The reporting cycle is calendar year.

ARTICLE VI – Black Bears

The Parties agree that:

- A) If a livestock producer reports a depredation involving a black bear to FWP, FWP will refer the producer to the appropriate WS field personnel for response. If a producer reports a depredation involving a black bear to WS, WS may respond without prior contact with FWP, unless the FWP Regional Supervisor has requested in writing to the WS District Supervisor that FWP be notified prior to initiation of control activities for the species within all or a portion of the region.
- B) FWP and WS agree to identify livestock or beehive depredation sites and notify the other party where preventative measures may be taken to minimize or prevent black bear damage. Cooperative preventative efforts will be undertaken whenever possible.
- C) WS is authorized to remove any black bear(s) deemed by WS to be directly involved in the depredation.
- D) WS will report the removal of any black bear(s) to the FWP Regional Office within 48 hours and will provide the following to the FWP Regional Office as soon as practical, unless other arrangements are made on a case-by-case basis.
 - 1). The entire carcass or the head and hide (including claws) of any black bear taken in a control action. Salvaging or disposal of animals will be reported on the WS Bear Justification Report. When black bears are destroyed, the complete carcass (including claws) will be taken, if salvageable and in an accessible area, and turned over to FWP. If in a remote area, WS may destroy the hide and skull and leave the carcass. A premolar will be taken for aging purposes and returned to the FWP wildlife manager in the region of kill.
 - 2). WS will complete a Depredation Investigative Report of the incident which will include the investigators name; landowner's name, address, and phone number; type of livestock and number of livestock damaged, physical evidence of damage; and actions taken by WS on a form jointly agreed to by the parties. The WS field investigative reports will be routed as appropriate within WS and the final report will be sent to the FWP Wildlife Headquarters and then routed to the appropriate FWP region.
 - 3). Additional biological specimens may be requested on a case-by-case basis. WS personnel may not retain any part of any black bear taken in a control action.

ARTICLE VII – Mountain Lions

The Parties agree that:

- A) If a livestock producer reports a depredation involving a mountain lion to FWP, FWP will refer the producer to the appropriate WS field personnel for response. If a producer reports a depredation involving a lion to WS, WS may

respond without prior contact with FWP, unless the FWP Regional Supervisor has requested in writing to the WS District Supervisor that FWP be notified prior to initiation of control activities for the species within all or a portion of the region.

- B) FWP and WS agree to identify livestock depredation sites and notify the other party where preventative measures may be taken to minimize or prevent lion damage. Cooperative preventative efforts will be undertaken whenever possible.
- C) WS is authorized to remove any lion(s) deemed by WS to be directly involved in the depredation.
- D) WS will report the removal of any lion(s) to the FWP Regional Office within 48 hours and will provide the following to the FWP Regional Office as soon as practical, unless other arrangements are made on a case-by-case basis:
 - 1). Salvaging or disposal of animals will be reported on the WS Lion Justification Report. When lions are destroyed, the complete carcass (including claws) will be taken, if salvageable and in an accessible area, and turned over to FWP. If in a remote area, WS may destroy the hide and skull and leave the carcass. A premolar will be taken for aging purposes and returned to the FWP wildlife manager in the region of kill.
 - 2). WS will complete a Depredation Investigative Report of the incident which will include the investigators name; landowner's name, address, and phone number; type of livestock and number of livestock damaged, physical evidence of damage; and actions taken by WS on a form jointly agreed to by the parties. The WS field investigative reports will be routed as appropriate within WS and the final report will be sent to the FWP Wildlife Headquarters and then routed to the appropriate FWP region.
 - 3). Additional biological specimens may be requested on a case-by-case basis. WS personnel may not retain any part of any lion taken in a control action.

ARTICLE VIII

This agreement and any continuation thereof shall be contingent upon the availability of funds appropriated by the Congress of the United States and the State of Montana. It is understood and agreed that any monies allocated for the purpose of this agreement shall be expended in accordance with its term and in the manner prescribed by the fiscal regulations and/or administrative policies of the agency making the funds available.

ARTICLE IX

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this MOU or to any benefit to arise therefrom.

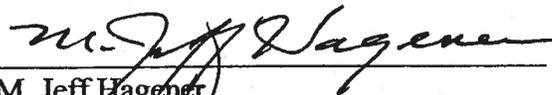
ARTICLE X

This MOU shall supersede all existing memorandums of understanding and supplements thereto relating to the conduct of wildlife damage control programs with FWP. All cooperative wildlife damage control programs now in progress shall be incorporated and continued under this MOU for the purpose of being consistent

ARTICLE XI

This MOU shall become effective upon date of final signature and shall continue indefinitely. This MOU may be amended at any time by mutual agreement of the parties in writing. This MOU may be terminated by either party upon 60 days written notice to the other party.

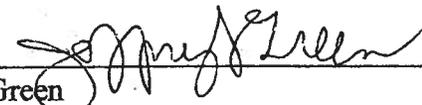
MONTANA DEPARTEMENT OF FISH, WILDLIFE & PARKS



M. Jeff Hagen
Director

1/8/07
Date

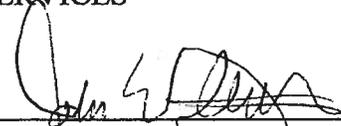
USDA, ANIMAL AND HEALTH INSPECTION SERVICES, WILDLIFE SERVICES



Jeff Green
Regional Director

1/3/07
Date

USDA, ANIMAL AND HEALTH INSPECTION SERVICES, WILDLIFE SERVICES



John Steuber
Montana State Director

21 Dec 2006
Date