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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

CASCADIA WILDLANDS; CENTER FOR  
BIOLOGICAL DIVERSITY; WILDEARTH  
GUARDIANS; PREDATOR DEFENSE; and  
PROJECT COYOTE-a project of Earth Island  
Institute;

Plaintiffs,

vs.

DAVID WILLIAMS, in his official capacity as  
Oregon State Director for 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;

Defendants.

Civ. Case No. 3:16-cv-177

COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF

(Violations of National Environmental  
Policy Act and Administrative Procedure  
Act)

1. Plaintiffs Cascadia Wildlands, Center for Biological Diversity, WildEarth Guardians, Predator Defense, and Project Coyote respectfully file this suit challenging the actions of Defendants whose authorization of the “Gray Wolf Damage Management in Oregon” 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. §§ 701-706, and alleging violations of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321-4347.

3. Plaintiffs seek a declaration that Defendant’s authorization of the Gray Wolf Damage Management Plan in Oregon 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. This Court has jurisdiction pursuant to 28 U.S.C. § 1331. Final agency action exists that is subject to judicial review pursuant to 5 U.S.C. § 704. An actual, justiciable controversy exists between Plaintiffs and Defendants. The Court has authority to issue declaratory and injunctive relief pursuant to 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. Plaintiffs maintain offices within this judicial district. The lead Defendant’s office is located within this judicial district. The Environmental Assessment (“EA”) at issue in this litigation was prepared within this judicial district.

8. Plaintiffs have exhausted any and all available and required administrative remedies.

### **Parties**

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

members' interests were injured by Wildlife Services' killing of two wolves in Oregon in 2009. Cascadia Wildlands' members' interests have been, and will continue to be, injured by Wildlife Services' involvement in gray wolf management in Oregon. Cascadia Wildlands' members' interests have been, and will continue to be, injured by Wildlife Services' failure to comply with NEPA in authorizing its Wolf Damage Management Plan. The relief requested by Plaintiffs in this complaint would redress the injuries of Cascadia Wildlands' members.

10. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY ("Center") is a national, non-profit conservation organization with offices throughout the United States and supported by more than more than 990,000 members and supporters. The Center is dedicated to the preservation, protection, and restoration of biodiversity, native species, and ecosystems. The Center and its members have a long-standing interest in the endangered gray wolf (*Canis lupus*), including in the State of Oregon. The Center and its members routinely advocate for gray wolf protection in Oregon. For instance, the Center's current staff played a key role in negotiating and strengthening the Oregon wolf management plan. Of the Center's more than 990,000 members and supporters, many reside in Oregon. The Center also has members who visit areas of Oregon where gray wolves occur and gain aesthetic enjoyment from viewing, or attempting to view, gray wolves and the benefits that these animals provide for ecosystems, as well as other species that may be affected by Defendants' Wolf Damage Management activities.

11. Plaintiff WILDEARTH GUARDIANS is suing on behalf of itself and its members. 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 121,000 members and supporters across the American West, including many who reside in the State of Oregon, and maintains an office in Portland, Oregon. WildEarth Guardians

has a long history of working to protect and restore native carnivore species across the West, including the gray wolf, Canada lynx and wolverine. WildEarth Guardians operates a wildlife program with campaigns focused on native carnivore protection and restoration, and on reining in the cruel and destructive practices of Wildlife Services, including the use of poisoning, trapping and aerial gunning. WildEarth Guardians' members regularly recreate throughout Oregon, including in areas of Oregon where the gray wolf has been delisted from the federal Endangered Species Act, areas of Oregon where gray wolves reside, areas of Oregon where Canada lynx occur, areas of Oregon where wolverine occur, and areas of Oregon where Wildlife Services has conducted wolf damage management activities in the past. WildEarth Guardians' members recreate in these areas for the purposes of hiking, recreation, bird watching, photography, observing wildlife such as gray wolves, Canada lynx, and wolverine, 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.

12. Plaintiff PREDATOR DEFENSE is a national non-profit organization headquartered in Eugene, Oregon. Predator Defense has more than 1000 supporters throughout the United States, including supporters who reside in Oregon. Predator Defense works to protect native predators, including wolves and coyotes, and to create alternatives for people to coexist with wildlife. Predator Defense was established in 1990 with a focus on predator species rehabilitation. In 1995, in light of the increasing difficulty of finding suitable release sites for rehabilitated animals, Predator Defense closed its rehabilitation center and broadened its focus to address the public management policies and predator control methods that were threatening predators and

their habitat. Predator Defense works to spearhead legislation, disseminate research findings, monitor government agencies, and, when necessary, pursue legal action to protect wildlife species. Predator Defense also serves as a source for reporters, elected officials, and the public. Predator Defense brings this action on its own behalf and on behalf of its adversely affected members. Predator Defense and its members have a procedural interest in ensuring that all Wildlife Services activities comply with all applicable federal statutes and regulations. Predator Defense and its members are injured and adversely affected by Wildlife Services' failure to comply with federal law.

13. Plaintiff PROJECT COYOTE works nationally to promote coexistence between people and wildlife through education, science, and advocacy. Project Coyote aims to create a shift in attitudes toward native carnivores by replacing ignorance and fear with understanding and appreciation. Project Coyote accomplishes its mission by championing progressive management policies that reduce human-carnivore conflict, by supporting innovative scientific research, and by fostering respect for and understanding of America's apex predators. Project Coyote has more than 9,000 members and online supporters, including members who explore and enjoy the native species and ecosystems of Oregon. Project Coyote is a fiscally sponsored project of Earth Island Institute, a national non-profit organization headquartered in Berkeley, California.

14. Plaintiffs, as well as their 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 plan. Wildlife Services' Wolf Damage Management plan, and associated Environmental Assessment ("EA") and Decision Notice/Finding Of No Significant Impact ("DN/FONSI"), adversely impact Plaintiffs' interests in gray wolves in Oregon.

15. Plaintiffs, as well as their members, staff, and supporters are dedicated to ensuring the long-term survival and recovery of the Canada lynx throughout the contiguous United States. Wildlife Services' Wolf Damage Management plan, and associated EA and DN/FONSI, adversely impact Plaintiffs' interests in Canada lynx in Oregon.

16. Plaintiffs, as well as their members, staff, and supporters are dedicated to ensuring the long-term survival and recovery of the wolverine throughout the contiguous United States. Wildlife Services' Wolf Damage Management plan, and associated EA and DN/FONSI, adversely impact Plaintiffs' interests in wolverine in Oregon.

17. Plaintiffs' members, staff, and supporters live and recreate in or near areas occupied by gray wolves in areas of Oregon, where the gray wolf has lost protection under the federal Endangered Species Act, for the purposes of hiking, recreation, bird watching, observing wildlife such as gray wolves, Canada lynx, and wolverine, and other recreational and professional pursuits. Plaintiffs' members and staff enjoy observing, attempting to observe, and studying gray wolves, Canada lynx, and wolverine in the wild, including signs of those species' presence in these areas. The opportunity to possibly view gray wolves, Canada lynx, and wolverine, or their signs, 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.

18. Plaintiffs' members, staff, and supporters live and recreate in or near areas occupied by gray wolves in areas of Oregon 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, Canada lynx, and wolverine, and other recreational and professional pursuits. Plaintiffs' members and staff enjoy observing, attempting to observe, and studying gray

wolves, Canada lynx, and wolverine in the wild, including signs of those species' presence in these areas. The opportunity to possibly view gray wolves, Canada lynx, and wolverine, or their signs, 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.

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

20. Plaintiffs' members, staff, and supporters have a procedural interest in ensuring that all Wildlife Services' activities comply with all applicable federal statutes and regulations. Plaintiffs have worked to reform Wildlife Services' activities throughout the United States, including in Oregon. Plaintiffs and their members, staff, and supporters have an interest in preventing Wildlife Services from being involved in predator management, including gray wolf management. It is the goal of Plaintiffs to stop Wildlife Services from engaging in predator management throughout the United States, including throughout Oregon. The relief requested in this litigation would further that goal.

21. The interests of Plaintiffs' members, staff, and supporters have been injured by Wildlife Services' involvement in killing wolves in Oregon. 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 Oregon, Wildlife Services' wolf killing in Oregon, and Wildlife

Services' depredation investigations in Oregon. 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 Wolf Damage Management plan.

22. The relief requested by Plaintiffs in this complaint would redress and/or lessen the injuries of Plaintiffs' members, staff, and supporters. The relief requested by Plaintiffs, if granted, would prevent Wildlife Services from engaging in wolf damage management activities until, and unless, it complies with federal law. The relief requested by Plaintiffs, if granted, could reduce the amount of lethal wolf damage management activities conducted in Oregon. The relief requested by Plaintiffs, if granted, would make lethal wolf damage management more expensive for the Oregon Department of Fish and Wildlife ("ODFW") and for the Confederated Tribes of the Umatilla Indian Reservation ("CTUIR") because they would not be able to contract with Wildlife Services to conduct lethal wolf management activities on their behalf. The relief requested by Plaintiffs, if granted, would make lethal wolf damage management more expensive for ODFW and CTUIR because they would not be able to contract with a federal agency that receives federal funding to conduct wolf damage management in Oregon. ODFW and CTUIR cannot and would not be able to completely replace Wildlife Services' activities authorized by the EA and DN/FONSI. ODFW and CTUIR cannot and would not be able to provide the services contemplated by the EA and DN/FONSI at the same cost as if Wildlife Services provided those same services. ODFW and CTUIR do not have the equipment, such as helicopters for gunning operations, and trained wolf killing personnel that Wildlife Services has.

23. Plaintiffs' interests, and those of their members and supporters, have been, are being, and unless the requested relief is granted, will continue to be harmed by Defendants' actions and/or

inactions challenged in this complaint. If this Court issues the relief requested, the harm to Plaintiffs' interests, and those of their members and supporters, will be alleviated and/or lessened.

24. Defendant DAVID WILLIAMS is named in his official capacity as the Oregon State Director for U.S. Department of Agriculture-Animal and Plant Health Inspection Service ("USDA-APHIS") Wildlife Services. As the Oregon State Director for USDA-APHIS Wildlife Services, Mr. Williams is the federal official with responsibility for all Wildlife Services' officials' actions and inactions challenged in this complaint.

25. Defendant ANIMAL AND PLANT HEALTH INSPECTION SERVICE-WILDLIFE SERVICES ("Wildlife Services") is a division of the United States Department of Agriculture's Animal and Plant Health Inspection Service ("APHIS"). Wildlife Services is a federal agency that is responsible for applying and implementing the federal laws and regulations challenged in this complaint. Wildlife Services receives federal funding to undertake wolf damage management activities in Oregon.

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

## FACTS

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

27. 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 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.

28. Gray wolves are highly social animals. A wolf pack has a well-established social structure. At the top of the social structure are the breeding male and breeding 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 breeding male or breeding female from a pack can permanently alter the pack structure. Removal of the breeding male or breeding female from a pack can affect wolf breeding. Removal of the breeding male or breeding female from a pack can affect wolf reproduction. Removal of the breeding male or breeding female from a pack can affect wolf pup survival.

29. 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 in long-term reduction of the number of depredation incidents by any given wolf pack. Lethal removal of wolves can lead to an increase in the number of depredation incidents by any given wolf pack.

30. Wolves pose virtually no safety threat to humans. There are only two known instances of wolves killing humans in North America in 100 years. One took place in Alaska, and the other in Canada. By comparison, in the U.S. about a dozen people are killed by livestock each year; 200 by car collisions with deer; 20 by dogs and countless others from venomous insect stings or snake bites.

### **Gray Wolves in Oregon**

31. During the first half of the 20th century, hunters and trappers employed by the Bureau of Biological Survey and the Division of Predator and Rodent Control—the precursor federal agencies to Wildlife Services—intentionally and unintentionally killed millions of wolves, coyotes, and other animals in the American West. The program grew, facilitated in part by the establishment of “cooperative” funding mechanisms, whereby federal funds are matched with funds from states, counties, and local ranching associations and directly paid to the program for its services.

32. Federal efforts to eradicate wolves were highly successful. The last record of a wolf submitted for bounty in Oregon was in 1946, for an animal killed on the Umpqua National Forest in southwest Oregon. By 1973, when the federal Endangered Species Act (“ESA”) was enacted, 15 U.S.C. §§ 1531-1544, the only remaining gray wolf population in the conterminous United States was found in Minnesota, with the possibility of a few remaining wolves in the most remote areas of the northern Rocky Mountains.

33. Upon the enactment of the federal ESA in 1973, gray wolves were protected as “endangered” in the conterminous United States, except in Minnesota, where they were designated as “threatened.” The listing of wolves under the ESA eventually allowed for the reintroduction of gray wolves to the northern Rocky Mountains.

34. Following reintroduction of gray wolves to the northern Rocky Mountains, gray wolves began to disperse to areas of suitable habitat. Gray wolves first dispersed throughout the northern Rocky Mountains. Gray wolves continued to disperse to Washington and Oregon. Recently, gray wolves dispersed to California.

35. Oregon gray wolves disperse to other states. Oregon gray wolves have dispersed to Washington. Oregon gray wolves have dispersed to Idaho. Oregon gray wolves have dispersed to Montana. Oregon gray wolves have dispersed to California. Oregon gray wolves have dispersed to previously unoccupied gray wolf habitat in Oregon.

36. In 1987, Oregon enacted the Oregon Endangered Species Act (“Oregon ESA”). Gray wolves were classified as “endangered” under the Oregon ESA upon its enactment, which added an independent yet somewhat parallel layer of protection for gray wolves in Oregon.

37. With federal and state protections in place, wolves began to disperse to eastern Oregon beginning in 1999 and 2000, and began to establish wolf packs and territories.

38. ODFW prepared the Oregon Wolf Conservation and Management Plan (“Oregon Wolf Plan”) in 2005, and amended it in 2010. Consistent with the Oregon Wolf Plan, the Oregon Fish and Wildlife Commission enacted administrative rules to regulate the harassment and take of wolves.

39. The Oregon Wolf Plan and the State’s administrative rules require nonlethal methods in order to prevent and minimize chronic livestock depredations. These measures are credited for a reduction in livestock depredations even as Oregon’s wolf population grew early on.

40. Oregon’s gray wolf population size is small. At the time when Wildlife Services completed its EA and FONSI in 2013, ODFW estimated that there were about 64 wolves in eight wolf packs in Oregon. For its 2014 annual count, ODFW estimated that there were about 77

wolves and 9 wolf packs in Oregon. As of July 2015, ODFW estimated that there were about 16 wolf packs and 85 wolves in Oregon. Of these estimated 85 wolves in Oregon, three have since died. One of these wolves was illegally killed. A breeding pair was found dead under mysterious circumstances.

41. The U.S. Fish and Wildlife Service (“FWS”) has estimated that as of 2014, Montana had approximately 554 wolves and 134 wolf packs. FWS estimated that as of 2014, Idaho had approximately 770 wolves and 104 packs. FWS estimated that as of 2014, Wyoming had approximately 333 wolves and 44 wolf packs. The Washington Department of Fish and Wildlife estimated that Washington had about 68 wolves and 16 wolf packs in 2014.

42. In July 2013, FWS proposed to remove all federal protection for gray wolves throughout the conterminous United States under the federal ESA. This proposed rule has not been finalized.

43. In November 2015, the Oregon Fish and Wildlife Commission delisted gray wolves under the Oregon ESA.

44. The Oregon Wolf Plan and administrative rules currently allow ODFW or Wildlife Services, acting as ODFW’s agent, to kill wolves for chronic livestock depredations. ODFW can decide to kill wolves in circumstances involving as few as one livestock depredation and three attempted depredations of livestock by gray wolves in a given area within eastern Oregon.

45. Under the Oregon Wolf Plan and the State’s administrative rules, ODFW can decide to engage in the “controlled take” of wolves whenever there is chronic livestock depredation or ungulate population declines.

### **Wildlife Services**

31. Wildlife Services has been in the business of killing wildlife for more than 100 years. Wildlife Services contracts with other federal agencies, non-federal government agencies, and

private landowners to conduct operations aimed at reducing damage to agricultural interests from wildlife. Wildlife Services describes its mission as “managing problems caused by wildlife.”

32. Wildlife Services kills vast numbers of animals every year. Wildlife Services reports that across the United States, it spent \$116 million in 2013 to kill 4.3 million animals, including 319 wolves. Wildlife Services reports that it spent about \$127 million in fiscal year 2014 to kill 2.7 million animals, including 322 wolves. Former Wildlife Services employees have revealed that Wildlife Services underreports the numbers of animals actually killed by the agency, and therefore actual numbers of animals killed are likely greater.

33. In 2012, the *Sacramento Bee* published a series of articles exposing a number of the practices of Wildlife Services. This series described that many scientists believe Wildlife Services’ programs are expensive and ineffective. It also described ethical problems within the agency, including employees hiding killings of non-target animals. Also in 2012, a Wildlife Services employee was criticized for posting photographs online of his dogs attacking coyotes caught in leg-hold traps. This is one of the photographs that the Wildlife Services employee

posted online:



An investigation found that the employee had not checked his traps at least three times in accordance with Wildlife Services directives. An investigation found that the employee failed to check his M-44 traps for up to 69 days at a time. The employee was not fired. The employee was not disciplined.

34. In fiscal year 2012, Wildlife Services intentionally killed 501 gray wolves. In fiscal year 2012, Wildlife Services unintentionally killed 2 gray wolves. These activities took place across six states. In fiscal year 2012, Wildlife Services killed 3,352,378 animals total.

35. In fiscal year 2013, Wildlife Services intentionally killed 319 gray wolves. In fiscal year 2013, Wildlife Services unintentionally killed one gray wolf. These activities took place across five states. In fiscal year 2013, Wildlife Services killed 4,378,456 animals total.

36. In fiscal year 2014, Wildlife Services intentionally killed 321 gray wolves. In fiscal year 2014, Wildlife Services unintentionally killed one gray wolf. These activities took place across seven states. In fiscal year 2014, Wildlife Services killed 2,713,570 animals total.

37. Wildlife Services has unintentionally caught non-wolves during its wolf trapping activities. Wildlife Services has unintentionally killed non-wolves during its wolf trapping activities.

38. Wildlife Services has unintentionally trapped non-target animals in Oregon. Wildlife Services has unintentionally killed non-target animals in Oregon.

39. In September 2009, Wildlife Services killed two wolves in Oregon at the request of ODFW.

40. In 2010, ODFW authorized Wildlife Services to kill two additional wolves in Oregon. In June 2010, ODFW expanded the geographic scope and extended the duration of Wildlife Services' wolf-killing authority in Oregon.

41. In July 2010, several conservation organizations sued Wildlife Services for its failure to prepare an Environmental Assessment or Environmental Impact Statement ("EIS") under NEPA before killing wolves in Oregon. Wildlife Services reached a settlement with the plaintiffs in that litigation and agreed to suspend its wolf-killing program until it had complied with NEPA.

42. In July 2012, Defendants released a pre-decisional Environmental Assessment for Wildlife Service's Oregon Gray Wolf Damage Management plan.

43. On September 10, 2012, Plaintiffs submitted written comments on the draft EA.

44. In July 2014, Defendants issued the final Environmental Assessment for Gray Wolf Damage Management in Oregon. In July 2014, Mike Yeary, Acting Director for the Western Region of USDA-APHIS Wildlife Services, signed the DN/FONSI authorizing implementation of the EA's Alternative 3.

45. The DN/FONSI authorized Wildlife Services' involvement in wolf management in Oregon. The DN/FONSI authorizes Wildlife Services to contract with ODFW and CTUIR to lethally remove wolves in Oregon in areas where wolves are not listed under the federal Endangered Species Act. The DN/FONSI authorizes Wildlife Services to contract with ODFW and CTUIR to trap and capture gray wolves for relocation, monitoring, research, and other non-lethal purposes. The DN/FONSI asserts that implementation of Alternative 3 would be more efficient in reducing depredation than the other Alternatives considered in the Final EA.

46. Wildlife Services conducts depredation investigations in Oregon. Wildlife Services assists ODFW and other government agencies in conducting depredation investigations in Oregon. These depredation investigations seek to determine what species of predator was responsible for the killing or injuring of livestock. Since 2012, the majority of depredation investigations conducted by Wildlife Services in Oregon have concluded that wolves were responsible for the killing or injuring of livestock. Wildlife Services' depredation investigations in Oregon have determined wolves to be responsible for livestock depredation incidents. Wildlife Services' depredation investigations in Oregon have determined wolves to be responsible for livestock depredation incidents when ODFW's investigations of the same incidents did not reach that conclusion.

## CLAIMS FOR RELIEF

### FIRST CLAIM FOR RELIEF

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

47. Plaintiffs incorporate by reference all preceding paragraphs.

48. The regulations implementing NEPA require Wildlife Services 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.*

49. 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.

50. The Wildlife Services Gray Wolf Damage Management in Oregon 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 on wolf populations.
- e. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of wolf management activities in neighboring states 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, including federally protected threatened and endangered species.

51. 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).

52. 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: An Environmental Impact Statement is Required.**

53. Plaintiffs incorporate by reference all preceding paragraphs.

54. 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.

55. 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).

56. 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.

57. Wildlife Services' Wolf Damage Management in Oregon 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 for future actions. The authorized action may adversely affect an endangered or threatened species or its habitat. The authorized action threatens a violation of federal and state law.

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

59. 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.

#### **PLAINTIFFS' PRAYER FOR RELIEF**

Plaintiffs respectfully request that this Court:

1. Declare that Wildlife Services violated the National Environmental Policy Act, its implementing regulations, and the Administrative Procedure Act in developing, analyzing, and implementing the Wildlife Services Gray Wolf Damage Management in Oregon EA and DN/FONSI;
2. Vacate the Wildlife Services Gray Wolf Damage Management in Oregon EA and DN/FONSI;
3. Order Wildlife Services to withdraw the Wildlife Services Gray Wolf Damage Management in Oregon 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 Oregon 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 3rd day of February, 2016.

/s/ John R. Mellgren

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### **CORPORATE DISCLOSURE STATEMENT**

Pursuant to FRCP 7.1, Plaintiffs Cascadia Wildlands, Center for Biological Diversity, WildEarth Guardians, Predator Defense, and Project Coyote state that they have not issued shares to the public and have no affiliates, parent companies, or subsidiaries issuing shares to the public. Project Coyote further states that it is a fiscally sponsored project of Earth Island Institute.

Respectfully submitted and dated this 3rd day of February, 2016.

/s/ John R. Mellgren

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