Testimony House Natural Resources
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Good morning. My name is Chris Servheen, and I was the USFWS Grizzly Bear Recovery Coordinator for 35 years. As such, I led the U.S. Fish and Wildlife Service (FWS) grizzly bear recovery program from its beginning until I retired in 2016. I am currently the Board Chair and President of the Montana Wildlife Federation. I speak to you as a professional grizzly bear biologist, and as a longtime resident of Montana and a lifelong hunter and fisherman.

My testimony will focus on the application of the Endangered Species Act's 10(j) experimental population status to the management of wolves and grizzly bears. In that context I'll also address the management flexibility to manage wolves and grizzly bears that is available to state and federal wildlife managers under the Act.

As a FWS employee, I wrote the 1993 Grizzly Bear Recovery Plan and the original delisting proposal for the Yellowstone ecosystem grizzly population. That delisting was litigated in federal court, and I participated in the legal defense of the case with the Department of Justice. It is important to know that I believed in and promoted the eventual delisting of recovered grizzlies and wolves and turning them over to state management. I had faith in the wildlife professionals in state fish and game agencies and I believed that these state wildlife professionals would be good stewards who would continue to carefully manage grizzly bears and wolves using science and facts after recovery and delisting.

The application of 10(j) experimental population status to the management of wolves and grizzly bears allows the management flexibility necessary to successfully reestablish wolves and grizzly bears under the Endangered Species Act.

Section 10(j) of the ESA was developed by Congress to allow the successful reintroduction of listed species, particularly carnivores, to aid their recovery. 10(j) relieves landowner and user concerns that reintroductions may result in restrictions on the use of private, tribal, or public land. Under section 10(j), the FWS may designate a population of a listed species as experimental if it will be released into suitable natural habitat outside the species' current range but within its historic range. Treating the experimental population as threatened allows the FWS the discretion to devise management programs and special regulations for that population. Under a 10(j) designation as "nonessential, experimental," both the lethal removal prohibitions and consultation requirements of the ESA are relaxed, easing the regulatory burden associated with endangered species, and further allowing federal, state, and Tribal wildlife managers to respond to community concerns.

More than 60 10(j) experimental populations for many kinds of species have been established and many have led to successful conservation of these species. Examples include the gray wolf, grizzly bear, black-footed ferret, California condor, and Chinook salmon. Two 10(j) populations of gray wolves were released in Idaho, Montana, and Wyoming in the mid-1990s, and eventually both wolf populations were recovered. Mexican wolves were reintroduced into Arizona and New Mexico as 10(j) and recently in Colorado grey wolves were reintroduced as 10(j). Last year, with the support of the state of Washington and many tribes, a restoration plan using 10(j) was finalized to bring grizzly bears back to North Cascades National Park as per the grizzly bear recovery plan.

When FWS designates an experimental population, Section 10(j) of the ESA also requires that they determine whether the experimental population is "essential to the continued existence" of the species. An experimental population is essential if losing the population would likely "appreciably reduce the likelihood" of the species surviving in the wild. To date, no experimental population has been designated as essential. Critical habitat is not designated for nonessential experimental populations.

10(j) allows for innovative management such as occurred for the proposed grizzly bear reintroduction in the Bitterroot Ecosystem in Idaho and Montana allowing management of the 10(j) population by a citizens management committee with citizen members appointed by Governors. This committee was to make decisions that lead to recovery, and they could use innovative approaches. For the experimental population of Mexican wolves, 10(j) designation allows ranchers to kill Mexican wolves on private and tribal land that are attacking livestock.

For the 10(j) grizzly population restoration in the North Cascades, maximum flexibility was built into the rule that allows increasingly aggressive management of conflict bears further from out from the core area of North Cascades National Park and the North Cascades USFS Wilderness areas. This includes the authority to preemptively capture and relocate bears as needed and authorizations for lethal take to private landowners for human safety, livestock protection, or property protection as needed.

There are both Federal and state reimbursement programs to pay livestock owners for losses from both 10(j) experimental and fully listed populations of both wolves and grizzly bears. Payments for losses to Mexican wolves are made by the Livestock Indemnity Program (LIP) authorized by the 2018 Farm Bill and administered by Farm Service Agency. There are state and Federal livestock loss programs in Montana, Wyoming, Colorado, Idaho, Arizona, New Mexico and Washington.

There are many state and Federal programs to assist livestock producers with non-lethal methods to reduce livestock losses like range riding to increase human presence, providing trained livestock guard dogs, hazing, electric fencing, livestock carcass removal and even in some cases diversionary feeding. Range riders are particularly effective by being present to deter wolves from areas where livestock are present. Range riders can also help find and doctor sick or injured livestock due to non-predator causes, report the presence of bears or wolves and assist in many

ranching needs like fence repair.

For non-reintroduced threatened species that might come into conflicts with human activity, Section 4(d) of the ESA allows the FWS to adopt regulations necessary and advisable to provide for the conservation of a threatened species. There is a 4(d) rule for grizzly bears that allows grizzly bears to be captured, relocated or even killed in conflict situations such as livestock depredations or bears that are deemed dangerous to humans. The existing 4(d) rule for grizzly bears (50 CFR 17.40) has been highly successful because it has simultaneously allowed the management of bears when necessary while allowing grizzly populations to increase and reoccupy many areas and has promoted close cooperative efforts between state and federal bear managers. Between 2003 and 2024 almost 500 grizzly bears have been removed (killed) across the Northern Rockies by bear managers when it was necessary to respond to livestock conflicts or to bears becoming conditioned to garbage or human foods to the point that they were dangerous. This 4(d) rule for grizzly bear management has been an excellent way to balance the needs of local residents and the livestock industry with the objectives of grizzly bear recovery.

It is important to note that the application of the flexible management under the ESA with 10(j) experimental populations of wolves and the 4(d) rule to threatened grizzly bears has resulted in progress toward species recovery and validated the close cooperation between state, Tribal and National Park Service managers and the U.S. Fish and Wildlife Service. The grizzly bear 4(d) rule requires cooperative consultation on the fate of bears managed under this rule. I was that FWS contact person and worked closely with my Tribal, and agency colleagues thousands of times to decide the fate of hundreds of grizzly bears. I cannot recall a single time that there was disagreement between state or tribal bear managers and FWS about the management decision for any grizzly bear.

We are in a time when thousands of federal employees are being terminated from their jobs without cause and without explanation. These job cuts include agency bear and wolf management specialists who work closely with livestock producers and the public to help reduce conflicts with bears and wolves and to remove or relocate any bears or wolves that have committed depredations. The non-lethal bear and wolf conflict management programs in USDA Wildlife Services are at risk of disappearing. Livestock producers will lose the assistance from these agency professionals to help prevent or respond to livestock conflicts in bear and wolf habitat.

There are also threats to funding sources such as Natural Resources Conservation Service (NRCS) who lost 1700 employees and much of the funding they use to assist livestock producers is now uncertain. NRCS provides funding for assisting livestock producers with range riders, trained livestock guard dogs, hazing, electric fencing, carcass removal and other ways to assist producers with conservation solutions. These programs are fundamental to keeping agricultural producers in business and to helping them remain successful. There are thousands of livestock producers and farms that depend on these agency staff people and this NRCS funding. Without this Federal agency support and assistance, many livestock producers will be left high and dry.

State and federal agencies have programs and dedicated personnel in place to manage grizzly bears and wolves that kill livestock. State and federal wildlife management agencies share the interests of livestock producers in that they don't want grizzly bears and wolves to kill livestock either. Livestock losses to predators are a real and valid concern because they impact people's livelihood and property. When there is a depredation, state and federal specialists respond promptly and capture or kill the depredating animal. Most grizzly bears and wolves do not kill livestock. For perspective, in Montana there are approximately 2,400 grizzly bears and wolves combined. In 2023, these 2,400 grizzlies and wolves killed 104 cattle and sheep[1], which is 0.004% of the cattle and sheep in Montana[2,3].

In summary the management flexibility under the ESA with 10(j) for reintroduced species and under 4(d) for listed species provides many opportunities to address conflicts between wolves and grizzly bears and the public. I can confidently say that, in my 35 years of experience, most state grizzly bear managers and livestock grazing associations believe they already have all the flexibility they need to address issues like livestock conflicts under the 4(d) rule while the grizzly bear remains listed as a threatened species. 10(j) flexibility for wolves also provides effective tools to address the needs of livestock producers and the public while moving forward with recovery of wolf populations.

The ESA works because it is based on science and facts, and it specifically requires that the listed status of any species must be judged solely on the best available scientific data. There have been bills introduced in Congress that direct the Secretary of Interior to remove ESA protection from grizzly bears and wolves. I urge you to not pass legislation to circumvent the requirements of the ESA, and Congressionally delist grizzly bears.

I also urge you to support the flexible management provisions of the ESA under 10(j) and 4(d). These provisions allow us to proceed with the recovery of grizzly bears and wolves while simultaneously addressing the concerns and needs of livestock producers and the public. Grizzly bears and wolves are representatives of the heritage and culture of our nation. We have eliminated grizzly bears and wolves from almost all their former range. I hope you can continue to support the state, Tribal, agricultural and federal agency people working together in partnership to continue recovering wolves and grizzly bears in the few places they remain today.

Thank you for this opportunity to testify.

[1] https://liv.mt.gov/Attached-Agency-Boards/Livestock-Loss-Board/Livestock-Loss-Statistics-2023
[2] https://www.nass.usda.gov/Statistics_by_State/Montana/Publications/Charts_and_Graphs/2022-MT-Cattle-info.pdf
[3] https://www.nass.usda.gov/Statistics_by_State/Montana/Publications/Charts_and_Graphs/2021-MT-Sheep-info.pdf