

**Press Release From Dr. Lynn Rogers and the Wildlife Research Institute Regarding the Findings of Fact, Conclusions of Law, and Recommendation, dated May 23, 2014, issued by the Office of Administrative Hearings.**

**May 27, 2014**

The Court's findings support the value of Dr. Rogers' research and his education of the public. About Dr. Rogers' research, the Court found that:

- “Dr. Rogers is currently studying, among other things, the effect that supplemental feeding is having on the lives of the bears. He is studying whether the supplemental feeding changes the bears' territory sizes, travels, diet, social organization, reproduction rates, cub survival, and hibernation activities.” (§ 89.)
- “Education of the public is important with respect to the well-being of bears. Survival of these animals is tied ‘more to human attitudes than knowledge of their biology.’” (§ 12.)
- “Other organizations link to the [Dr. Rogers' Wildlife Research Institute] website as a way to educate the public about bears.” (§ 121.)
- “Dr. Rogers was one of the first researchers to: (a) study the social organization of bears, (b) use radio collars to study a population of bears, (c) conduct a long-term study of bears, and (d) study teeth that were pulled from live bears to learn age and reproductive history.” (§ 56.)
- “[Dr. Rogers] believes that habituated and food conditioned bears are not dangerous, and that these bears can and will differentiate between humans who are a source of food and those who are not. Dr. Rogers teaches that people often mistake bear behavior evidencing mere curiosity for shows of aggression; he seeks to change that association by engaging in education-related activities. Dr. Rogers' beliefs may be correct. In time, our ever-evolving understanding of science will prove his views to be accurate, or not.” (Memo. p. 64.)
- “Dr. Rogers can continue to study bears in Minnesota. He can continue to feed bears and run Bear Field Study Courses at WRI to educate the public about these magnificent creatures. The already habituated bears may continue, for some period of time, to allow Dr. Rogers to walk with them, rest with them, observe them, and record data about them. The bears that currently feed at WRI will likely continue to do so as will their cubs and yearlings, perhaps through their adulthood. . . . If Dr. Rogers happens upon a bear in the woods, he is free to approach it and follow it as the bear allows. He can continue to offer the existing videotapes of den cam footage to schools and others for educational purposes.” (Memo. p. 69.)

About Dr. Rogers' use of den cams, the Court found that:

- “Cameras set up to capture the activities of bears in dens, known as ‘den cams,’ provide a valuable form of education to both the scientific community and to the public.” (§ 13.)

- “Educators have incorporated the den cams into school curricula. Classrooms in more than 500 schools located in over 30 states and several other countries viewed the live den cam footage prior to the winter of 2013-2014.” (¶ 119.)
- “In connection with this proceeding, the DNR refused to allow Dr. Rogers to stream den cam footage. The DNR has stated that it is concerned that den cams cause the public to become emotionally attached to bears.” (¶ 119, n.194.) “The inability to utilize den cams presents not only an obvious loss to Dr. Rogers’ work, but a loss to the public and to the scientific community as well.” (Memo, p. 69, n.429.)

About the North American Bear Center, the Court found:

- “There is broad agreement that the [North American Bear Center] creates a unique opportunity for public education regarding bears.” (¶ 136.) “The [Court’s] recommendation will have no legal effect on the continued operation of the North American Bear Center, which operates under permits different than the one at issue in the present case.” (OAH Press Release, dated 5/27/14.)

About the “public safety” issues raised by the DNR, the Court found that:

- “Although it is illegal for the public to feed bears in several other states, it is not illegal to feed bears in Minnesota, whether by hand, in troughs, or in any other manner.” (¶ 6.)
- “[R]easonable people can and do differ regarding whether the many habituated bears present a significant public safety concern in and around the community.” (Memo. at p. 65.) “[L]ong-term residents of Eagles Nest Township, some of whom feed bears on their property and others who do not, reported no changes concerning or difficulties with the bears in the midst of their community. These residents denied that there is, or has been, a problem with bears in Eagles nest Township and deny having any safety concerns related to bears.” (¶ 184.)
- In 2008, “Dr. Rogers asked three other researchers to review his research protocol: Dr. Jane Tate; Dr. Steve Stringham; and Dr. Terry DeBruyn. All three found that Dr. Rogers’ study presented no public safety issues.” (¶ 156, n.251.)
- “The Department’s records related to nuisance bear complaints are incomplete, inconsistent, and in some instances, inaccurate.” (¶ 146.)
- “As a result of substandard record-keeping, the DNR’s data is of minimal value with regard to conducting a comparative analysis of either the quantity or quality of bear-related incidents or nuisance bear complaints experienced by the public in Eagles Nest Township or elsewhere in Minnesota.” (¶ 147.)

About the DNR’s argument that Dr. Roger’s lack of publications supported denial of the permit, the Court found:

- “Because the DNR did not specify peer-reviewed publication as a condition in Dr. Rogers’ permit, it acted outside its legal authority by relying on this factor in its denial

determination. Therefore, Dr. Rogers' failure to publish his research in peer-reviewed literature does not provide the Agency with cause to refuse to renew the permit." (Memo. p. 63.)

However, Dr. Rogers disagrees with the Court's ultimate conclusion that the DNR met its burden of showing that it had cause to deny Dr. Rogers' permit to radio collar bears and use den cams.

First, nowhere in the Order does the Court state that the permitted activities (radio collaring bears and using den cams) create any kind of public safety issue.

Second, the Court's finding that Dr. Rogers needs a permit to collar bears is based, in part, on facts that do not appear anywhere in the record. Rather, the Court stated that it based its decision on its own assumptions.

Third, the Court's conclusions are based, in part, on legal analyses that were not raised by the DNR and are directly inconsistent with established Minnesota law.

For these and other reasons, Dr. Rogers is considering an appeal in the event of an adverse final decision by the DNR.