Court File No. 99-097

**ONTARIO COURT OF JUSTICE**
**(GENERAL DIVISION)**

B E T W E E N:

**ONTARIO FEDERATION OF ANGLERS & HUNTERS ("OFAH")**
**C. DAVISON ANKNEY**
**NORTHERN ONTARIO TOURIST OUTFITTERS ASSOCIATIONS ("NOTO")**
**DICKSON'S BEAR HUNT LTD., WILDERNESS CANADA TRIPS INC.,**
**BUD DICKSON, RICK DICKSON, NEIL SMITH, BRENDA WILSON-SMITH,**
**ELSIE MESHAKE, HOWARD MESHAKE**

Applicants

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**
**as represented by the MINISTRY OF NATURAL RESOURCES**
**and THE HONOURABLE JOHN SNOBELEN**

Respondents

# AFFIDAVIT OF DR. L.L. ROGERS

I, Dr. Lynn L. Rogers, of the Town of Ely, in the State of Minnesota, U.S.A., wildlife biologist, MAKE OATH AND SAY:

## Background and Experience with Black Bears

1. I am a wildlife biologist specializing in the black bear, a species which is common to both the United States and Canada. For over 30 years, first as a graduate student, then as a United States Forest Service researcher, and now for the Wildlife Research Institute, I have conducted field studies of a population of black bears which ranges between northeastern Minnesota and Ontario.

2. The part of Minnesota in which I conducted my research and which remains my study area is a 120 sq. mile tract in the Superior National Forest, about 30 miles west of

Lake Superior, about 20 miles south of the Canadian border. Some of these bears are "Ontario bears" in that Ontario, Canada is part of their range.

3. My professional experience includes the following:

1993 - 1999: Wildlife Ecologist, Northwoods Research Centre, Wildlife Research Institute Ely, Minnesota

1976 - 1993: Wildlife Research Biologist, U.S. Forest Service, Northcentral Forest Experiment Station, Ely, Minnesota

1968-1976: Research Assistant, Bell Museum of Natural History, University of Minnesota.

4. I have published over 100 scientific publications on black bears, brown/grizzly bears, wolves, pine martens, white-tailed deers, eagles, warblers, white pines, oak and forest ecology.

5. I am a member of the IUCN (International Union for the Conservation of Nature) Species Survival Commission, Bear Specialist Group; the International Bear Association; The Wildlife Society and American Society of Mammologists.

6. I obtained my Ph.D in Ecology and Behavioural Biology from the University of Minnesota in 1977, having obtained a Bachelor of Science degree, with high honours in Wildlife Management in 1968 from Michigan State University, and a Master of Science in Wildlife Ecology (statistics minor) from the University of Minnesota in 1970.

7. My Ph.D dissertation was on the topic of "The Social Relationships, Movements and Population Dynamics of Black Bears in Northeastern Minnesota" and it offered the results of my first seven years of research on black bears.

8. After my research grants from the University of Minnesota came to an end, I obtained financial support for my research from such hunter-dominated organizations as the Boone and Crockett Club, the Big Game Club, and the National Rifle Association.

Through the years, the Minnesota Department of Natural Resources, the National Wildlife Federation, the Minnesota State Archers Association, the American Forest Institute, and many other organizations and individuals also funded my work.

9. My field studies examined the annual cycle of black bears' foraging and social behaviour; changes in mother–offspring relationships from birth through maturity; seasonal changes in physiology; and the influence of food availability on social behaviour, movements and population growth.

10. Bears were radio-tracked up to 200 km outside the Superior National Forest area, and ear-tag returns were obtained from various parts of Minnesota, Ontario and Wisconsin. Vegetation in the study area was typical of the northern Great Lakes Region in that it contained components of the boreal forest and the temperate deciduous forest.

11. I was the first researcher to draw blood samples from wild hibernating bears. Those samples have enabled other scientists to begin to unravel some of the mysteries of hibernation, such as how, despite the fact that bears neither eat, drink or evacuate body waste for months on end, bears remain in good physical condition during their long winter sleep.

12. I have spent thousands of hours observing bears, and revealing previously unknown aspects of their lives, including that black bears maintain a strongly matriarchal society in which the females bequeath parts of their territory to their female offspring.

13. In the mid-1980's, using a technique known as neutral habituation, I penetrated the barriers that normally separate bear and man and developed relationships of unprecedented trust with several black bears. I observed these individuals at close range, accompanying them as they foraged for food, cared for their cubs, and otherwise carried on their normal activities, seemingly all but oblivious to my presence.

14. I also have many years experience of walking and sleeping with black bears around the clock. I have slept within a few metres of black bears. I have observed mothers raising cubs and have seen in my own experiences how they leave cubs up trees away from places which they consider to be of some strangeness or danger, such as baited areas that are frequented by other bears and by people.

15. In winter I travelled about the area by means of snow-shoes and snowmobiles; at other times I relied on wheeled vehicle and canoes. I hiked as well, eventually covering thousands of miles on foot and, like the resident bears, becoming intimately familiar with the terrain. As often as funds would permit, I also tracked and observed bears for hours at a time from the air as a passenger in a small plane.

16. At my research station, I also have the opportunity of observing black bears close up. With the idea that I could begin to win the bears' trust, in the interests of science, I set out scraps of beef fat for them in the yard surrounding the lab, beginning in 1984. The following summer, when natural food was scarce, at least 18 bears availed themselves of my hand-outs. Before long I found that I could walk near some of them and follow them into the forest. Eventually, the bears seemed to ignore my presence.

17. By the spring of 1988, my assistants and I were following these bears wherever they went, sometimes for 48 hours at a stretch. She even allowed us to lie beside her while she napped. Eventually two sisters of that bear, and two of one of these sister's female cubs and a few other bears became completely habituated to our presence. The bears ignored us even though we were only a few feet away. If a bear ripped into a stump for ants, we could literally step up and look over its shoulder.

18. First on paper and then on lap-top computers, I and my assistants recorded, movement by movement, the smallest detail of the habituated bears' behaviour. I have also trained hundreds of volunteers in tracking and observing habituated bears.

19. I have radio-tracked one bear about whom I have collected data for 20 years. I have tracked another female bear for about 22 years.

**Cub Dependency on Mothers**

20. Black bear cubs are born in January. At birth the cubs weigh less than a pound, have only a slight covering of fur and can barely crawl. The cubs are born when the mother is hibernating. The mother arouses enough to take care of them even though her metabolism is slow during hibernation. She eats nothing in the den but produces enough milk for the cubs to weigh 4 to 10 pounds by the time they leave the den in April. She nurses them until fall.

21. By the time the cubs toddle out of the den in late March or early April they weigh 4 to 10 pounds, depending upon how much milk their mother produced and how many litter mates they shared it with.

22. The better-developed cubs can immediately climb trees but cannot out-run wolves or other bears. Their mother defends them, warms them and nurses them, sometimes sitting and cradling them in her forelegs and licking their heads and nursing them.

23. One of the reasons that cubs are so dependent on their mothers in the period prior to June 15th is that they do not begin eating solid food until their chewing teeth erupt in late spring. They continue to suckle nearly until they hibernate in fall.

24. Fathers do not help in raising in the cubs. Mothers protect their cubs, open insect ridden logs for them and lead them to distant feeding locations which the cubs sometimes re-visit as adults. Starving young bears too weak to run or climb would be vulnerable to a variety of predators.

25. Typically mother bears come out of denning about April 15th – right at the beginning of what was the Ontario spring bear hunting season. In the first couple of weeks after they emerge from denning the cubs are usually placed at the base of a tree (typically white pine) which they can climb up while the mother forages for food. After about the first two weeks the cubs start moving with the mother unless there is danger or if she goes to bait in which case she would leave them back at the tree or up the tree. As the cubs become more mobile and better able to eat solid food in June, the mother allows the cubs to accompany her more frequently.

**Young Cubs are Not Always with Their Mother**

26. I have substantial personal experience in observing how mother black bears will leave their cubs at a tree or up a tree and not bring them to a feeding station. I provide a feeding station at my field labs in Minnesota at all times through the year. This was true at the Kawishiwi Field Lab and now at the Northwoods Research Center. Up to 18 bears, including mothers with cubs, visit these feeding stations, especially during the spring and early summer before wild berry crops ripen. I could identify them by size, colour, eyebrows, chest patch, shape of head, and radio frequencies. In the spring I would see bears come with no cubs. I identified individual bears and would follow the bears into the forest away from the feeding station. There I would observe the cubs. The cubs could be waiting as close as 100 yards or up to two miles away. In the early part of the year (April to mid-May) the mother bears almost never come with cubs to my feeding stations. By late May, early June they would start to bring cubs, but not all the time.

27. My observations that cubs are not necessarily close to their mothers at all times are also consistent with a study in Massachusetts by K. D. Elowe, contained in a Ph.D thesis entitled “Factors Affecting Black Bear Reproductive Success and Cub Survival in Massachusetts”, University of Massachusetts, 1987. At chapter 4 Dr. Elowe states:

> “Studies of the rate and causes of mortality to young bears are essential to our understanding of bear population dynamics. Observational studies of black bear cubs in forested areas are

> virtually impossible, however, due to limited visibility. Even with intensive stalking and observation, it is often difficult to count the number of cubs with a sow. **Counts are confounded also because sows often put cubs in a softwood tree up to 400 metres from where they are foraging and cubs are counted as missing.**" [page 46, emphasis added]

28. I also agree with the following observations having seen similar behaviour myself:

> "The use of trees by cubs was extensive. Primarily trees were used to escape from immediate danger, but also for play. ... It was common for a mother to send her cubs into a tree while she rested, especially when cubs were less than six months old. Day beds of females with young cubs were usually at the base of the largest softwood tree near to where the female had been foraging. Most often, a white pine or hemlock tree, about 50+ centimeters DBH with many low branches was selected. Cubs rested on lower branches of the tree while the mother rested on the ground.
> Cubs six months old or less usually stayed within 10 - 15 meters of the mother. At times, however, females put cubs in a tree while they foraged; usually within 200 meters but sometimes as much as 400 meters from the cubs."[pages 55 - 56]

29. Tom Beck, Colorado State Bear Biologist, a colleague who I know and whose work I respect, has written that radio tracking data demonstrates that nursing female bears often travel up to 2.0 miles from their cubs. That is consistent with my experience.

30. Tom Beck has also written that nursing females are especially reluctant to bring cubs into strange settings where they might encounter other bears, such as a bait site.

> "Too many people insist on believing the myth that female bears always have their cubs at their side. This is just untrue.... Just as the presence of a solitary female at a bait does not mean she does not have cubs, the presence of a female with cubs does not mean she always brings them or that other females will either."

I agree with this observation.

31. As indicated above, mother bears will not usually bring their cubs to a bait station in spring. Cubs will often be left several hundred metres away from such stations. Accordingly, in my professional opinion, a law which prohibits the shooting of a female bear with cubs (as I am advised is contained in the *Ontario Fish and Wildlife Conservation Act*) will not stop cubs from being orphaned.

32. Further, orphaning of bear cubs will inevitably occur where hunters are allowed to shoot a bear appearing at a bait site in the spring, because hunters cannot determine if the bear is a nursing female. Each year, there are a number of first-time bear hunters. Many other hunters have seen few or no bears in their lifetimes. Further, many experienced hunters are uninformed about the appearance of the breasts of nursing female bears. For example, John C. Kaplanis, President of Northwestern Ontario Sportsmen's Alliance, in a letter to the editor of the Thunder Bay Post published October 13, 1998, wrote "Believe me, a lactating bear with two or more hungry cubs to feed has a chest on her that would put Dolly Parton to shame! That's the easiest way to put it in perspective for readers who have never seen a black bear..." The fact is that nursing mother bears whose nipples I measured in spring had nipples averaging approximately 0.6 centimeter in diameter and about one centimeter in length, with little swelling around the nipples. Those measurements are only slightly and inconsistently bigger than those for mature females who are not nursing. Even when a bear is tranquilized and in hand, it is sometimes difficult to determine if a mother is nursing or not . The cubs nurse so frequently (average 14 times per day in April and 9 times per day in May and June) that there is often little milk left in the breasts, making it difficult to squeeze out a drop of milk to confirm lactation.

33. A spring hunt puts hunters under an unfair disadvantage to distinguish between nursing and non-nursing females. To me as a hunter, one of the most important hunting ethics is to kill cleanly. That means not taking shots that are unlikely to result in a clean kill and to make every effort to track down and recover wounded game. There is no

way that this ethic can be upheld in a spring bear hunt that inevitably orphans cubs and subjects them to a lingering death.

34. Many hunters that I have talked with claim that cubs accompany their mothers to baits in spring and often precede their mothers to the baits. However, in further questioning, I usually learn that the hunter is inexperienced and that the cubs were actually yearlings. Further, many experienced hunters that I have talked with claim that mothers with cubs have never visited their baits and that they don't know of anyone who has shot a nursing mother. However, in further questioning, I usually learn that the hunter does not know how to recognize a nursing mother, expecting the mother to have large breasts like some nursing dogs do or as expressed in the letter to the editor by John Kaplanis.

35. In the spring, bears have not yet begun to shed their long winter hair which partially or wholly obscures the nipples. Moreover, many visits to baits are at dusk when it is nearly impossible to tell the sex of a bear, let alone whether females are nursing or not. This would be true at dusk whether the bear was in normal walking position or standing on its hind legs to reach a suspended bait. In my opinion, it is essentially impossible for hunters to accurately determine whether or not they are shooting a nursing female bear.

36. I agree with the following statement of Tom Beck that it is quite difficult even for biologists to accurately assess nursing activity on a live bear:

> "During the late 1980's and early 1990's we [Colorado Division of Wildlife] made a concerted effort to accurately identify nursing female bears that were taken by hunters during the spring hunting season. We had only limited success. **It is actually quite difficult to accurately assess nursing activity, even on the live bear**. When examining pelts that were several days old it became more problematic. Not surprisingly, many hunters and outfitters claim just the opposite. However, bears produce relatively small quantities of milk and have little storage tissues; in marked contrast to ungulates [deer] which most hunters are familiar with. **In 1992, our last spring bear season, we determined that 22 nursing female**

> **bears had been killed and reported through the mandatory check. However, none of these hunters reported shooting a female with cubs.** This is from a total female bear sample of 61." [emphasis added]

37. I also agree with the following observations of Tom Beck in the chapter "A Failure of the Spirit", found at page 200 of the book entitled A Hunters Heart published by Henry Holt & Co., New York:

> "... most hunters cannot consistently distinguish males from females or adults from sub-adults. The experienced hunter is normally accurate in identifying large males, about 10% of the population. For the remaining 90%, it's a crapshoot. In 13 years of black bear kill data gathered in Colorado prior to 1992, when hounds and baiting were voted out of use, there was no suggestion that hunters selected for males or even for larger bears. Why don't the data support the hunter's contentions?; [i.e. that if they are allowed to use bait and hounds they will get close enough for a good look before they shoot.]
>
> First, because it's so difficult to accurately judge the size, age or sex of a bear, even at close range. Bear biologists have learned this through the trapping and collaring of thousands of black bears in the last 25 years.
> Second, because the majority of bears killed over bait are not killed at ranges close enough – less than 30 yards – to allow a good look at the animal before shooting. Consider that more than three-fourths of bears killed over bait in Colorado were shot with rifles. Given the natural wariness of bears, how many rifle hunters will choose to hunt within 30 yards of a bait and risk scaring off bears, while holding a weapon that is effective at 300 yards?
> Similarly, chasing bears behind hounds is strenuous work, with only about one in five bears "started" eventually being treed. After hiking the mountains for several days, how many of today's hunters will walk away from a small or medium-sized bear in a tree? Moreover, most outfitters work on a 50/50 split; half up front, the second half payable only if you kill a bear. Consequently, there is strong financial motivation to convince every hunter that he is looking at a big bear in that tree.
>
> Third, and perhaps most important, all bears appear to be larger than they really are. This magnification is a result of their quiet movements, long hair and the mental images people carry of the power of bears. The adrenaline rush of being close to a bear in the wild has a way of clouding our vision." [emphasis added]

38. I agree with the following observations of Dr. Elowe (in another paper published by him):

> "It is very difficult, even for very experienced observers, to judge the size of a bear in a tree. Generally, the difference between a large bear and a small bear is discernable, but finer resolution is tenuous. An exceedingly large bear probably can be assumed to be a male, but it is impossible to tell whether a mid-sized solitary bear is male or female, regardless of hunters' claims. Selectivity also depends on the hunter's skill at catching bears since it is unlikely that the only bear treed all year would be passed up.
>
> Predictions of selectivity and restraint are impossible if guiding is legal by hounds- men. The economic incentive offered by a treed bear are usually too great for hunters not to take the bear. All except very small bears and, sometimes mothers with cubs are fair game; therefore, more bears and most sex and age classes may be taken by hounds- men who guide paying clients." [ibid page 107]

39. I also agree with the following statements from Tom Beck's book chapter:

> "Spring bear seasons, no matter how carefully designed, do result in the orphaning of some dependent cubs. Starvation or predation is their fate. Many nursing females will not bring cubs to a bait site until they have visited the site several times alone. Similarly, when pursued by hounds a mother will leave her cubs in one tree and go find another tree for herself. Consequently, even well-meaning hunters continue to kill nursing mothers during spring seasons." [ibid p.204]

40. A number of U.S. state biologists (from Colorado, Wyoming, California, Idaho and Montana) held a workshop discussion on the issue of "Sociological and Ethical Considerations of Black Bear Hunting." which was published (1995) on pages 119-131 of the Proceedings of the Fifth Western Black Bear Workshop, held February 22-25, 1994. The panel was moderated by Tom Beck. The panel discussed the "rationale against spring seasons" for black bear. I agree with the following published statements:

> "The biggest issue is the killing of nursing female black bears. There is no way to prevent this from happening in a spring bear season, either through hunter education or timing of season. Nursing female black bears often forage great distances from their cubs. When pursued by hounds, the female bear usually leaves the cubs in a tree and continues eluding the hounds. When she trees, she is seldom with her cubs. Many nursing females do not bring cubs to bait sites but will as they grow older and as

> she becomes less wary at the site. ... The conclusion of most biologists is that it is quite difficulty to accurately determine nursing status on free-ranging black bears, even when a bear is in a tree or at a bait. The appearance of nursing females in the kill each spring supports this notion. During the last year of spring bear hunting in Colorado, the number of nursing female black bears checked was within three of the number predicted based on breeding rate of females and total female kill. In other words, there was no selection [discrimination by hunters in order to try and kill only female bears without cubs] even with regulations prohibiting the taking of nursing females. Proponents of spring hunting usually point out that most states protect females with cubs by regulation. The regulation looks good on paper but is very difficult to implement in the field because of bear behaviour." [page 123]

41. I also agree with the following published comments with respect to the use of hounds or dogs during the spring season:

> "Hounds chasing black bears during the spring season may have a direct impact on the mortality of young bears during food-poor years. Most individual bears are losing weight during the spring period, and the expenditure of energy during one, or several, hound chases may be more than the bear can afford. Nursing females are separated from cubs and killed, leaving the cubs to starve to death or to be killed by predators. ... During spring seasons cubs can be caught on the ground by the hounds. When this happens the cubs are usually killed by the dogs. This occasionally does happen but the more common instance is that the cubs go to tree and their mother continues to run. Probably more cubs die from the female being killed than from hound packs. ... [ibid pages 129-130]

**Orphaning and Death of Cubs is the Inevitable Result of a Spring Hunting Season**

42. I also agree with the following observations of Tom Beck in a Paper entitled "Biological Considerations":

> "I will state unequivocally that there is no way to prevent some orphaning if one permits the spring season. Studies on hound hunting clearly show that female bears put their cubs up a tree and then continue running. Thus, when treed there, without cubs, rarely does the hunter suspect that cubs are elsewhere."

43. Tom Beck has also written:

> "The issue of orphaning cubs in the spring season is contentious and rightly so. The issue is not how many cubs die, but that any should die because of inappropriately timed hunting seasons".

I agree that cubs will die through orphaning caused by their mother being shot while they are still totally dependent on their mother.

44. In fact, based on my own work and that of others, it is clear that if a lactating mother bear (i.e. a mother bear with cubs born that spring) is shot in the period April 15 - June 15, this will inevitably result in all of her cubs dying. During this period the cubs have inadequate dentition for processing most solid foods, are too dependent on milk, have too little knowledge of food patch locations, and are too vulnerable to predation to adequately feed or protect themselves.

45. A study in Ontario conducted by George Kolenosky and Stewart Strathern of the Ontario Ministry of Natural Resources showed that cubs orphaned between April 15 and June 15 took 11 to 30 days to starve to death, and cubs these researchers saw a day or so before the cubs died were so weak they could not get up. No cub orphaned between April 15 and June 15 in that study survived longer than 30 days.

**Spring Hunting Results in More Females than Males being Killed**

46. It is inaccurate and misleading to argue that the spring bear hunt is beneficial in terms of trying to prevent more mother bears from being killed. One such argument is that the spring is the best time to hunt bears because it tends to target males.

47. On this issue I note that George Kolenosky, OMNR's former senior black bear researcher found in his study "The Effects of Hunting on an Ontario Black Bear Population"(1986) International Conference of Bear Research and Management, Volume 6, page 45, at page 49 that during the period 1969 to 1980 "85% of the female kills occurred during the spring versus 72% of males kills ... ".

48. He also found that in the latter part of this period i.e. between 1978 to 1980, when hunting had increased greatly in the study area, the portion of females in the kill

increased. He stated, “During the final two years, male numbers stabilized at approximately the 1978 level, but the female segment, because of increasing hunting pressure, continued to decline.” [ibid]. Thus, it appears that the portion of females in the kill in any season depends in part upon hunting pressure.

49. I also note that OMNR’s numbers with respect to percentage killed males versus females may contain a reporting bias which under-reports females and if this is the case, even more females would potentially be killed in the spring.

**Orphaning of Cubs is Well Documented in Ontario**

50. One of the clearest admissions that the Ontario spring bear hunt results in orphaning of cubs is contained in the Ontario government study entitled “Status of Black Bears Harvested in Wildlife Management Units 39, 41 and 42" by Ken P. Morrison, Wildlife Specialist, Great Lakes – St. Lawrence Forest, Science, Development and Transfer Branch, Ontario Ministry of Natural Resources, October 1996. One of the objectives of this Paper was to “determine the relative degree of potential cub orphaning caused by spring bear season and to estimate the amount and population impacts of the potential mortality of cubs orphaned during the spring harvests.”[page 5]

51. I note that the statistics as to the degree of orphaning were based on hunter self-reporting through “Provincial Mail Surveys” tabulated by the OMNR annually. As noted by OMNR itself, these hunter provincial mail surveys are substantially biased towards over-reporting the number of male bears killed versus female bears, as was also found to be the case in a Michigan study conducted by Drs Albert W. Erickson, John Nellor, and George A. Petrides (1964). “The Black Bear in Michigan”. Michigan State University, Agricultural Experiment Station Research Bulletin 4. (102 pages). Accordingly, as OMNR’s estimates of the number of orphaned bears are determined based on the reported number of female bears, the estimate of cubs orphaned in the Morrison study is likely substantially less than the actual number of orphaned cubs that result from the spring bear hunt.

52. Morrison also states in this report that:

> "Based on McConnell Lake data, 70% of cubs orphaned during spring season died before one year of age compared with 20% mortality when not orphaned then (Obbard personal communication). Thus, net (potential) cub mortality due strictly to spring orphaning would result in a 50% increase over natural mortality alone. Annually, potentially one-half of the cubs from these harvested mature females would die before age one due strictly to spring orphaning." [page 7]

53. While this is clearly a recognition by the Ministry of Natural Resources that the killing of mother bears in spring results in orphaning which in turn results in cubs dying, again, this underestimates the number of cubs that would die.

54. Based on my 30 years of black bear studies, I know that cubs are completely dependent on their mothers until at least age 5½ months. This fact leads to the inevitable result that all cubs born in January to a mother shot in the period April 15 - June 15 will inevitably die.

55. Although Morrison estimates that in this study area "orphaning represented an average increase of 3.8% to the average unadjusted annual provincial mail survey harvest", for the reasons stated above this number is unreliably low. Nevertheless, I agree with Morrison when he states:

> "This additional mortality must be considered as additive since these 30 cubs likely would not have died if there had not been a spring season." [page 15-16]

56. In light of the Ontario government's 1999 decision to eliminate the spring bear hunt, it is of relevance to note that such action has been recommended by Ontario government biologists since at least 1971. For example, A 1971 report by E. F. Mantle, an Ontario Department of Lands and Forests, Wildlife Management Officer, entitled "The 1971 Bear Hunt, Sault Ste. Marie District" acknowledged that the spring bear hunt leads to orphaning. As he put it:

> ".... such females as are taken during the spring bear hunt may well leave orphaned cubs which probably perish subsequently."[pages 7-8]

He also observed:

> "Perhaps the time has come to give serious consideration to establishing a fall season rather than a spring season. Initially, the best approach may be merely to emphasize fall bear hunting...
>
> It is our present opinion that a September bear season or possibly one extending into October would be preferable to the present spring season. It would make more sense biologically and we would largely escape the litter problem resulting from baiting practices." [page 8]

57. The following is a description of the Ontario spring bear hunt taken from a report by L. Penny, Biologist, Fish & Wildlife Supervisor, Department of Lands and Forest, August 1971 "The Bear Bait Problem, Chapleau Forest District" which describes the Ontario spring bear hunt of that time, which description I understand still is applicable in Ontario today:

> "The [spring bear] hunt which is promoted by our tourist operators is essentially a 'still hunt' centering around 'bear baits'. The 'baits', hereafter referred to as piles of garbage, are set out over Crown and private lands. Some 20 to 50 feet away from the garbage a crude blind is constructed. The hunter sits in this blind and hopes that a bear will come to feed on the garbage. When this happens he places his gun on a gun rest, aims and shoots it six or seven times. He then continues to sit in his blind until the operator returns to skin out the bear for him. The charge for this thrilling style of hunt is $50.00 to $100.00 per week, depending on the services provided." [Note that the cost would have gone up.]

58. In a 1974 report by J. N. Ashdown, Conservation Officer, Ontario Ministry of Natural Resources, "The 1974 Bear Hunt, Blind River District", the Conservation Officer makes the following observations under the heading "The Bear Harvest – Spring Versus Fall":

> "Should we have these two seasons for bear? The common cry is against shooting females in the spring, leaving orphan cubs to fend for themselves when they may not be able to."

59. In 1982 the Ontario Ministry of Natural Resources formed a Black Bear Working Group, which produced a report entitled “A Review of the Major Issues of Black Bear Management in Ontario”. The Ontario Black Bear Working Group was comprised of MNR staff, including George Kolenosky, a respected bear researcher who I know. I have reviewed that report. One of the issues discussed is “the use of dogs for bear baiting”. Under the heading “Problem” the Paper states:

> “There is considerable concern expressed over the effects of using bear hunting dogs on other wildlife species, particularly in the spring.”

Under the heading “Background” the Committee states:

> “With the recent closure of the spring [bear hunting] season in some U.S. jurisdictions, more hunters are coming to Ontario to hunt with dogs as they have for generations at home. Many of these dogs have been extensively trained and bred for bear hunting and these displaced hunters are looking for a place to exercise their life-long pursuit. ... The use of dogs in the spring is a cause of concern regarding the disruption of wildlife.”

60. The report goes on to note that there is “public opposition, particularly in spring, to chasing females and cubs and young of other species”.

61. The report goes on to state that one of the disadvantages of allowing dogs for the spring hunt is that it “may separate sows from cubs”.

62. With respect to the potential of only allowing the use of dogs in the fall, the report notes two advantages:

> “·alleviates problem of dogs separating nursing female sows and cubs
> ·fewer orphaned cubs”.

63. With respect to the potential alternative “disallow the use of dogs”, one of the advantages stated is “alleviates problem of separating family groups”.

64. Under the alternative solution “have a pursuit season with no kill allowed” one of the stated advantages is “eliminates killing of sows with cubs”.

65. The report also discusses the issue of the "spring season" and states that the problem being considered is "should there be a spring season". The report lists certain "advantages" of such a spring season including "provides recreation when season for other big game are closed", but most importantly lists the following disadvantages:

"·increased orphaning of cubs

·potential overharvest because of the vulnerability of bears to hunters using bait

·some opposition to the spring hunt by the public who object to baiting, garbage, the use of dogs and the orphaning of cubs." [Section 4.1.1]

66. As one potential "solution" the report considers the option of maintaining the current spring hunt and promoting the voluntary protection of females with cubs.

In discussing that option the report notes that the advantages of this "solution" include:

"·may reduce some orphaning of cubs in spring" [Section 4.1.2]

67 The report then discusses another variation of a "solution" i.e. "maintain the spring hunt, to protect females with cubs by regulation".

One of the stated advantages of doing so is that this "eliminates objections resulting from orphaning of cubs".

68 The MNR in this report, however, recognized that there are three "disadvantages" to this approach of trying to protect females with cubs by regulation. These disadvantages are:

"·Could result in wastage since hunters may leave an illegally taken lactating female in the bush

·Would cause greater enforcement problems because hunters shooting lactating females would have to be charged if the law was to have any credibility

·forces a hunter to make a distinction between lactating and non-lactating females which is almost impossible under field conditions." [Section 4.1.3]

69 The facts and opinions set out above from these previous OMNR reports as to the negative effects of a spring bear hunting season are ones with which I am familiar and which, in my professional opinion and my opinion as a hunter, are relevant in considering whether the spring bear hunt should be ended.

70 In conclusion, the most important facts on this issue are:

- If a spring hunting season exists, mother bears will be killed, regardless of any legal prohibition to the contrary;
- Cubs of mother bears killed prior to June 15 will die, either from starvation or predation;
- The only effective way in which the orphaning and death of bear cubs can be prevented is to eliminate the spring bear hunting season.

Sworn before me at )
in the )
this 20th day of April, 1999 )
)
) Lynn L. Rogers
)
A Notary Public in and for )
the State of Minnesota )

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March 14, 2022