**NOTICE OF CLAIM**

TO: STATE OF WYOMING, GAME & FISH DEPARTMENT

STATE OF WYOMING, STATE LANDS AND INVESTMENT BOARD, BOARD OF LAND COMMISSIONERS

WYOMING STATE ATTORNEY GENERAL

CLAIMANTS: ROBERT CARDENAS

ASHLEY CARDENAS

SAVANNAH CARDENAS

BRAYLON CARDENAS

6740 SOUTH RIDGECREST DRIVE

CASPER, WYOMING 82601

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Wyo. Bar No. 5-1538 Wyo. Bar 5-2688

**FACTS**

I. PARTIES AND ENTITIES

The Claimants are residents of Casper, Wyoming. Robert Cardenas is a Casper native and has worked for the United States Postal Service for over 22 years. Ashley Cardenas is a second grade teacher at Lincoln Elementary school and has been employed there for over 11 years. Their children, Savannah Cardenas and Braylon Cardenas, are Casper residents. Savannah is currently a student at Casper College. Braylon is currently attending the University of Wyoming.

The Cardenas family was the owner of three beautiful St. Bernard dogs. They were named Brooklyn, Barkley and Jax. Brooklyn, Barkley and Jax were loved and treasured by the family. They were tragically killed in a trapper’s snares as detailed later in this claim.

The Wyoming Game & Fish Department is a State entity, an agency of the State of Wyoming, created and governed by Wyo. Stats., Section 23-1-401 et seq. In this claim, the Wyoming Game & Fish Department acted principally through its employee, who acted within the scope of his employment, Mr. Brian Olsen. Other Game & Fish employees directly involved with the Cardenas family were Mr. Aaron Kerr and Mr. Cody Bish, each of whom participated in the investigation of the deaths of Brooklyn, Barkley and Jax. Also involved and key in some circumstances was Janet Milek, Public Information Specialist. Other employees/agents of the Wyoming Game & Fish Department were also involved.

This claim is also presented to the Wyoming Board of Land Commissioners presently on an informational basis only. That is, Claimants are not making any direct claim against the Board of Land Commissioners, but since a significant basis for this claim is the assertion that trapping is not authorized by statute or regulation on lands owned by the State of Wyoming, the Board is included in the claim. Claimants have no present intention to make any claim for damages or otherwise against the Board of Land Commissioners. However, claimants would support, and perhaps participate, in future Board action to hold public hearings in the event changes in the Board’s Rules and Regulations to authorize trapping of any nature on State lands are contemplated.

This claim is also being presented to the Wyoming Attorney General due to the claim of unconstitutionality of a statute.

The factual content of this claim is accurate to the best current knowledge of Claimants and their counsel. The factual content is lengthy, but necessary for a full understanding of the nature of the claims made.

II. THE DEATHS OF BROOKLYN, BARKLEY AND JAX

Brooklyn, Barkley, and Jax were beloved St. Bernards owned and cared for by Claimants. The term “gentle giants” is often used in reference to large dog breeds; Brooklyn, Barkley and Jax were that and more.

Around 4:00 p.m. on Saturday, November 29, 2014, Brooklyn, Barkley and Jax went outside the Cardenas home for a typical run in adjoining fields. The Cardenas home is located on a high hilltop in the foothills of Casper Mountain. Immediately to the west of the home is a large tract of State-owned land. To the northwest is a small section of private land, bordered on three sides by more State Land. Further to the North and West are large sections of more State Lands. Wolf Creek originates above and through these lands. Brooklyn, Barkley and Jax loved to run free in open spaces and through foliage along the creeks. Members of the Cardenas often accompanied the dogs, on this evening they did not.

Brooklyn, Barkley and Jax were well accepted among the neighbors who lived near the Cardenas family. The dogs sometimes ran free, with our without human accompaniment, on the tracts of private and State lands to the North and West of Ridgecrest Drive. When the dogs were on their own excursions, they always returned home without incident, and always before dark.

November 29 was different. As the sun set, Barkley arrived home. As the three dogs always traveled together, something seemed amiss. The Cardenas family began calling for them. Bobby, Ashley and Braylon went out looking for Brooklyn and Jax. After about an hour of searching, Jax joined Bobby and Braylon, but Brooklyn remained missing.

The next morning the Cardenas family began a search for Brooklyn at first light. They combed all areas where the dogs often roamed, from open space to the thickets in the creek drainages. They were unsuccessful at locating Brooklyn.

The Cardenas family did not know the horrendous reality – a trapper had been in the area and set multiple snares on the State lands near the residences on Ridgecrest Drive.

Continuing through the day on Sunday, November 30, Ashley notified Metro Animal, the Natrona County Sheriff’s Department, and the Casper Police Department that Brooklyn was missing and seeking official assistance. Ashley posted a missing dog notification on Savannah’s Facebook page and also on the School District classified website in hopes someone might locate Brooklyn. The hours that had passed since Brooklyn failed to return home were agonizing to the family.

Meanwhile, Bobby and Braylon desperately continued the search outdoors. But they were not successful.

In response to pleas for help, calls came to the Cardenas family. Multiple sightings of St. Bernards were reported, but none was Brooklyn. A St. Bernard was picked up by Metro, but it wasn’t Brooklyn. The Cardenas family responded to every call and report of dogs that possibly could have been Brooklyn, but no lead was fruitful.

The following day, Monday December 1, Savannah received more notifications of possible sightings and generous offers of help from people to assist searching for Brooklyn. The Cardenas children did not return to school that day and spent the entire time in efforts to locate Brooklyn. Bobby and Ashley attended to their jobs with heavy hearts. That evening, a sighting at Nancy English park was reported and Savannah and Braylon drove to the area, searching. Bobby and Ashley did the same in a separate vehicle. With no success in locating Brooklyn hope was dwindling and desperation was strong.

Tuesday, December 2, found Bobby and Ashley again needing to fulfill their work responsibilities. Savannah and Braylon started the day searching and following leads in their car. Around 2:00 in the afternoon Savannah and Braylon decided to search on foot again. They were accompanied by Barkley and Jax, guided by the belief that the dogs would be able to assist finding their companion, Brooklyn.

As Savannah, Braylon, Barkely and Jax walked along a ridge line, Barkley ran ahead and a bit down the draw. The St. Bernards were typically very good responding to voice commands. But this time was different, as Barkley did not come back up the ridge after a brief time.

Savannah and Braylon followed down the draw and to their horror found Barkley’s body laying in some brush. It appeared he had broken his neck as he ran into/through the loop of a trapper’s snare. Savannah and Braylon frantically tried to free Barkley, hoping to be able to save or revive him. A couple years earlier, Barkley had been Braylon’s sixteenth birthday present and Braylon was beside himself trying to free Barkley from the snare, even to the point of injuring his hands in the effort to loosen the snare. Despite his best attempts and Savannah’s help, nothing could be done to spare Barkley from the snare.

Savannah called Ashley in a panic, announcing “he’s dead” and frightening Ashley into thinking something terrible had happened to Braylon. Savannah was hysterical at the time. Ashley immediately left her classroom; fortunately within a short time she understood that Braylon was alright, though Barkley was not. Ashley headed home and contacted Bobby on his mail route, which he left and went immediately home.

As Ashley drove home, she got another frantic phone call from Savannah. Jax was entangled in a snare. Nothing Savannah and Braylon tried would loosen the snare.

Savannah and Braylon were helpless to save Jax, and he died in their care with the snare around his neck.

When Savannah reported to Ashley that Jax was caught in a snare, Ashley called a neighbor, Jim Berryman. Mr. Berryman was a trapper. Ashley was hopeful Mr. Berryman could go to the scene and help Savannah and Braylon.

Within a short time, Bobby Cardenas arrived home and ran to the location of Savannah, Braylon, Barkley and Jax. Ashley arrived soon after. They found Braylon rolled up in a ball, crying and utterly distraught at the loss of their dogs. Savannah wandered the site, crying, apologizing over and over that she had been unable to do anything to save the dogs.

Within a few minutes, Bobby got a call from the neighbor, Jim Berryman, who said he had just located Brooklyn. Brooklyn had also been caught in a snare. The snare on Brooklyn surrounded her snout – it was obvious that Brooklyn had died a very slow and unpleasant death. She was just across a fence line into State Lands.

Based on mapping and location data provided by Game & Fish, Brooklyn’s death occurred near a fence line separating State Lands from private property. She was approximately 450 yards from homes in the area. The death scene for Barkley and Jax was perhaps one-third mile to the west, again on State lands. According to locational information generated by Game & Fish, all three dogs died on State Lands leased to Susan Elizabeth Asbell. Immediately to the west of the Asbell lease, the State Lands were leased to Lorraine Bebout, and it is unclear if these lands were involved.

III. TRAPPING IS NOT AUTHORIZED ON STATE LANDS

Wyo. Stats., Section 36-2-101 establishes the Board of Land Commissioners and authorizes the Board to “have the direction, control, leasing, care and disposal” of all State Lands. Section 36-2-107(a) confers “the power and authority to promulgate and adopt rules and regulations not inconsistent with the laws of the state, as it may from time to time deem necessary in the direction, control, disposition and care of all state lands and to recognize the fiduciary duties of the state land office.”

The State Land Board has adopted comprehensive rules and regulations concerning State lands. Chapter 13 of the Rules and Regulations of the Board of Land Commissioners covers “Hunting, Fishing and General Recreational Use” of State Lands. Trapping is not mentioned in this, or any other, regulation of the State Land Commission.

Hunting is allowed. Specifically, “The Board hereby extends to the public the privilege of hunting and fishing on legally accessible state lands, unless otherwise closed by direction of the Board.” Ch. 13, Section 3. “This privilege is to fish in any streams, lakes or ponds, and to hunt, pursue and kill game animals, game birds and migratory birds on said lands under applicable state and federal hunting and fishing laws and regulations.” Ch. 13, Section 3, emphasis added.

Hunting “game animals, game birds, and migratory birds” is authorized on State lands. State Land Commission rules and regulations do not define these categories of animals, but reference is made to other state laws, which include Game and Fish statutes.

Notably absent from Land Commission rules is any mention of “fur bearing” or “predatory” animals. These are the animals that may be trapped in Wyoming. “Game animals,” “game birds,” and “migratory birds” are not animals which can be trapped.

Animals which can be hunted are outlined in Game and Fish Statutes: “Big game animals” are defined as antelope, big horn sheep, deer, elk, moose or mountain goat. Wyo. Stats., Section 23-1-101(a)(i). “Small Game Animals” include cottontail rabbits, snowshoe hare, and fox, grey and red squirrels. “Trophy Game Animals” are black bear, grizzly bear, and mountain lion. “Game Birds” include grouse, partridge, pheasant, ptarmigan, quail, wild turkey and migratory game birds. Wyo. Stats., Section 23-1-101(a)(iv). “Migratory Game Bird” means “all migratory game birds defined and protected under federal law.” Wyo. Stats., Section 23-1-101(a)(vi). These five categories of animals are those which the Board of Land Commissioners authorizes to be hunted on State lands.

Absent from Land Commission rules that authorize hunting are “Predatory Animals,” defined as “coyote, jackrabbit, porcupine, raccoon, red fox, skunk or stray cat.” Wyo. Stats., Section 23-1-101(a)(vii)(A). “Furbearing animals,” defined as “badger, beaver, bobcat, marten, mink, muskrat, or weasel” Wyo. Stats., Section 23-1-101(a)(iii), are also not specified in Land Commission rules.

Also absent from Land Commission rules is any authorization to “take” animals on State Lands. So while the word “take” as defined by Wyo. Stat. Section 23-1-102(vii) provides that to “take” includes “hunt” and “trap,” the word “hunt” is not defined to include “trap” in either Land Commission or Game and Fish statutes, rules or regulations.

Stated more simply, one can “hunt” specified animals on State land. One cannot “take” or “trap” on State lands.

Neither statutes nor rules and regulations authorize trapping on State Lands. Any trapping on State Lands, therefore, is not “legal.” Claimants assert that the traps which killed Brooklyn, Barkley and Jax were not “legal.”

IV. INVESTIGATION OF DOGS’ DEATHS BY THE SHERIFF’S DEPARTMENT

Devastated at the loss of their dogs, the Cardenas family returned home. Ashley called the Natrona County Sheriff’s Office to report what had happened. Ashley was hopeful that action could be taken in light of the tragedy.

According to the Sheriff’s Office report, Corporal Robert Nelson arrived and made contact with Robert Cardenas about 7:14 p.m. on December 2, 2014. Corporal Nelson was advised by Bobby of the events which had taken place. Corporal Nelson’s report indictes he explained that “if the snare trap lines were placed in a legal manner there was nothing criminal that could be done.”

Corporal Nelson and Robert went to the home of Jim Berryman, where the bodies of the St. Bernards were held. At that time, Mr. Berryman advised Corporal Nelson that he, Berryman, was a trapper himself and that he had removed the snare from one of the dogs [Brooklyn]. According to Corporal Nelson’s report, Berryman advised him that “when he cut one of the snares off the dogs he did not see any identification on the snare to indicate an owner of the snare as required by state law.” Corporal Nelson looked at the dead dogs and noted that one [Brooklyn] had been caught around the nose.

Corporal Nelson made contact with Game & Fish. Game warden Aaron Kerr responded to the contact and arrived at Mr. Berryman’s home. Warden Kerr told Robert Cardenas that he would return in the morning and go to the scenes of the dogs’ deaths.

According to Corporal Nelson’s report, Warden Kerr advised that they would go to the locations where the dogs were caught “to determine if any Game and Fish violations occurred.” Corporal Nelson concluded his investigation by taking photographs and noting the status as “Referred to Wyoming Game & Fish.”

V. INVESTIGATION BY GAME & FISH

The following day, December 4, 2014, Wyoming Game & Fish dispatched warden Cody Bish to the scene. Accompanied by Robert Cardenas, they went to the sites of the St. Bernards’ deaths. Multiple snares were located, especially in the vicinity of Barkley’s and Jax’s deaths. Photos were taken. It was confirmed by Robert Cardenas that Mr. Berryman was correct – the snare that killed Brooklyn was not tagged.

Wyo. Stats., Section 23-2-303(a) requires that “all traps and snares used for furbearing or predatory animals shall be permanently marked or tagged with the name of the owner or the identification number assigned to the owner by the department.” The snare that killed Brooklyn violated this provision. Pursuant to Wyo. Stats, Section 23-2-303(d), violation of that section is a low misdemeanor, which pursuant to Wyo. Stats., Section 23-6-202(a)(v), is punishable by a fine of up to $1000.00 and up to six (6) months in jail. The snare that killed Brooklyn was not “legal.”

In spite of the tag violation, Warden Bish declined to take any action and told Robert Cardenas that he would not issue a citation for that violation. Later, in intra-agency communications concerning a public records request from Claimants’ counsel, Warden Bish stated “After investigating the trap lines there were no violations documented so I made up no case report on it.” Similar language was used by Warden Kerr in the same context, saying “There was no violation documented so there is no CMS report on the trapper.” Both “no violation documented” statements may be true to the extent Game & Fish personnel didn’t document the violation – but the tagging violation did occur.

In line with not “documenting” information, Game & Fish wardens also apparently failed to document compliance or non compliance with Wyoming Statutes and Game and Fish Trapping Regulations which provided that “All snares used for furbearing or predatory animals shall be equipped with a break-away device . . . and shall release at two hundred ninety-five (295) pounds of pressure or less; and the loop size shall not exceed twelve (12) inches in diameter measured from side to side.”

Claimant Robert Cardenas asserts that Warden Bish did not measure any of the loop sizes of snares observed, but that he [Cardenas] observed snares that were obviously looped larger than 12 inches. No measurements were taken of the break-away forces needed break a snare away. For at least three of the snares, the force required was greater than could be generated by large St. Bernard dogs.

In sum, Game & Fish noted that there was a failure to tag violation and did not document or investigate the size or break-away characteristics of the snares. The snares were not authorized to be on State lands. In spite of these investigative failures, Game & Fish engaged in a substantial effort to convince the public, governmental officials, and the media that the snares that killed Brooklyn, Barkley and Jax were “legal.”

VI. TRAPPER IDENTIFICATION, ANONYMITY, AND NON-DISCLOSURE

Wyo. Stats., Section 23-2-303(a) provides that if a snare is properly tagged [as noted above] then “Any identification number attached to a trap or snare pursuant to this subsection is solely for the use of the department or appropriate law enforcement officers and is not a public record for purposed of W.S. 16-4-201 through 16-4-205.” Claimants challenge the constitutionality of this provision, as noted below. But even if we assume the provision is proper, the snare which killed Brooklyn was not tagged, the identity of the trapper who set that snare is not protected, and that trapper is assertedly guilty of a criminal misdemeanor.

Claimants have sought to obtain the identity of the trapper but Game & Fish, principally through Brian Olsen, refuses to provide it. Counsel for claimants has made multiple efforts to obtain the identity of the trapper, all efforts have been denied by Game and Fish and the State of Wyoming.

On July 22, 2015, counsel for Claimants met with Brian Olsen to discuss the Cardenas matter. The following day, counsel followed up on the meeting with an email to Mr. Olsen. Part of that email said:

I’d like you to reconsider your decision not tell me the identity of the trapper involved. You and I disagree about the meaning of Wyo. Stats. Section 23-2-203. It says you are not to disclose the identity of a trapper associated with a number tag on a trap or snare. Setting aside the argument about which one of us is right about the meaning of the statute, I remind you that the snare that killed Brooklyn was not tagged. But you know the trapper who set that snare. There is no statutory bar to telling me who the trapper is. I’d appreciate getting that information from you as soon as possible. [Emphasis added.]

I also understand that the trapper involved had a fur bearing trapping permit. Please correct me if I’m wrong in that understanding.

Following up July 28, 2015, counsel for Claimants wrote to Mr. Olsen and made the following request:

Finally, though we haven’t talked about it before – did Game and Fish take any measurements of the settings on the snares – either those that killed the St. Bernards or those left in the field? I am interested in the break away settings for the snares. I am also interested in the loop sizes of those still in the field. And, related to this, did Game and Fish take any photos of the snares or retain any of the snares?

On July 31, 2015, Mr. Olsen replied the trapper did have a fur bearing license for 2014. He did not provide the name of the trapper. He stated information on the size of the snares might be in investigative materials generated.

After a lengthy process of a public records request, Game and Fish has not provided any information about the loop size or break-away nature of the snares. Photos have been provided. The identity of the trapper has not been provided, despite one last plea for that information made by Claimant’s counsel to Mr. David DeWald of the Wyoming Attorney General’s Office:

I have also repeatedly asked for the identity of the trapper involved.  Mr. Olsen refuses, based on a statute which says Game and Fish cannot say which trapper is associated with a particular number on tags on traps.  I disagree with the notion that Game and Fish can shelter the identity of the trapper on this basis.  And I have pointed out to Mr. Olsen that the trap that killed one of the St. Bernards was not labeled with the appropriate tag – but Mr. Olsen and other Game & Fish personnel know who the trapper was independent of the tag.  I am making my final appeal to you for this information, and a failure to disclose it will be considered an inappropriate obstruction of process by Game and Fish.

At the time of preparation of this Notice, over 16 months since the deaths of Brooklyn, Barkley and Jax, and in spite of numerous requests by counsel for Claimants, the identity of the trapper remains unknown.

VII. THE TRAPPER CONTACTED ROBERT CARDENAS

Mr. Brian Olsen of Game & Fish appears to have brokered a contact by the trapper with Robert Cardenas.

A few days after the deaths of the dogs, the unidentified trapper called Bobby Cardenas but did not identify himself. Mr. Cardenas’ recollection of the call is the trapper expressed regret over what happened. The trapper offered to pay the Cardenas family for the value of the St. Bernards. Robert Cardenas was reluctant to accept the offer; however, he viewed the trapper’s call as an effort to do the right thing.

Bobby Cardenas told the trapper that he would consider the offer but that the trapper needed to call back and speak with Ashley, Savannah, and Braylon Cardenas and share his regret at what had happened with them as well. The trapper agreed to call back later in the day to express himself to the rest of the family.

The trapper never called back.

VIII. GAME & FISH POST-DEATH ACTIONS

Almost immediately after the deaths of Brooklyn, Barkley and Jax, Wyoming Game & Fish engaged in a course of action that might generously be termed “misinformation.” Rather than complete a thorough investigation, the deficiencies of which are noted above, Game & Fish embarked on a public effort spearheaded by Warden Brian Olsen to spread misinformation that the snares set and trapping by the anonymous trapper were “legal” and the dogs’ deaths were simply “unfortunate.”

During this time of mourning for Claimants, public comments and social media involvements were guided, in part, toward a “blame the victim” modality by Game & Fish public activities. While many expressed sadness at the loss of the dogs and exasperation that snares could be set so near residential areas with no notice, others, apparently fueled by misinformation that the snares were legal, added to Claimant’s grief with blameworthy comments.

As early as 10:05 a.m. on December 4, 2014, Janet Milek, Public Information Specialist of Game & Fish distributed an email that stated:

As you may have heard, yesterday there were three dogs killed in snare traps near the base of Casper Mountain on State Land. I wanted to let you know if you get any questions please refer people or media to myself at 233-6404 or 258-7602. This involves a review of legality of the trapping incident and people will be looking for Game and Fish comments, so media and the general public may be watching our personal social media as well as talking to us. Please be aware of this sensitive situation and let me know if you have any concerns. [Emphasis added.]

No documentation of a review of the legality of the snaring has been disclosed. Game & Fish did not determine, which could have been done through a simple review of Land Commission Rules and Regulations and Game and Fish statutes and regulations, that trapping is not authorized on State lands. Game and Fish did not disclose that its investigators failed to measure the size of the snare loops involved and did not test the break-away features of remaining snares. Game & Fish did not disclose that the snare that killed Brooklyn did not comply with statutory tagging requirements and likely constituted a misdemeanor.

Rather, Game & Fish publicly and repeatedly stated that the snaring was “legal.” On December 6, 2014, the Casper Star Tribune published and article headlined “Traps that killed 3 dogs were legal.” The story quoted Brian Olsen as saying “The traps were set in accordance with all the Wyoming laws and regulations, including the trap locations and size of snares.” “The traps were legally placed.” To date, in spite of requests for production of investigative materials, no data verifying the size of snares has been made available. And the traps were not “legally placed.”

This was not the only public misinformation that was disseminated by Game & Fish. A K2 Television broadcast/internet posting was headlined “Game & Fish Official: Owner of Traps ‘Devastated Over Dogs’ Deaths.” Content included the following statements attributed to Brian Olsen: “The trapper did nothing wrong.” “After reviewing it, he’s done everything according to Wyoming’s Laws and Regulations.” “It’s hard to blame somebody when it’s such a bad, unfortunate situation.”

A Star Tribune internet article dated December 5, 2014, bore the headline “Traps that killed three St. Bernard dogs near Casper were legal.” An internet posting from Channel 13, KCWY, bore the headline “Snare Traps That Killed 3 St. Bernards Were Completely Legal.” The content began with “Department representatives say they didn’t have to open an investigation into what they are calling a rare situation. The say the trapper did everything correctly and legally and say he is completely devastated.” Brian Olsen is quoted as saying “The Wyoming Game and Fish Department did not find anything illegal going on with the trapping activity in this situation.” Mr. Olsen apparently informed KCWY that “the snare traps in this case were registered with the department,” and is quoted as saying “The traps sizes, locations, devices were all of legal compliance with the regulations.”

The KCWY report goes on to quote Public Information Specialist Janet Milek as saying “Had there been any violations yes there would have been charges brought against the individual but in this case there was nothing wrong.” [Robert Cardenas contests this and asserts that he was adamant that the trapper be cited for failure to have the snare that killed Brooklyn, but the Warden refused.]

These are examples, not a fully comprehensive list, of public comments made by Game & Fish representatives that falsely stated that the snares were legal, that the trapper did nothing wrong, and that trapping was authorized in that location. Documents produced by Game and Fish and attributed to Janet Milek include a spreadsheet chart of December 2014 and January 2015 Media Reports that chronicle ten (10) television, radio and newspaper events about trapping. At the bottom of the January chart is a note which says “can’t remember all trapping interviews, info not recorded, probably around 30 – 40.”

Thus, Game & Fish was providing misinformation about legality within a day or two of the dog’s deaths. That continued for weeks. The impact of that misinformation campaign on the Cardenas claimants was devastating, and added to their understandable grief at losing their loved animals. But there is more.

On December 8, 2014, Janet Milek circulated an email citing the statute which purportedly barred the release of the trapper’s name – but without reference to the fact that Brooklyn’s lethal snare was not tagged as required.

Calls for review of trapping regulations by Casper City Council members were reported in the December 9, 2014, Casper Star Tribune. The reporter for the story was denied access to the trapper’s identity on the basis of the statute discussed above.

On January 12, 2015, or earlier, plans were made by Game & Fish to contact selected Wyoming State legislators. Brian Olsen offered to discuss trapping laws and policies with those legislators. On the same day, Brian Nesvik of Game & Fish wrote to department superintendents, exhorting them as follows:

If any of you are contacted by legislators or NGO’s concerned about the trapping law, please contact Brian, Tim, Renny or I before responding so we can ensure a consistent message and uniform interpretation of the legal sideboards important in addressing this issue. If you hear rumblings of potential legislation, please let us know. [Emphasis Added.]

The “consistent message” was contained in a summary sheet of “talking points” employed by Game & Fish. Though not dated, it appears these “consistent message” points for discussion were prepared in advance of meetings with the Casper City Council and the Natrona County Commissioners held January 6 and 13, respectively. The following discussion points were included, and were, at best, incorrect:

This was an unfortunate situation.

As we reviewed this situation, the traps were set in accordance with all of Wyoming’s laws and Wyoming Game and Fish Commission regulations, including trap location, trap identification, use of breakaway devices and snare anchors. [Trap location on State lands is not authorized.]

State of Wyoming School Trust Lands are open for multiple use and are administered by the Office of State Land and Investments and the Board of Land Commissioners. These lands are open to hunting, fishing, trapping, energy development, livestock use, biking, hiking, etc. [Emphasis added. Trapping is not specified in the regulations, as noted above.]

State law requires that the name of an individual trapper is kept confidential and cannot be released to the public. [Only if a snare or trap is properly tagged.]

A review of a tape recording of Brian Olsen’s presentation to the Natrona County Commissioners discloses that Mr. Olsen again perpetuated the misconception that Claimants and the public were not allowed to learn the identity of the trapper. Mr. Olsen said words to the effect of “according to Wyoming Statutes the trapper’s name is not available to the public” but did not say that anonymity is afforded only to properly tagged snares.

Mr. Olsen also represented to the County Commissioners that the trapper had “legal access” to the land. This was, again at best, a misrepresentation. Trapping is not authorized on State Lands. While trapping has occurred on such lands, there have been provisions in State Grazing leases that furbearing trapping cannot occur without the permission of the lessee and authorization from the director of the land commission. Even if trapping was authorized by Land Commission rules, lessee permission and Director approval was not obtained by the trapper in the Cardenas tragedy.

Counsel for Claimants personally visited the offices of the Land Commission twice; the second visit was with Mr. Ben Bump, who is the Assistant Director, Field Services Division, Office of State Lands and Investments.

One purpose of counsel’s first visit with other personnel was to find out if the trapper involved had lessee or Commission approval. Mr. Bump was out at the time but responded to an email sent on August 5, 2015, that he recalled no permission given for the Cardenas trapper; that he would review notes and confirm the next week. On August 12, 2015, Mr. Bump confirmed that he “just reviewed my notes and confirm what I previously stated in my email.” Thus, there likely was no lessee permission and definitely no Land Commission approval for the Cardenas trapper – even if one assumes that trapping on State lands is authorized.

A request to the Lands Commission for further information was made by Claimants’ counsel in early 2016. One response from Mr. Bump included the following:

To my knowledge, our agency, and I, became aware of the incident approximately December 15, 2014. It is my recollection that during that week, Brian Olsen contacted me to inform me of the incident and to inquire as to the status of any trapping permissions given on the state trust lands and followed up by sending me an email containing the location of the incident and a map.

From Mr. Bump’s correspondence, it is clear that Mr. Olsen was asking, around December 15, 2015, about permission to trap. No documentation that Mr. Olsen was ever informed that permission existed was produced. In spite of this, Mr. Olsen made multiple public representations to the effect that the location of the traps was legal.

Counsel for Claimants also asked Mr. Bump for any information that would disprove the statement that “there is no statute or rule or regulation which authorizes trapping of any nature for fur bearing or predatory animals on lands owned by the State of Wyoming.” Mr. Bump’s response was “No documentation was discovered.” Clearly, as detailed above, trapping is not authorized on State Lands.

Likely due to the Cardenas incident, but clearly still not “legal” or authorized, the new 2016 Wyoming Game and Fish Commission Furbearing Animal Hunting or Trapping Season Regulations booklets reflect a significant addition concerning trapping on State Lands. While still legally incorrect, those regulations now provide that: “TRAPPING ON STATE LANDS. Written permission from the Director of the Office of State Lands and Investments is required prior to trapping on any state lands.” This is a partial acknowledgment by Game & Fish that the Cardenas trapper was not “legal,” and that multiple representations subsequent to the Cardenas dog deaths to that effect were wrong.

**LEGAL CLAIMS THAT WILL BE ASSERTED**

I. THE TRAPPER ANONYMITY STATUTE IS UNCONSTITUTIONAL

Wyo. Stats, Section 23-2-303, insofar as it grants anonymity to trappers who tag their snares, violates both the United States and Wyoming Constitutions. It creates a special class of people – trappers who place a tag on traps or snares – and grants them anonymity which prevents the public from ever knowing any wrongdoing by the trapper. There is no socially justifiable rationale for granting trappers immunities that flow from this provision. The Cardenas family has gone for more than 16 months without knowing the identity of the person who set illegally placed and unconfirmed sized/weighted snares which killed their dogs. Until the trapper’s name is divulged, the Cardenas family has been denied its constitutionally guaranteed right of access to the Courts.

Claimants will assert that the anonymity provision of the statutes violates Federal and State equal protection, due process and access to courts provisions of the Constitutions. As applied – with Game & Fish refusing to disclose the identity of the trapper for all three (3) snares, it protects criminal acts by trappers and denies constitutional rights of persons in the position of Claimants who are entitled, as victims of crimes, to see justice served.

Claims for violations of civil rights pursuant to Federal Civil Rights provisions, Section 1983, will be asserted. Violation of Wyoming Constitutional provisions, including but not limited to, Article I, Sections 2, 6, 8, and 34, concerning equal rights, due process, access to courts, and uniform operation of laws, respectively, will be asserted.

II. THE UNTAGGED SNARE

Failure to disclose the identity of the trapper on the basis of the anonymity statute for the snare which was not properly tagged will be asserted as a violation of Claimants’ rights as noted above. It will also be asserted as an aspect of civil conspiracy under State law and a violation of Federal Civil Rights, section 1988, concerning conspiracy. Claimants will assert that the refusal to disclose the identity of the unmarked snare which killed Brooklyn violates Wyoming Criminal Code provisions found in Wyo. Stats., Section 6-5-107, “Official Misconduct,” and Section 6-5-202 “Accessory after the fact.”

Claimants will contest any claims of qualified privilege made by Game & Fish personnel on two primary grounds. First, that it is not outside the scope of a Game & Fish peace officer to have access to, and understanding of, Land Commission Rules and Regulations which did not authorize trapping. Second, that Game & Fish regulations should be understandable to Game & Fish personnel.

III. CLAIMS AGAINST THE TRAPPER

Once the trapper’s identity is disclosed, multiple claims against him will be made. These will include, but not be limited to, damages for the deaths of Brooklyn, Barkley and Jax, emotional distress damages in the first instance for Savannah and Braylon associated with the experiences of Barkley’s and Jax’s hideous deaths and in the second instance on behalf of Robert and Ashley, who came onto the scene and witnessed both their dogs, and more particularly, the distress of Savannah and Braylon. Claims against the trapper will also include violation of his promise to Robert Cardenas to compensate for the loss of the St. Bernards and his promise to communicate with Ashley, Savannah, and Braylon.

IV. FURTHER CLAIMS AGAINST THE WYOMING GAME AND FISH DEPARTMENT, BRIAN OLSEN AND JANET MILEK

Claimants will assert Federal and State Constitutional violations of due process and equal protection for the devastating impact the misinformation campaign had on them by creating a false public impression that the trapper was guiltless. Claimants will assert that the impact of this public misinformation campaign was to violate their constitutional rights to be secure in their lives and enjoy the protections of lives of liberty, justice, and enjoyment of life.

Claimants will assert that there is no immunity from claims based on Sections 1983 or 1988 of federal civil rights laws. Claimants will further assert that Mr. Brian Olsen is amenable to Wyoming State claims insofar as he acted in a peace officer role as outlined in Wyo. Stats., Section 7-2-101.

Claimants will assert that the multiple actions of Mr. Olsen and other Game & Fish personnel constituted a repeated pattern of misconduct which is sufficient to establish that misconduct as an official policy of the Game & Fish Department. As such, Claimants will assert that the Game & Fish Department is also responsible to them for their damages.

V. DAMAGES

Claimants acknowledge Wyoming law as not authorizing a claim for general damages in a civil action for a dollar amount to be stated and will defer to the Court and Jury for that determination. The claim will be in excess of the jurisdictional limits of the District Courts of the State of Wyoming and or the United States District Court for the State of Wyoming. Once the trapper’s identity is disclosed, the amount of special damages claimed will be disclosed.

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Gary L. Shockey

Counsel for Claimants

**ACKNOWLEDGMENTS BY CLAIMANTS**

Separate, individual acknowledgments in the form suggested by statute are attached as executed by each claimant individually.