

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

CASCADIA WILDLANDS, WILDEARTH  
GUARDIANS, KETTLE RANGE  
CONSERVATION GROUP, THE LANDS  
COUNCIL, and PREDATOR DEFENSE

Plaintiffs,

v.

ROGER A. WOODRUFF, in his official  
capacity as the Washington State Director for  
USDA-APHIS Wildlife Services; MICHAEL  
BODENCHUK, in his official capacity as  
Acting Director for the Western Region of  
USDA-APHIS Wildlife Services; ANIMAL  
AND PLANT HEALTH INSPECTION  
SERVICE-WILDLIFE SERVICES, an agency  
of the United States Department of  
Agriculture; and UNITED STATES  
DEPARTMENT OF AGRICULTURE, a  
federal department.

Civil Case No.:

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

1. Plaintiffs Cascadia Wildlands *et al.* respectfully file this suit challenging the actions of Defendants Roger A. Woodruff, *et al.*, whose authorization of the “Gray Wolf Damage Management in Washington” program (“Wolf Damage Management”) is unlawful, and otherwise arbitrary and capricious.

2. This is a civil action for declaratory and injunctive relief, arising under the Administrative Procedure Act (APA), 5 U.S.C. §§ 701 *et seq.*, and alleging violations of the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.*

3. Plaintiffs seek a declaration that Defendants’ authorization of the Gray Wolf Damage Management in Washington program violated federal law and is otherwise arbitrary and capricious.

4. Plaintiffs additionally seek injunctive relief to redress the injuries caused by these violations of the law.

5. Should Plaintiffs prevail, Plaintiffs will seek an award of costs, attorneys’ fees, and other expenses pursuant to the Equal Access to Justice Act, 22 U.S.C. § 2412.

### **JURISDICTION AND VENUE**

6. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (federal question), 1346 (United States as a defendant), 2201 (injunctive relief), and 2202 (declaratory relief). The current cause of action arises under the laws of the United States, including the APA and NEPA. An actual, justiciable controversy exists between Plaintiffs and Defendants. The requested relief is proper under 28 U.S.C. §§ 2201 & 2202, and 5 U.S.C. §§ 705 & 706.

7. Venue in this court is proper under 28 U.S.C. § 1391 because all or a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district. The

1 lead Defendant's office is located within this judicial district. The Environmental Assessment  
2 (EA) at issue in this litigation was prepared within this judicial district.

### 3 **PARTIES**

4 8. Plaintiff CASCADIA WILDLANDS is an Oregon non-profit organization with  
5 approximately 12,000 members and supporters throughout the United States, including many  
6 who reside in the State of Washington. Cascadia Wildlands educates, agitates, and inspires a  
7 movement to protect and restore Cascadia's wild ecosystems. Cascadia Wildlands envisions vast  
8 old-growth forests, rivers full of salmon, wolves howling in the backcountry, and vibrant  
9 communities sustained by the unique landscapes of the Cascadia Bioregion. Cascadia Wildlands'  
10 members regularly recreate throughout Washington, including in areas of the state where the  
11 gray wolf has been delisted from the Endangered Species Act and where Wildlife Services has  
12 conducted wolf damage management activities in the past, for the purposes of hiking, recreation,  
13 bird watching, observing wildlife such as gray wolves, and other recreational and professional  
14 pursuits. Cascadia Wildlands' members have engaged in these activities in the past, and intend to  
15 do so again in the near future. Cascadia Wildlands and its members have a procedural interest in  
16 ensuring that all Wildlife Services activities comply with all applicable federal statutes and  
17 regulations. Cascadia Wildlands and its members work to reform Wildlife Services' activities  
18 throughout the Cascadia bioregion. Cascadia Wildlands and its members have an interest in  
19 preventing Wildlife Services from being involved in predator management, including gray wolf  
20 management. It is a goal of Cascadia Wildlands and its members to stop Wildlife Services from  
21 engaging in predator management throughout the Cascadia bioregion, including throughout  
22 Washington. The interests of Cascadia Wildlands' members have been injured by Wildlife  
23 Services involvement in the killing of the Wedge Pack in 2012, and the killing of the

Huckleberry's Pack's Alpha female in 2014. The interests of Cascadia Wildlands' members have been, and will continue to be, injured by Wildlife Services' involvement in gray wolf management in Washington. The interests of Cascadia Wildlands' members have been, and will continue to be, injured by Wildlife Services' failure to comply with NEPA in authorizing its Gray Wolf Damage Management in Washington proposal. The relief requested by Plaintiffs in this complaint would redress the injuries of Cascadia Wildlands' members.

9. Plaintiff WILDEARTH GUARDIANS is suing on behalf of its organizational and members' interests. WildEarth Guardians is a non-profit organization dedicated to protecting and restoring the wildlife, wild places, wild rivers, and health of the American West. WildEarth Guardians has more than 65,000 members and supporters including many who reside in the State of Washington. WildEarth Guardians' members regularly recreate throughout Washington, including in areas of the state where the gray wolf was removed from the Endangered Species Act list of threatened and endangered species and where Wildlife Services has conducted wolf damage management activities in the past, for the purposes of hiking, recreation, bird watching, observing wildlife including gray wolves, and other recreational and professional pursuits. WildEarth Guardians' members have engaged in these activities in the past, and intend to do so again in the near future. WildEarth Guardians and its members have a procedural interest in ensuring that all Wildlife Services activities comply with all applicable federal statutes and regulations. For many years, Guardians has advocated for the restoration of ecologically viable populations of wolves to their historic ranges. This work includes advocacy for Endangered Species Act protections and against lethal control by Wildlife Services and other entities.

10. Plaintiff KETTLE RANGE CONSERVATION GROUP ("Kettle Range") is suing on behalf of itself and its members. Kettle Range is a non-profit organization founded in 1976

1 whose mission is to defend wilderness, protect biodiversity, and restore ecosystems of the  
2 Columbia River Basin. Kettle Range has staff working in Republic, Washington. Kettle Range's  
3 members regularly recreate throughout Washington, including in areas of the state where the  
4 gray wolf has been delisted from the Endangered Species Act and where Wildlife Services has  
5 conducted wolf damage management activities in the past, for the purposes of hiking, recreation,  
6 bird watching, observing wildlife such as gray wolves, and other recreational and professional  
7 pursuits. Kettle Range's members have engaged in these activities in the past, and intend to do so  
8 again in the near future. Kettle Range and its members have a procedural interest in ensuring that  
9 all Wildlife Services activities comply with all applicable federal statutes and regulations.

10 11. Plaintiff THE LANDS COUNCIL is suing on behalf of itself and its members. The Lands  
11 Council is a non-profit organization based in Spokane, Washington with approximately 1,600  
12 members and supporters. The Lands Council works to preserve and revitalize Inland Northwest  
13 forests, water, and wildlife through advocacy, education, effective action, and community  
14 engagement. The Lands Council collaborates with a broad range of interested parties to seek  
15 smart and mutually respectful solutions to environment and health issues. The beauty of nature  
16 enriches staff and members of the Lands Council. Staff and members of the Lands Council are  
17 energized by the recreational opportunities that nature affords, and are inspired to preserve its  
18 legacy for future generations. The Lands Council's staff and members regularly recreate  
19 throughout Washington, including in areas of the state where the gray wolf has been delisted  
20 from the Endangered Species Act and where Wildlife Services has conducted wolf damage  
21 management activities in the past, for the purposes of hiking, recreation, bird watching,  
22 observing wildlife such as gray wolves, and other recreational and professional pursuits. The  
23 Lands Council's staff and members regularly recreate throughout Washington, including in areas

1 of the state where the gray wolf is listed as endangered under the Endangered Species Act, for  
2 the purposes of hiking, recreation, bird watching, observing wildlife such as gray wolves, and  
3 other recreational and professional pursuits. The Lands Council's staff and members have  
4 engaged in these activities in the past, and intend to do so again in the near future. The Lands  
5 Council's staff and members have a procedural interest in ensuring that all Wildlife Services  
6 activities comply with all applicable federal statutes and regulations.

7 12. Plaintiff PREDATOR DEFENSE is a national non-profit organization headquartered in  
8 Eugene, Oregon. Predator Defense has more than 1000 supporters throughout the United States,  
9 including supporters who reside in Washington. Predator Defense works to protect native  
10 predators, including wolves and coyotes, and to create alternatives for people to coexist with  
11 wildlife. Predator Defense was established in 1990 with a focus on predator species  
12 rehabilitation. In 1995, in light of the increasing difficulty of finding suitable release sites for  
13 rehabilitated animals, Predator Defense closed its rehabilitation center and broadened its focus to  
14 address the public management policies and predator control methods that were threatening  
15 predators and their habitat. Predator Defense works to spearhead legislation, disseminate  
16 research findings, monitor government agencies, and, when necessary, pursue legal action to  
17 protect wildlife species. Predator Defense also serves as a source for reporters, elected officials,  
18 and the public. Predator Defense brings this action on its own behalf and on behalf of its  
19 adversely affected members. Predator Defense and its members have a procedural interest in  
20 ensuring that all Wildlife Services activities comply with all applicable federal statutes and  
21 regulations. Predator Defense and its members are injured and adversely affected by Wildlife  
22 Services' failure to comply with federal law.

13. Plaintiffs' members, staff, and supporters are dedicated to ensuring the long-term survival and recovery of the gray wolf throughout the contiguous United States and ensuring that Defendants comply with all applicable federal laws related to its wolf damage management program.

14. Plaintiffs' members, staff, and supporters live and recreate in or near areas occupied by gray wolves in areas of Washington where the gray wolf has been delisted from the federal Endangered Species Act for the purposes of hiking, recreation, bird watching, observing wildlife such as gray wolves, and other recreational and professional pursuits. Plaintiffs' members and staff enjoy observing, attempting to observe, and studying gray wolves in the wild, including signs of the gray wolf's presence in these areas. The opportunity to possibly view gray wolves or signs of gray wolves in these areas is of significant interest and value to Plaintiffs' members and staff, and increases the use and enjoyment of public lands. Plaintiffs' members, staff, and supporters have engaged in these activities in the past, and intend to do so again in the near future.

15. Plaintiffs' members, staff, and supporters live and recreate in or near areas occupied by gray wolves in areas of Washington where the gray wolf is listed as Endangered under the federal Endangered Species Act for the purposes of hiking, recreation, bird watching, observing wildlife such as gray wolves, and other recreational and professional pursuits. Plaintiffs' members and staff enjoy observing, attempting to observe, hearing, and studying gray wolves in the wild, including looking for signs of the gray wolf's presence in these areas. The opportunity to possibly view gray wolves or signs of gray wolves in these areas is of significant interest and value to Plaintiffs' members and staff, and increases the use and enjoyment of public lands.

1 Plaintiffs' members, staff, and supporters have engaged in these activities in the past, and intend  
2 to do so again in the near future.

3 16. Plaintiffs' members, staff, and supporters live and recreate in or near areas occupied by  
4 gray wolves in areas of Washington where Wildlife Services conducts wolf damage management  
5 activities for the purposes of hiking, recreation, bird watching, observing wildlife such as gray  
6 wolves, and other recreational and professional pursuits. Plaintiffs' members, staff, and  
7 supporters have engaged in these activities in the past, and intend to do so again in the near  
8 future.

9 17. Plaintiffs' members, staff, and supporters derive aesthetic, recreational, scientific,  
10 inspirational, educational, and other benefits from gray wolves, recreating in areas occupied by  
11 gray wolves, and in working to protect and restore gray wolves in Washington and throughout  
12 the American west. In furtherance of these interests, Plaintiffs' members, staff, and supporters  
13 have worked, and continue to work, to conserve wolves in Washington and throughout the  
14 contiguous United States.

15 18. Plaintiffs' members, staff, and supporters have a procedural interest in ensuring that all  
16 Wildlife Services activities comply with all applicable federal statutes and regulations. Plaintiffs  
17 all have worked to reform Wildlife Services' activities throughout the United States, including in  
18 Washington. Plaintiffs and their members, staff, and supporters have an interest in preventing  
19 Wildlife Services from being involved in predator management, including gray wolf  
20 management, particularly lethal management. It is the goal of Plaintiffs to stop Wildlife Services  
21 from engaging in predator management throughout the United States, including throughout  
22 Washington.



19. The interests of Plaintiffs' members, staff, and supporters have been injured by Wildlife Services' involvement in the killing of members of the Wedge Pack in 2012, and the killing of the Huckleberry Pack's alpha female in 2014. The interests of Plaintiffs' members, staff, and supporters have been, and will continue to be, injured by Wildlife Services' involvement in gray wolf management in Washington, Wildlife Services' killing of wolves in Washington, and Wildlife Services' depredation investigations in Washington. The interests of Plaintiffs' members, staff, and supporters have been, and will continue to be, injured by Wildlife Services' failure to comply with the National Environmental Policy Act (NEPA) in authorizing its Gray Wolf Damage Management in Washington program.

20. Plaintiffs' members, staff, and supporters live and recreate in or near areas occupied by grizzly bears in Washington for the purposes of hiking, recreation, bird watching, observing wildlife such as grizzly bears, and other recreational and professional pursuits. Plaintiffs' members and staff enjoy observing, attempting to observe, and studying grizzly bears in the wild, including signs of the grizzly bear's presence in these areas. The opportunity to possibly view grizzly bears or signs of grizzly bears in these areas is of significant interest and value to Plaintiffs' members and staff, and increases the use and enjoyment of public lands. Plaintiffs' members, staff, and supporters have engaged in these activities in the past, and intend to do so again in the near future.

21. Plaintiffs' members, staff, and supporters derive aesthetic, recreational, scientific, inspirational, educational, and other benefits from grizzly bears, recreating in areas occupied by grizzly bears, and in working to protect and restore grizzly bears in Washington and throughout the American west. In furtherance of these interests, Plaintiffs' members, staff, and supporters

1 have worked, and continue to work, to conserve grizzly bears in Washington and throughout the  
2 contiguous United States.

3 22. The relief requested by Plaintiffs in this complaint would redress and/or lessen the  
4 injuries of the Plaintiffs' members, staff, and supporters. The relief requested by Plaintiffs, if  
5 granted, would prevent Wildlife Services from engaging in wolf damage management activities  
6 until, and unless, it complies with federal law. The relief requested by Plaintiffs, if granted, could  
7 reduce the amount of lethal wolf damage management activities conducted in Washington. The  
8 relief requested by Plaintiffs, if granted, would make lethal wolf damage management more  
9 expensive for WDFW because it would not be able to contract with a federal agency to conduct  
10 wolf damage management activities on WDFW's behalf. The relief requested by Plaintiffs, if  
11 granted, would make lethal wolf damage management more expensive for WDFW because it  
12 would not be able to contract with a federal agency that receives federal funding to conduct wolf  
13 damage management in Washington. The relief requested by Plaintiffs, if granted, could lead to  
14 fewer impacts to federally protected non-target species, such as grizzly bear, because WDFW  
15 would not have "incidental take" coverage under the Endangered Species Act, and therefore  
16 would not be able to conduct lethal wolf damage management activities in areas occupied by  
17 these species. The relief requested by Plaintiffs, if granted, would prevent the incidental take of  
18 federally listed wolves in Washington by Wildlife Services. WDFW cannot conduct wolf  
19 management activities in areas of Washington where gray wolves are listed as endangered under  
20 the federal Endangered Species Act. Likewise, WDFW cannot conduct lethal wolf control in  
21 areas of Washington where gray wolves are listed as endangered under the federal Endangered  
22 Species Act. If Wildlife Services did not conduct wolf damage management activities in areas of  
23 Washington where gray wolves are listed as endangered under the federal Endangered Species,

1 no other state or federal government agency would be able to do so. As a state agency, WDFW is  
2 not subject to NEPA's requirements.

3 23. Plaintiffs' interests, and those of their members and supporters, have been, are being, and  
4 unless the requested relief is granted, will continue to be harmed by Defendants' actions and/or  
5 inactions challenged in this complaint. If this Court issues the relief requested, the harm to  
6 Plaintiffs' interests, and those of their members and supporters, will be alleviated and/or  
7 lessened.

8 24. Defendant ROGER A. WOODRUFF is named in his official capacity as the Washington  
9 State Director for USDA-APHIS Wildlife Services. As the Washington State Director for  
10 USDA-APHIS Wildlife Services, Mr. Woodruff is the federal official with responsibility for all  
11 of the Wildlife Services officials' actions and inactions challenged in this complaint.

12 25. Defendant MICHAEL BODENCHUK is named in his official capacity as the Acting  
13 Director for the Western Region of USDA-APHIS Wildlife Services. As the Acting Director for  
14 the Western Region of USDA-APHIS Wildlife Services, Mr. Bodenchuk is the federal official  
15 with responsibility for all of the Wildlife Services officials' actions and inactions challenged in  
16 this complaint. Mr. Bodenchuk signed the Decision Notice and Finding of No Significant Impact  
17 associated with Wildlife Services' Gray Wolf Damage Management in Washington  
18 Environmental Assessment.

19 26. Defendant ANIMAL AND PLANT HEALTH INSPECTION SERVICE-WILDLIFE  
20 SERVICES (Wildlife Services) is a division of the United States Department of Agriculture's  
21 Animal and Plant Health Inspection Service (APHIS). Wildlife Services is responsible for  
22 applying and implementing the federal laws and regulations at issue in this complaint. Wildlife  
23 Services receives federal funding to undertake wolf damage management activities in

1 Washington. Federal funding for wolf damage management activities in Washington reduces the  
2 cost of wolf damage management to non-federal actors that contract with Wildlife Services to  
3 perform wolf damage management activities. Wildlife Services' wolf damage management  
4 activities would not be undertaken by any other entity if Wildlife Services did not conduct these  
5 activities. Wildlife Services has more experience with wolf trapping than the Washington  
6 Department of Fish and Wildlife. The wolf conservation efforts of the Washington Department  
7 of Fish and Wildlife would be more challenging without the assistance of the Wildlife Services  
8 wolf damage management program. If Wildlife Services did not conduct wolf damage  
9 management activities in Washington, the Washington Department of Fish and Wildlife would  
10 need to devote staff time and resources towards lethal control that otherwise would be spent on  
11 other activities. Wildlife Services asserts in its Wolf Damage Management in Washington  
12 Environmental Assessment that Wildlife Services may apply lethal control techniques more  
13 proficiently than the Washington Department of Fish and Wildlife. Wildlife Services asserts in  
14 its Wolf Damage Management in Washington Environmental Assessment that if it conducts wolf  
15 damage management activities in Washington, effects to non-target animals could be less than if  
16 other actors performed those same activities.

17 27. Defendant UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) is a  
18 department of the United States government. The USDA has supervisory and managerial  
19 responsibility over the APHIS. The USDA has supervisory and managerial responsibility over  
20 Wildlife Services. The USDA is responsible for applying and implementing the federal laws and  
21 regulations challenged in this complaint.

22 //

23 //

**FACTS****The Gray Wolf (*Canis lupus*)**

28. The gray wolf (*Canis lupus*) is the largest member of the Canidae family. Adult gray wolves range in size from 40 to 175 pounds. A gray wolf's fur is frequently grizzled gray, but can vary from white to black. Gray wolves predominantly live in packs. A wolf pack is formed when a male and female wolf bond, breed, and produce pups. A wolf pack usually consists of a breeding pair of wolves, their offspring from the previous year, and new pups. A wolf pack may also have other breeding-aged adult wolves as members. Litters are usually born in April, and can consist of between 1 and 11 pups. All pack members help feed, protect, and otherwise raise the pups as they grow. As wolf pups become adults, they disperse from their pack to establish new home-territories and find a female wolf with which to start a new pack. Dispersing wolves can travel hundreds of miles before settling in a new territory and finding a mate.

29. Gray wolves are highly social animals. A wolf pack has a well-established social structure. At the top of the social structure are the alpha male and alpha female gray wolves. When a wolf is removed from a pack as a result of human activities, pack structure is altered in a negative manner. Removal of the alpha male or alpha female from a pack can permanently alter the pack structure or cause the collapse of the pack.

30. Gray wolves are predominantly predators of medium and large-sized mammals, such as elk and deer. Wolves are also known to hunt and feed on ground squirrels, snowshoe hares, voles, insects, fish, and plant material. Gray wolves occasionally feed on livestock. Livestock losses attributed to wolves represent a very small proportion of total livestock losses. Lethal removal of wolves is not effective at reducing the number of depredation incidents by a wolf

1 pack. Lethal removal of wolves can lead to an increase in the number of depredation incidents by  
2 a wolf pack.

3 31. Washington is home to at least 15 wolf packs. As of December 31, 2013, Washington  
4 was home to at least 52 wolves. As of December 31, 2013, Washington had at least 5 successful  
5 breeding pairs.

## 6 **Wildlife Services**

7 32. Wildlife Services has been in the business of killing wildlife for more than 100 years.  
8 Wildlife Services contracts with other federal agencies, non-federal government agencies, and  
9 private landowners to conduct operations to reduce damage to agricultural interests from  
10 wildlife. Wildlife Services describes its mission as “managing problems caused by wildlife.”

11 33. Wildlife Services kills vast numbers of animals every year. Wildlife Services reports that  
12 across the United States, it spent \$116 million in 2013 to kill 4.3 million animals, including 319  
13 wolves. Allegations have been made against Wildlife Services, including by its own employees,  
14 that it underreports the numbers of animals actually killed by the agency, and therefore actual  
15 numbers of animals killed are likely greater.

16 34. In 2012, the Sacramento Bee published a series of articles exposing a number of the  
17 practices of Wildlife Services. This series described that many scientists believe Wildlife  
18 Services’ programs are expensive and ineffective. It also described ethical problems within the  
19 agency, including employees hiding non-target animals killed. Also in 2012, a Wildlife Services  
20 employee was criticized for posting photographs online of his dogs attacking coyotes caught in  
21  
22  
23



leg-hold traps. This is one of the photographs that the Wildlife Services employee posted online:



An investigation found that the employee failed to check his traps extensive periods time. The employee was not fired. The employee was not disciplined.

35. In 2012, Wildlife Services executed a contract with the Washington Department of Fish and Wildlife (WDFW). In 2012, Wildlife Services executed a contract with WDFW to provide wolf damage management consulting services. In 2012, Wildlife Services provided consulting services to WDFW. In 2012, Wildlife Services provided consulting services to WDFW on wolf damage management. In 2012, Wildlife Services consulted with WDFW as WDFW was attempting to kill members of the Wedge Pack. In 2012, Wildlife Services consulted with WDFW staff and WDFW contractors who were attempting to shoot members of the Wedge

1 Pack. In 2012, Wildlife Services consulted with WDFW staff and WDFW contractors who were  
2 attempting to trap members of the Wedge Pack. In 2012, Wildlife Services participated in the  
3 lethal removal of the Wedge Pack.

4 36. On December 17, 2013, Defendants announced the availability of a draft Environmental  
5 Assessment for Gray Wolf Damage Management in Washington (draft EA). On December 17,  
6 2013, Wildlife Services solicited comments from the public on the draft EA.

7 37. On January 16, 2014, Plaintiffs submitted written comments on the Draft EA.

8 38. On August 20, 2014, Defendants issued the final Environmental Assessment for Gray  
9 Wolf Damage Management in Washington (final EA). On August 20, 2014, Defendant Mike  
10 Bodenchuk signed the Decision Notice and Finding of No Significant Impact (DN/FONSI)  
11 authorizing implementation of Alternative 3 from the final EA.

12 39. The DN/FONSI authorized Wildlife Services' involvement in wolf management in  
13 Washington. The DN/FONSI authorizes Wildlife Services to contract with the Washington  
14 Department of Fish and Wildlife, the United States Fish and Wildlife Service, and tribes to  
15 lethally remove wolves in Washington in areas where wolves are not listed under the Endangered  
16 Species Act. The DN/FONSI asserts that implementation of Alternative 3 would be more  
17 efficient in reducing depredation than the other Alternatives considered in the final EA. The  
18 United States Fish and Wildlife Service issued an Incidental Take Statement related to the EA  
19 and DN/FONSI at issue in this case. The Incidental Take Statement allows Wildlife Services to  
20 take one grizzly bear and more than thirty wolves. The Incidental Take Statement only applies to  
21 Wildlife Services.

22 40. In 2014, Wildlife Services executed a contract with WDFW. In 2014, Wildlife Services  
23 attempted to lethally remove members of the Huckleberry Wolf Pack. WDFW provided Wildlife



Services with instructions to not shoot the alpha male or alpha female of the Huckleberry Pack. On August 23, 2014, Wildlife Services staff shot and killed a member of the Huckleberry Pack. The wolf shot by Wildlife Services was the alpha female of the Huckleberry Pack. Wildlife Services shot the alpha female of the Huckleberry Pack despite explicit instructions from WDFW to not shoot the alpha female of the Huckleberry Pack. Wildlife Services continued to provide lethal wolf management assistance to WDFW after shooting the alpha female of the Huckleberry Pack. Wildlife Services was unable to shoot any more wolves from the Huckleberry Pack beyond the alpha female. Wildlife Services was unable to trap any wolves from the Huckleberry Pack. Wildlife Services shot and killed a wolf in Washington just three days after the public release of the EA at issue in this litigation.

41. Wildlife Services conducts depredation investigations in Washington. Wildlife Services assists WDFW and other government agencies in conducting depredation investigations in Washington. These depredation investigations seek to determine what type of predator was responsible for the killing or injuring of livestock. Since 2012, the majority of depredation investigations conducted or assisted by Wildlife Services in Washington have concluded that wolves were responsible for the killing or injuring of livestock.

#### **FIRST CLAIM FOR RELIEF**

##### **NEPA Violation: Failure to Consider a Reasonable Range of Alternatives.**

42. Plaintiffs incorporate by reference all preceding paragraphs.

43. The Wildlife Services Gray Wolf Damage Management in Washington EA and DN/FONSI fail to consider a reasonable range of alternatives.

44. NEPA requires that Defendants “[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” 40 C.F.R. 1502.14(a).

45. Members of the public asked that Wildlife Services consider an alternative that would have prohibited the involvement of Wildlife Services in wolf management in Washington on public lands. This alternative was reasonable. This alternative would have met the purpose and need for the proposal. The EA and DN/FONSI fail to consider an alternative prohibiting Wildlife Services involvement in wolf management on public lands in Washington. The EA and DN/FONSI fail to explain why this alternative was not considered. The EA and DN/FONSI fail to explain why this alternative was not reasonable.

46. Wildlife Services has failed to consider a reasonable range of alternatives as required by NEPA, which is arbitrary, capricious, and not in accordance with the APA. 5 U.S.C. § 706(2)(A). Consideration of all reasonable alternatives helps satisfy NEPA’s fundamental purpose of “foster[ing] better decision making and informed public participation for actions that affect the environment.” *Or. Natural Res. Council Action v. U.S. Forest Serv.*, 293 F. Supp. 2d 1200, 1204 (D. Or. 2003).

47. Plaintiffs are entitled to their reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

## SECOND CLAIM FOR RELIEF

### **NEPA Violation: Failure to Disclose and Analyze the Direct, Indirect, and Cumulative Impacts of the Proposed Action and Its Alternatives.**

48. Plaintiffs incorporate by reference all preceding paragraphs.

49. The regulations implementing NEPA require the Defendants to disclose and analyze the environmental effects of the proposed action and alternatives to it. 40 C.F.R. § 1500.1(b).

Specifically, the regulation explains that “NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” *Id.*

50. Wildlife Services is required to disclose and analyze the direct, indirect, and cumulative effects of the proposed action on the environment. 40 C.F.R. §§ 1502.16, 1508.7, 1508.8, 1508.25(c)(3), 1508.27(b)(7). Wildlife Services has failed to disclose and analyze the direct, indirect, and cumulative impacts of the proposed action and its alternatives.

51. The Wildlife Services Gray Wolf Damage Management in Washington EA and DN/FONSI fail to disclose and analyze a number of the direct, indirect, and cumulative effects of the proposed action and its alternatives on the environment, which makes assessment of the environmental consequences of the proposed project impossible. For example (but not limited to):

- a. The EA and DN/FONSI fail to disclose and analyze the ecological effects of wolf removal on wolf populations.
- b. The EA and DN/FONSI fail to disclose and analyze the ecological effects of wolf removal on the ecological landscape.
- c. The EA and DN/FONSI fail to provide support for the conclusion that wolf removal reduces depredation incidents.
- d. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of wolf management activities in neighboring states and Canada on wolf populations.

e. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of wolf management activities in neighboring states and Canada on the ecological landscape.

f. The EA and DN/FONSI fail to disclose and analyze the direct, indirect, and cumulative effects of the proposed action, and alternatives to it, on non-target animals.

52. Wildlife Services has failed to disclose and analyze the direct, indirect, and cumulative impacts of the proposed action and alternatives to it as required by NEPA, which is arbitrary, capricious, and not in accordance with the APA. 5 U.S.C. § 706(2)(A). Disclosure of this environmental information and environmental effects helps satisfy NEPA's fundamental purpose of "foster[ing] better decision making and informed public participation for actions that affect the environment." *Or. Natural Res. Council Action v. U.S. Forest Serv.*, 293 F. Supp. 2d 1200, 1204 (D. Or. 2003).

53. Plaintiffs are entitled to their reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

### **THIRD CLAIM FOR RELIEF**

#### **NEPA Violation: An Environmental Impact Statement is Required.**

54. Plaintiffs incorporate by reference all preceding paragraphs.

55. NEPA requires the Defendants to prepare an EIS when a proposed major federal action may significantly affect the quality of the environment. 42 U.S.C. § 4332(2)(C). In determining whether a proposed action may "significantly" impact the environment, both the context and intensity of the action must be considered. 40 C.F.R. §1508.27.

56. In evaluating intensity, the agency must consider numerous “significance” factors, including impacts that may be both beneficial and adverse; the unique characteristics of the geographic area such as proximity to ecologically critical areas; the degree to which the effects on the quality of the human environment are likely to be highly controversial; the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks; the degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration; the degree to which the action may adversely affect an endangered or threatened species or its habitat; and whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. 40 C.F.R. § 1508.27(b).

57. If the agency’s action may be environmentally significant according to any of the criteria, the agency must prepare an EIS. The presence of any single significance factor can require the preparation of an EIS. The presence of several significance factors, when considered cumulatively, can require the preparation of an EIS.

58. Wildlife Services’ Wolf Damage Management in Washington EA and DN/FONSI authorize federal action that would have a significant effect on the environment. The authorized action implicates a number of the significance factors that individually require the preparation of an EIS. The authorized action implicates a number of the significance factors that cumulatively require the preparation of an EIS. The authorized action would have significant adverse impacts. The authorized action would be carried out in geographic areas with unique characteristics, including in geographic areas in proximity to ecologically critical areas. The effects of the authorized action are highly controversial. The effects of the authorized action are highly uncertain or involve unique or unknown risks. The authorized action may establish a precedent

1 for future actions. The authorized action may adversely affect an endangered or threatened  
 2 species or its habitat. The United States Fish and Wildlife Service determined that the authorized  
 3 action is likely to adversely affect the grizzly bear. The United States Fish and Wildlife Service  
 4 issued incidental take statements for grizzly bear and gray wolf related to the authorized action.  
 5 The authorized action could result in the take, as defined by the Endangered Species Act, of  
 6 species listed as threatened or endangered under the Endangered Species Act.

7 59. Wildlife Services has not prepared an EIS for its Wolf Damage Management in  
 8 Washington program. The significance factors implicated by the authorized action are significant  
 9 individually. The significance factors implicated by the authorized action are significant when  
 10 considered cumulatively. Wildlife Services' decision to authorize and implement its Wolf  
 11 Damage Management in Washington program without first preparing an EIS is arbitrary,  
 12 capricious, and not in compliance with NEPA. 5 U.S.C. § 706(2)(A).

13 60. Plaintiffs are entitled to their reasonable fees, costs, and expenses associated with this  
 14 litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

#### 15 **FOURTH CLAIM FOR RELIEF**

##### 16 **NEPA VIOLATION: Failure to Prepare Supplemental NEPA Analysis.**

17 61. Plaintiff incorporates by reference all preceding paragraphs.

18 62. NEPA requires that the Defendants supplement its environmental analysis whenever  
 19 "[t]here are significant new circumstances or information relevant to environmental concerns and  
 20 bearing on the proposed action or its impacts." 40 C.F.R. § 1502.9(c)(1)(ii).

21 63. There are significant new circumstances or information relevant to the environmental  
 22 impacts of the Wildlife Services Gray Wolf Damage Management in Washington Environmental  
 23 Assessment and Decision Notice/Finding of No Significant Impact, including, but not limited to:

1 the publication of a paper by lead author Dr. Robert Wielgus of Washington State University  
2 titled “Effects of Wolf Mortality on Livestock Depredations” on the impacts and efficacy of  
3 lethal wolf control to address livestock depredations by wolves. This peer-reviewed study  
4 concludes that lethal removal of depredating wolves leads to an increase in livestock  
5 depredations. This study was published in December 2014. Plaintiffs provided Defendants with a  
6 copy of this study before filing suit. Plaintiffs requested that Defendants prepare a supplemental  
7 NEPA analysis to address the findings of this study before filing suit. This study represents  
8 significant new information that requires Defendants to supplement the Wildlife Services Gray  
9 Wolf Damage Management in Washington EA.

10 64. The Wildlife Services Gray Wolf Damage Management in Washington EA and  
11 DN/FONSI does not discuss the Wielgus study, the effects of the Wielgus study on the  
12 conclusions and anticipated environmental effects discussed in the EA and DN/FONSI, or the  
13 effects of the Wielgus study on the purpose and need for the Gray Wolf Damage Management in  
14 Washington program. Defendants have not prepared new or supplemental NEPA analysis of the  
15 Wielgus study. Defendants have not analyzed the Wielgus study for significance pursuant to  
16 NEPA’s requirements. Defendants have not determined that the Wielgus study does not require  
17 the supplementation of the Wildlife Services Gray Wolf Damage Management in Washington  
18 EA and DN/FONSI.

19 65. Defendants’ failure to prepare a new or supplemental EA for the Gray Wolf Damage  
20 Management in Washington program in light of the publication of the Wielgus study is arbitrary,  
21 capricious, and not in accordance with NEPA. 5 U.S.C. § 706(2)(A).

22 66. Plaintiff is entitled to its reasonable fees, costs, and expenses associated with this  
23 litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

**FIFTH ALTERNATIVE CLAIM FOR RELIEF**

**NEPA VIOLATION: Failure to Prepare Supplemental NEPA Analysis.**

67. Plaintiff incorporates by reference all preceding paragraphs.

68. NEPA requires that the Defendants supplement its environmental analysis whenever “[t]here are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 C.F.R. § 1502.9(c)(1)(ii).

69. There are significant new circumstances or information relevant to the environmental impacts of the Wildlife Services Gray Wolf Damage in Washington Environmental Assessment and Decision Notice/Finding of No Significant Impact, including, but not limited to: the publication of a paper by Dr. Robert Wielgus of Washington State University titled “Effects of Wolf Mortality on Livestock Depredations” on the impacts and efficacy of lethal wolf control to address livestock depredations by wolves. This study concluded that lethal removal of depredating wolves leads to an increase in livestock depredations. This study was published in December 2014.

70. In the alternative to Plaintiffs’ Fourth Claim for Relief, Defendants’ failure to prepare a new or supplemental EA for the Wildlife Services Gray Wolf Damage Management in Washington program in light of this new information is agency action unlawfully withheld or unreasonably delayed. 5 U.S.C. § 706(1).

71. Plaintiff is entitled to its reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

**PLAINTIFFS’ PRAYER FOR RELIEF**

Plaintiffs respectfully request that this court:



1. Declare that Wildlife Services violated the National Environmental Policy Act, the Administrative Procedure Act, and their implementing regulations in designing, analyzing, and implementing the Wildlife Services Gray Wolf Damage Management in Washington Environmental Assessment and Decision Notice/Finding of No Significant Impact (DN/FONSI);
2. Vacate the Wildlife Services Gray Wolf Damage Management in Washington Environmental Assessment and DN/FONSI;
3. Order Wildlife Services to withdraw the Wildlife Services Gray Wolf Damage Management in Washington Environmental Assessment and DN/FONSI until such time as the agency demonstrates to this Court that it has adequately complied with the law;
4. Enjoin Wildlife Services and its agents from proceeding with Gray Wolf Damage Management in Washington unless and until the violations of federal law set forth herein have been corrected to the satisfaction of this Court;
5. Award Plaintiffs their costs of suit and attorneys' fees; and
6. Grant Plaintiffs such other and further relief as the Court deems just and equitable.

Respectfully submitted and dated this third day of March, 2015.

s/ John R. Mellgren  
 JOHN R. MELLGREN, *pro hac vice* applicant  
 Western Environmental Law Center  
 1216 Lincoln Street  
 Eugene, Oregon 97401  
 Ph: (541) 359-0990  
 mellgren@westernlaw.org

Attorney for Plaintiffs

s/ Andrea Rodgers  
 ANDREA RODGERS  
 Western Environmental Law Center  
 3026 NW Esplanade  
 Seattle, Washington 98117  
 Ph: (206) 696-2851  
 rogers@westernlaw.org

Attorney for Plaintiffs

s/ Nicholas S. Cady  
 NICHOLAS S. CADY, *pro hac vice* applicant  
 Cascadia Wildlands  
 P.O. Box 10455  
 Eugene, Oregon 97440

COMPLAINT

24

Western Environmental Law Center  
 1216 Lincoln Street  
 Eugene, Oregon 97401  
 (541) 359-0990

1 Ph: (541) 434-1463  
2 nick@cascwild.org

3 Attorney for Plaintiff Cascadia Wildlands  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 COMPLAINT

25

Western Environmental Law Center  
1216 Lincoln Street  
Eugene, Oregon 97401  
(541) 359-0990