

Laurence (“Laird”) J. Lucas (ISB # 4733)
Bryan Hurlbutt (ISB # 8501)
ADVOCATES FOR THE WEST
P.O. Box 1612
Boise, ID 83701
(208) 342-7024
(208) 342-8286 (fax)
llucas@advocateswest.org
bhurlbutt@advocateswest.org

Attorneys for Plaintiff Defenders of Wildlife

Amy R. Atwood (OSB # 060407)
CENTER FOR BIOLOGICAL DIVERSITY
P.O. Box 11374
Portland, OR 97211-0374
(971) 717-6401
(503) 283-5528 (fax)
atwood@biologicaldiversity.org

*Attorney for Co-Plaintiffs Center for Biological Diversity,
Western Watersheds Project, and Project Coyote*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

DEFENDERS OF WILDLIFE,)	No. 04:14-cv-487
)	
Plaintiff,)	COMPLAINT
)	
CENTER FOR BIOLOGICAL DIVERSITY,)	
WESTERN WATERSHEDS PROJECT, and)	
PROJECT COYOTE,)	
)	
Co-Plaintiffs,)	
)	
vs.)	
)	
KRAAYENBRINK, JOSEPH J., District Manager,)	
and BUREAU OF LAND MANAGEMENT,)	
)	
Defendants.)	
_____)	

NATURE OF THE ACTION

1. Gray wolves were protected under the Endangered Species Act for more than 30 years in the Northern Rockies due to human persecution of wolves; and the federal government invested heavily in winning the social acceptance of wolves through the wolf reintroduction program that was launched in 1995. In delisting the wolf in the Northern Rockies in 2009, after populations rebounded thanks to the reintroduction program, the U.S. Fish and Wildlife Service pointed to the “refugia” offered by the public lands of Idaho where wolf populations could be expected to continue prospering.

2. Now Defendant Bureau of Land Management (BLM) has taken action directly contrary to the federal government’s wolf reintroduction efforts, by approving an anti-wolf group’s proposal to stage a five-year competitive “Idaho Predator Hunt Derby” across more than three million acres of BLM lands in eastern and central Idaho. Under the proposal just approved by BLM’s Idaho Falls District Manager, Defendant Joseph Kraayenbrink, up to 500 entrants will compete over a three day period each winter – starting on January 2, 2015 – to see who can kill the most and largest wolves and coyotes, and win cash and prizes.

3. The promoter of this event is a vocal proponent of eliminating all wolves in Idaho, and is using this proposed Idaho Predator Hunt Derby to foment anti-wolf sentiment by asserting that wolves are vicious predators that threaten people and play no meaningful role in a healthy ecosystem – all scientifically false assertions.

4. Moreover, competitive hunting for wolves has never been authorized on public lands, at least before now; and competitive predator hunting derbies are incompatible with modern-day wildlife management principles and ethical hunting practices. Indeed, the Idaho Department of Fish and Game (IDFG) has a policy to “not support any contests or similar

activities involving the taking of predators which may portray hunting in an unethical fashion, devalue the predator, and which may be offensive to the general public.”

5. By approving a Special Recreation Permit (SRP) authorizing the “Idaho Predator Hunt Derby” to occur annually over five years on public lands, Defendants Kraayenbrink and BLM are aiding and abetting the proponent in undercutting the social acceptance of wolves that the federal government has sought to accomplish through the Northern Rockies wolf reintroduction. In light of the precedent being set and the conflict between its action and the wolf reintroduction program, BLM was obligated to prepare a full Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) – a step which it has refused to do, thus violating NEPA.

6. BLM’s refusal to prepare an EIS is even more remarkable in light of its own admission that it received over 100,000 comments from individuals across Idaho, the United States, and around the world – as well as from the Shoshone-Bannock Tribes, scientists, and many organizations representing hundreds of thousands of members – virtually of which strenuously opposed the Idaho Predator Hunt Derby. Many of these comments pointed out that the derby is inconsistent with well-established science documenting the critical role played by wolves and other predators in maintaining healthy ecosystem functions, and the critical importance of conserving these animals, particularly on public lands in the western United States. In light of the significant scientific and public controversy over its proposed action, BLM was again required to prepare a full EIS under NEPA.

7. Instead of doing so, BLM approved the requested Special Recreation Permit on November 13, 2014, based on a cursory Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and Decision Record (DR), which are riddled with factual and

scientific misstatements, omissions, and legal errors; and which fail to address the direct, indirect and cumulative impacts associated with BLM's approval of the proposed derby. Among these defects, BLM:

- (a) Ignored the well-established science regarding the ecological role played by apex predators, such as wolves and coyotes;
- (b) Contravened IDFG's express policy against competitive predator derbies;
- (c) Failed to assess likely impacts of the Idaho Predator Hunt Derby on local populations of gray wolves, which remain a BLM "sensitive species" today;
- (d) Ignored substantive requirements of BLM's operative land use plans and requirements for maintaining the integrity of Wilderness Study Areas and other sensitive places and resources protected on BLM lands;
- (e) Disregarded the high level of controversy associated with the derby, and ignored the public safety risks or precedential impact that will be created in its approving the Idaho Predator Hunt Derby to become an annual event on public lands;
- (f) Failed to address any alternatives to Idaho for Wildlife's expansive proposal, such as alternatives that would avoid targeting sensitive species, ecologically-sensitive areas, or Wilderness Study Areas; and
- (g) Failed even to disclose basic facts about the derby, such as how much the organizer would charge participants for entry fees or award in cash or prizes, in order to determine whether the activity also qualifies as a "commercial" (as well as a "competitive") use of public lands.

8. For all of these reasons, BLM failed to take a "hard look" at the Idaho Predator Hunt Derby and to prepare a full Environmental Impact Statement (EIS) as required by NEPA,

and further violated the requirements of its own special use permit regulations and applicable land use plans in violation of the Federal Land Policy and Management Act (FLPMA).

9. Because BLM's approval of the Idaho Predator Hunt Derby proposal is thus arbitrary, capricious, and contrary to law, Plaintiffs request that this Court vacate, reverse, and remand the EA, FONSI, DR and SRP issued by BLM; enjoin BLM's approval of the Idaho Predator Hunt Derby; and enter other relief as prayed for below.

JURISDICTION AND VENUE

10. Jurisdiction is proper in this Court under 18 U.S.C. § 1331 because this action arises under the laws of the United States, including NEPA, 42 U.S.C. §§ 4321-4370h; FLPMA, 43 U.S.C. §§ 1701-1785; the Administrative Procedure Act, 5 U.S.C. §§ 701-706 (APA); the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202; and the Equal Access to Justice Act, 28 U.S.C. § 2412.

11. An actual, justiciable controversy exists between Plaintiffs and Defendants. The requested relief is therefore proper under 5 U.S.C. §§ 701-06 and 28 U.S.C. §§ 2201-02.

12. Venue is properly vested in this Court pursuant to 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, Defendants are located in this district, and the public lands and resources in question are in this district.

13. The federal government has waived sovereign immunity in this action pursuant to 5 U.S.C. § 702.

PARTIES

14. Plaintiff Defenders of Wildlife (Defenders) is a national non-profit conservation organization with more than 1,200,000 members and supporters nationwide and more than 6,500

members and supporters in Idaho. Defenders is headquartered in Washington, D.C., with offices throughout the country, including in Idaho. Established in 1947, Defenders focuses its science-based advocacy on conserving and restoring imperiled species and their habitats across the country.

15. Over the last three decades, Defenders has played a leading role in the recovery of wolves in the Northern Rockies, including the administration of Defenders of Wildlife Wolf Compensation Trust which reimbursed ranchers in the region in amounts totaling more than \$1,400,000 for livestock depredation from 1987, when the program was founded, through 2011 when the Federal Government took over compensation and delisted wolves in the Northern Rockies wolf recovery area. In 1998, Defenders also created the Defenders of Wildlife Proactive Carnivore Conservation Fund, which informs and assists family ranchers and farmers with nonlethal methods to reduce or prevent livestock losses to wolves. These methods include sharing the cost of range riders, livestock guard dogs, predator deterrent fencing, alternative grazing practices, and more.

16. Co-Plaintiff Center for Biological Diversity (the Center) is a nonprofit organization that is dedicated to the preservation, protection, and restoration of biodiversity, native species, and ecosystems. The Center was founded in 1989 and is based in Tucson, Arizona, with offices throughout the country, including Idaho. The Center has more than 55,000 members, including many who reside in, explore, and enjoy the native species and ecosystems of the Northern Rockies.

17. Co-Plaintiff Western Watersheds Project is a non-profit conservation organization that was founded in 1993, with the mission of protecting and restoring western watersheds and wildlife in the American West through education, public policy initiatives, and litigation.

Headquartered in Hailey, Idaho, Western Watersheds Project has over 1,400 members and field offices in Idaho as well as Montana, Utah, Wyoming, Arizona, and California. Western Watersheds Project has maintained a public policy program for many years that is directed at advocating for statutory and regulatory protection of gray wolves in the Northern Rockies.

18. Co-Plaintiff Project Coyote is an organization that works 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-coyote conflict, by supporting innovative scientific research, and by fostering respect for and understanding of America's apex predators. Project Coyote has over 9,700 members, including members who explore and enjoy the native species and ecosystems of the Northern Rockies.

19. The staff, members, and supporters of Defenders, the Center, WWP, and Project Coyote (Plaintiffs) live and work near Salmon and Challis, Idaho, in Lemhi and Custer counties, and regularly recreate on and otherwise use the public lands at issue in this matter. Plaintiffs' staff, members, and supporters derive recreational, scientific, aesthetic, inspirational, educational, and other benefits from such use. Plaintiffs' staff, members, and supporters enjoy viewing and studying wildlife, and recreating in natural environments that they know are inhabited and sustained by diverse wildlife, including wolves, coyotes, and other predators.

20. Plaintiffs' staff, members, and supporters intend to continue to regularly visit and use public lands affected by the Idaho Predator Hunt Derby over the next five years, including in the near future and during the upcoming Idaho Predator Hunt Derby that is planned to take place on January 2nd through January 4th, 2015, for these purposes.

21. The Idaho Predator Hunt Derby will kill many predators, and disturb other wildlife species, and cause an increase in people and vehicles on public lands, particularly in the area near Salmon, Idaho. Plaintiffs' staff, members, and supporters are injured when their experience visiting public lands is impaired not only by seeing animals killed, but also by knowing that animals are wantonly being killed in the area around them, which disrupts the natural ecosystem that they want to enjoy. They are also disturbed by hearing gunshots and seeing people and vehicles during their recreation experience, particularly in Wilderness Study Areas. Plaintiffs' members may avoid areas in the affected public lands that they would otherwise visit, due to the presence of this killing and the long-term impacts that it will cause.

22. Plaintiffs' interests are irreparably harmed by BLM's approval of the annual Idaho Predator Hunt Derby, which will help the State of Idaho permit sport hunting of wolves so as to drastically reduce their population in Idaho. Plaintiffs' interests are also irreparably harmed because the anti-wolf sentiment encouraged by the derby and sanctioned by BLM runs directly counter to Plaintiffs' goal of creating social acceptance of wolves, which is essential to wolf recovery and in which Plaintiffs have invested substantial resources.

23. Plaintiffs' interests are irreparably harmed by BLM's action approving the Idaho Predator Hunt Derby on over 3 million acres of public lands without adequately assessing the potential environmental impacts, as challenged here, or considering reasonable alternatives to Idaho for Wildlife's proposal. Plaintiffs' interests are also irreparably harmed by BLM's failure to thoroughly assess and disclose potential impacts and alternatives to the public through the NEPA process, including by failing to prepare a full EIS. These interests have been, are being, and will continue to be irreparably injured by these legal violations unless the relief prayed for herein is granted.

24. Defendant Joseph J. Kraayenbrink is the District Manager of the Idaho Falls District of BLM. Defendant Kraayenbrink has supervisory and management authority over BLM decisionmaking in the Idaho Falls District and is responsible for ensuring that BLM's actions within the District comply with all federal laws and regulations. Defendant Kraayenbrink signed the Decision Record on November 13, 2014 approving the SRP for the Idaho Predator Hunt Derby based on the EA and FONSI. Defendant Kraayenbrink is sued solely in his official capacity.

25. Defendant Bureau of Land Management is an agency or instrumentality of the United States within the U.S. Department of Interior. BLM is charged with managing the public lands and resources of the Idaho Falls District at issue in this case in accordance and compliance with federal laws and regulations.

LEGAL BACKGROUND

A. The Federal Land Policy and Management Act

26. BLM's land management authority is defined by FLPMA. Section 302(b) of FLPMA directs the Secretary of the Interior to regulate through permits or other instruments the use of public lands. 43 U.S.C. § 1732(b).

27. Under FLPMA and implementing regulations, BLM must develop land use plans for the public lands under its control. *Id.*, § 1712. Under FLPMA's "consistency" requirement, all resource management decisions made by BLM must conform to the approved land use plan. *Id.*, § 1732(a); 43 C.F.R. § 1610.5-3(a). In order to conform to a land use plan, a resource management decision "shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan." 43 C.F.R. § 1601.0-5. Prior to carrying out a proposed action that is not clearly consistent

with the land use plan, BLM must amend the plan, complying with NEPA and allowing for public participation. *See id.*, §§ 1610.5-3, 1610.5-5.

28. BLM regulations establish “Special Recreation Permits for commercial use, organized group activities or events, competitive use, and for use of special areas.” 43 C.F.R. § 2931.2. A competitive use is “[a]ny organized, sanctioned, or structured use, event, or activity on public land in which 2 or more contestants compete” and either register, enter, or apply for the event and/or use a “predetermined course or area.” *Id.*, § 2932.5(2). A use is “commercial” if any group or organization makes or attempts to make a profit or receive money from participants. *Id.*, § 2932.5(1).

29. BLM has discretion over whether to issue a Special Recreation Permit based on the following factors: (a) conformance with laws and land use plans; (b) public safety; (c) conflicts with other uses; (d) resource protection; (e) the public interest served; (f) whether in the past the applicant complied with terms the permit or other authorization from BLM and other agencies; and (g) other information BLM finds appropriate. 43 C.F.R. § 2932.26. BLM may impose stipulations and conditions on SRPs to meet management goals and objectives and to protect lands and resources and the public interest. *Id.*, § 2932.41.

30. BLM has adopted a Special Status Species Policy pursuant to its broad authority to manage public lands under FLPMA. The Policy requires BLM to conserve special status species (including BLM “sensitive species” such as gray wolves) and the ecosystems upon which they depend on BLM-administered lands. BLM, Special Status Species Manual (2008), § 6840.01. One objective of the Policy is for BLM to initiate proactive conservation measures that reduce or eliminate threats to sensitive species to minimize the likelihood of and need for listing of these species under the ESA. *Id.*, § 6840.02. Under the Policy, BLM District Managers are to

conduct and maintain current inventories of BLM special status species on BLM-administered lands and to monitor populations of special status species to determine whether management objectives are being met. *Id.*, §§ 6840.04.E.2 & 6840.04.E.7. “Actions authorized by the BLM shall further the conservation and/or recovery of . . . [BLM] sensitive species. . . . [BLM] sensitive species will be managed consistent with species and habitat management objectives in land use and implementation plans to promote their conservation and to minimize the likelihood and need for listing under the ESA.” *Id.*, § 6840.06.

31. Pursuant to FLPMA, BLM has evaluated and identified Wilderness Study Areas (WSAs), which are lands deemed suitable for Wilderness designation by Congress; and which must be managed by BLM under FLPMA “so as not to impair the suitability of such areas for preservation as wilderness.” 43 U.S.C. § 1782(c). To meet BLM’s non-impairment standard, use of a WSA must both (1) be temporary and (2) not create a new surface disturbance. BLM, Wilderness Study Areas Manual (2012), § 6330.1.6.C.1. Uses which are short-term but chronic and repeated do not meet BLM’s definition of “temporary.” *Id.*, § 6330.1.6.C.1.a. Neither do uses, activities, or facilities that create a demand for uses that would be incompatible with wilderness management. *Id.*

32. Moreover, the BLM Manual states that any action to control predators should be undertaken in certain limited circumstances – *e.g.*, to prevent disease transmission, to protect livestock within WSAs, or to enhance recovery of endangered or threatened species – none of which are present here. Even when such circumstances are present, any predator control in WSAs may proceed only by the U.S. Department of Agriculture’s Animal and Plant Health Inspection Service-Wildlife Services, BLM, or a delegated State agency, and may only target a specific, offending animal or group of animals.

33. FLPMA directs BLM to “protect and prevent irreparable damage to important historic, cultural, scenic, fish, and wildlife resources or other natural systems or processes, and to protect life and safety from natural hazards” through designation of Areas of Critical Environmental Concern (ACEC). 43 U.S.C. § 1702(a).

B. The National Environmental Policy Act

34. The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370(h), is America’s basic “charter for protection of the environment.” 40 C.F.R. § 1500.1(a). The Council on Environmental Quality (CEQ) promulgates regulations implementing NEPA, which are binding on all federal agencies. *Id.* §§ 1500-1518.4.

35. NEPA requires federal agencies to ensure fully informed decision-making and to provide for public participation in environmental analysis and decision-making. 40 C.F.R. § 1500.1(b)-(c). NEPA serves two principal purposes: (1) it ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts, and (2) it guarantees that the relevant information will be made available” to the public so it may play a role in the decisionmaking process. This “hard look” at an action’s impacts fosters both informed decision-making and informed public participation.

36. NEPA requires federal agencies to prepare an Environmental Impact Statement (EIS) for all “major federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). “Environmental information [must be made] available to public officials and citizens before decisions are made and before actions are taken.” 40 C.F.R. § 1500.1(b) (emphasis added). Among other things, an EIS must consider a reasonable

range of alternative actions and assess site specific and cumulative impacts. 42 U.S.C. § 4332(2)(C)(iii); 40 C.F.R. §§ 1502.14,1502.16, 1508.25.

37. Particularly relevant here, CEQ regulations require an EIS where federal actions “establish a precedent for future actions with significant effects or represent[] a decision in principle about a future consideration,” 40 C.F.R. § 1508.27(b)(6), or “threaten[] a violation of Federal, State, or local law or requirements imposed for the protection of the environment,” *id.*, § 1508.27(b)(10), especially where those effects are “likely to be highly controversial.” *Id.*, § 1508.27(b)(4).

38. Under CEQ’s regulations implementing NEPA, federal agencies may prepare an Environmental Assessment (EA) to assist in the NEPA process. 40 C.F.R. §§ 1501.4(b), 1508.9. If the agency decides that an EIS is not needed, it must undertake a thorough environmental analysis and supply a convincing statement of reasons that explains why a project’s impacts are not significant. To make a determination of non-significance, NEPA documents must consider the direct, indirect, and cumulative environmental impacts of a proposed action. 40 C.F.R. § 1508.8. Direct effects are caused by the action and occur at the same time and place as the proposed project. *Id.* § 1508.8(a). Indirect effects are caused by the action and are later in time or farther removed in distances, but are still reasonably foreseeable. *Id.* § 1508.8(b). Both types of impacts include “effects on natural resources and on the components, structures, and functioning of affected ecosystems.” *Id.* § 1508.8. Cumulative impact results when the “incremental impact of the action [is] added to other past, present, and reasonably foreseeable future actions” undertaken by any person or agency. *Id.* § 1508.7.

39. One of NEPA’s fundamental goals is to “promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of

man.” 42 U.S.C. § 4321. The scope of NEPA review is quite broad, including disclosure and consideration of all reasonable alternatives, 40 C.F.R. § 1502.14(a), and direct, indirect, and cumulative effects on “ecological. . . aesthetic, historic, cultural, economic, social, or health” interests. *Id.*, § 1508(b). The federal agency must “[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”; “[d]evote substantial treatment to each alternative considered in detail including the proposed action”; and “[i]nclude reasonable alternatives not within the jurisdiction of the lead agency.” *Id.* § 1502.14(a)-(c).

40. NEPA obligates the agency to make available to the public high-quality information including accurate scientific analyses, expert agency comments, and public comments before decisions are made and actions are taken. 40 C.F.R. § 1500.1(b). The CEQ’s implementing regulations for NEPA provide that information used to inform NEPA analysis “must be of a high quality” and that “[a]ccurate scientific analysis . . . [is] essential to implementing NEPA.” *Id.*, § 1500.1(b). The agency’s discussion and analysis must be based on professional and scientific integrity. *Id.*, § 1502.24. To take the required “hard look” at a proposed project’s effects, an agency may not rely on incorrect assumptions or data.

STATEMENT OF FACTS

A. The Gray Wolf and Other Idaho Predators

41. Gray wolves are native to the Northern Rockies region, including Idaho. More than 350,000 gray wolves once inhabited the American West, but by 1925 the species had been eradicated from the region through shooting, trapping, and poisoning. Gray wolves were among the first species to receive federal protection under the ESA, when the statute was enacted in 1973.

42. Wolves are social animals that normally live in closely-bonded packs of two to twelve animals. These family groups usually consist of a single breeding pair, their offspring from prior years, and an occasional unrelated wolf. All pack members help feed, protect, and play with pups born to the pack.

43. On behalf of the American people and in accordance with the recovery goals of the ESA, the federal government has invested substantial effort to restore wolves to the Northern Rockies through a program initiated in 1995 to reintroduce wolves to appropriate habitats in the region, including in Idaho. The return of the wolf has brought substantial economic benefit to the Northern Rockies region, as visitors come to see and hear wolves in the wild, including in eastern Idaho.

44. An integral aspect of the federal government's wolf reintroduction program was seeking to promote the social acceptance of wolves, since human persecution was principally responsible for the eradication of wolves in the region. The reintroduction program provided various mechanisms to help achieve such social acceptance of wolves, such as providing for relocation or removal of wolves that became habituated to predation on livestock.

45. Because it is a "keystone" species, the wolf's return has helped restore critical ecological balance in many portions of the Northern Rockies environment, including eastern Idaho. Wolves in the Northern Rockies prey primarily on wild ungulates such as elk, white-tailed deer, mule deer, moose, pronghorn antelope, and bison. Wolves benefit the health of their prey species' populations by culling old, very young, injured, and diseased individuals, and leaving the healthiest animals to reproduce.

46. The presence of wolves discourages elk from browsing in riparian areas where they may encounter wolves, which reduces destruction of riparian trees and shrubs that control

erosion and support communities of native birds, beavers, and other wildlife. Wolves also prey aggressively on coyotes, which helps restore natural coyote population levels and benefits small rodents, birds of prey (who feed on rodents), and pronghorn antelope (who are often preyed upon by coyotes).

47. For example, wolves in Yellowstone and Grand Teton National Parks have been found to benefit aspen, songbirds, beavers, bison, fish, pronghorn, foxes, and grizzly bears. By reducing numbers and inducing elk to move, wolves reduce browsing on aspen and other streamside vegetation, which has benefitted beavers, songbirds and fish populations. Studies have also shown how wolves and coyotes interact, and how wolves can aid pronghorn populations as wolves suppress coyotes and, hence, fawn depredation. Wolves also benefit scavengers by leaving carrion derived from predation; hence, wolf removal leads to reduced abundance of carrion for scavengers in specific areas.

48. The removal of apex predators, such as wolves, has consequences to ecosystem function – for example, the “release” of mid-sized or “mesopredators” like foxes, raccoons, and skunks that are not at the top of the food chain in the presence of coyotes. Increased abundance of mesopredators in turn can negatively affect populations and diversity of other species, including ground-nesting birds, rodents, lagomorphs, and others. In some cases, declines in these species results in reduced prey for other predators and contribute to their decline and extirpation as well.

49. In 2009, the gray wolf was delisted under the Endangered Species Act by the U.S. Fish and Wildlife Service (FWS). In delisting the wolf, FWS expressly stated that it was relying on the State of Idaho (along with Montana) to “maintain a robust wolf population” with “refugia from human-caused mortality,” including on “remote Federal lands” that would “guarantee” a

“stronghold for wolf breeding pairs and source of dispersing wolves.” 74 Fed. Reg. 15,123, 15,132 (Apr. 2, 2009).

50. Since that time, however, the State of Idaho has managed a program of wolf hunting and trapping through IDFG. IDFG’s management of wolves through authorization of hunting and trapping by private individuals has caused a steep decline in the state’s wolf population – according to IDFG figures, wolf numbers in Idaho dropped 23 percent between 2009 and 2013, and numbered 659 wolves at the end of 2013 (down from an estimated 846 wolves in 2009). In March, the Idaho Governor C.L. “Butch” Otter signed a new law that creates a “Wolf Control Board” with a goal (according to supporters of the bill) of reducing the Idaho wolf population much lower, to as few as 150 individual wolves. Idaho Code § 22-5301.

51. Studies show that targeting coyotes for removal is unlikely to reduce coyote populations or boost game herds in a given area, as such efforts have no detectable effect on the population growth rate for game populations, and coyotes compensate for such removal efforts with larger reproductive rates.

52. Studies also show that random killing, including through sport hunting, of individual wolves and coyotes from their packs can disrupt these animals’ social structures and predator-prey dynamics, and this disruption can lead to increased ecological damage.

B. Idaho for Wildlife’s 2013 Predator Derby on Non-BLM Land

53. In fall 2013, an Idaho entity called “Idaho for Wildlife” promoted what it called “Idaho’s 1st annual two-day predator derby” to be conducted during the last week of December, 2013 out of Salmon, Idaho. The group offered minimum prizes of \$1,000 for the competitors killing the most and largest wolves and coyotes.

54. The 2013 Predator Derby was not held on BLM land. During the first week of December 2013, the BLM Salmon Field Office received a request from Idaho for Wildlife to hold a predator hunt derby on BLM-managed lands in the Salmon area. However, BLM denied the application, advising Idaho for Wildlife that BLM would not be able to process the application in time for the derby. BLM invited Idaho for Wildlife to submit an application six months in advance for future events.

55. Various conservation groups, including some of the Plaintiffs, sought a Temporary Restraining Order to prevent this initial 2013 Predator Derby from occurring on Forest Service lands without a Forest Service “Special Use Permit” (SUP). *See Wildearth Guardians et al v. Mark et al.*, No. 4:13-cv-533-CWD (D. Idaho). That litigation challenged the Forest Service’s determination that no SUP was required for the derby to occur on Forest Service lands, on grounds that it was a “commercial activity” requiring a SUP under Forest Service regulations since the promoter was charging an entry fee for competitors. In response to the plaintiffs’ complaint, the promoter changed the requirement of an application fee and instead sought a “donation” from competitors. *See id.*, Memorandum Decision and Order (*Dkt. No. 23*), p. 2, n.3. Notably, the promoter assured the Court in a sworn declaration that “it is unlikely that Idaho for Wildlife will hold a similar event next year.” *Id.*, Decl. of Steve Alder (*Dkt No. 20-3*).

56. After the Court denied a temporary restraining order, the initial Idaho Wolf Derby proceeded over a two-day period in late December 2013, but the hunting competitors were not allowed to conduct wolf or coyote hunting on BLM lands, since BLM had refused to provide a Special Recreation Permit. Some 23 coyotes were reportedly taken as part of the event, but no wolves.

C. **Idaho for Wildlife’s Application for a Five-Year Competitive Predator Derby on BLM Land**

57. Contrary to its sworn statement to the Court, Idaho for Wildlife has now decided to promote a five-year annual “Idaho Predator Hunt Derby” to take place on BLM, Forest Service, state and private (where allowed) lands within central/eastern Idaho.

58. In June 2014, Idaho for Wildlife submitted an application to BLM for a five-year Special Recreation Permit to hold the annual “Idaho Predator Hunt Derby” on public lands managed by the Challis, Salmon, and Upper Snake Field Offices of BLM’s Idaho Falls District. While the permit area includes more than 3 million acres of BLM-managed public lands in 11 counties, the majority of use would occur in Lemhi and Custer Counties on lands surrounding the communities of Salmon, Leadore, Challis, North Fork, and Gibbonsville. Some 17 BLM-designated WSAs are located within the proposed area for the derby, including at least four in close proximity to Salmon, Idaho.

59. Each year, the wolf derby would last three days between December 15 and January 15 and would include up to 500 participants. Participants would register online or in person at a private business in Salmon, Idaho. During each three-day derby, participants would compete to kill the most wolves and coyotes, as well as other Idaho-designated predators, including skunks, weasels, jackrabbits, raccoons, and European starlings. There would be a nightly check-in, at which participants would be awarded points for each dead wolf and other predators killed that day.

60. Although Idaho for Wildlife has apparently not yet publicized – and BLM has not disclosed – the specific stipulations, including entry fees and awards, of the proposed predator derby, Idaho for Wildlife will presumably award cash prizes of \$1,000 or more for the most or largest wolves killed, and the most coyotes killed, as it did in 2013. It is uncertain whether the

promoter will charge an entry fee or seek a “donation” from entrants to compete in the event. It is also unclear how Idaho for Wildlife will use any net revenue that it collects from entry fees or donations.

61. When it applied for a five-year permit in June 2014, an Idaho for Wildlife representative communicated to BLM’s Recreation Planner that eventually Idaho for Wildlife will seek a permit to conduct its annual Idaho Predator Hunt Derby on public lands throughout the entire State of Idaho.

D. BLM Approval of the Five-Year Idaho Predator Hunt Derby

62. According to project records obtained under the Freedom of Information Act, BLM’s staff person responsible for coordination of BLM’s response to the Idaho for Wildlife application – who is not a biologist, wildlife specialist, or other technical expert – determined, even before any public comment was solicited, that the five-year derby proposal would not pose significant impacts on the environment, including sensitive lands or resources.

63. BLM staff took extraordinary steps to support the proposed action, including by removing BLM wildlife specialists from consideration of the proposal during portions of BLM’s internal review, by preparing an elaborate “Communications Plan” with an ambitious timeline for completion of an EA with a FONSI and a plan to reach out to local reporters and Congressional representatives, and by seeking to solicit supporting comments from groups like the National Rifle Association (NRA).

64. On August 4, 2014, BLM released a scoping letter and Notice of Proposed Action in WSAs and initiated a 15-day public scoping period on the proposed SRP for the five-year Idaho Predator Hunt Derby application.

65. As a result of the public scoping, BLM was deluged with comments from the public, from people and organizations who are outraged by the proposal to allow a competitive wolf and coyote killing contest on public lands and who are deeply opposed to the proposal and the precedent that it would set. In a Predator Hunt Derby EA that BLM released in September 2014, the agency stated that it received approximately 56,500 comments during scoping alone, of which roughly 56,490 comments indicated opposition to the wolf derby. Thus, BLM received only 10 out of 56,000 comments supporting the proposed permit – despite BLM’s apparent effort to secure more support for the derby from organizations such as the NRA.

66. The Shoshone-Bannock Tribes, which have treaty-protected rights and interests in the area of the BLM lands affected by the Idaho Predator Hunt Derby, adopted a resolution opposing the derby proposal and submitted comments to BLM opposing the proposal.

67. In September 2014, BLM released its “Predator Hunt Derby Environmental Assessment” (#DOI-BLM-ID-1000-2014-0002-EA) for public comment. Consistent with BLM’s internal staff determination to portray the proposal as having no significant impacts, the September 2014 EA characterized the proposed Idaho Predator Hunt Derby as just recreational activity on public lands that would have no more impacts than ordinary hunting would have. The EA broadly asserted that since IDFG is charged with managing hunting of wolves, coyotes and other predators, BLM had no duty to assess potential impacts on local or regional populations of these species or broader ecological impacts that might occur, on the basis that wildlife impacts were not under BLM’s “jurisdiction.”

68. Plaintiffs, along with numerous conservation groups, business owners, hunters, and concerned citizens submitted comments questioning the EA’s inadequate assessment of the potential adverse environmental impacts of the Idaho Predator Hunt Derby proposal, telling

BLM to take into account the impacts to ecosystems and public safety and to adhere to IDFG's formal policy to oppose such events. These comments also urged BLM to prepare a full EIS in light of the important precedent that it would set for to approve wolf and other predator-killing contests on public lands as well as the high level of public and scientific controversy engendered by the proposal.

69. In recent correspondence, BLM indicated that it received over 38,000 more comments on the EA, the overwhelming majority of which again opposed the Idaho Predator Hunt Derby proposal.

70. Despite this vast outpouring of public opposition, BLM nevertheless issued a final EA along with the FONSI and Decision Record on November 13, 2014, approving the requested Special Recreation Permit for conduct of the annual wolf derby over the next five years on BLM lands, without addressing these shortcomings and without preparing a full EIS.

71. The EA, FONSI and Decision Record rely on numerous factual and legal misstatements, omissions, and unwarranted assumptions to downplay potentially significant adverse impacts to wildlife populations, recreational use, WSAs, and other environmental values.

72. For example, throughout the EA, BLM minimized potential impacts by assuming the 500 derby participants will scatter over the large 11-county permit area. This assumption is unwarranted because – as the EA itself acknowledged – most derby hunting would actually take place in Lemhi and Custer Counties near the town of Salmon. The EA also recognized that winter conditions will likely preclude derby participants from accessing many areas, further concentrating derby hunting to certain limited areas, such as accessible elk winter range on BLM lands. The EA, however, ignored the impacts of concentrated derby hunting on those BLM lands near Salmon and most likely to be accessible during winter.

73. The EA also downplayed potential impacts by assuming that competitive predator hunting will happen whether or not BLM issues a Special Recreation Permit. This assumption is unwarranted because the Idaho Predator Hunt Derby would have to exclude a large portion of winter-accessible lands if BLM permission was denied, in which case the event may not be feasible over five years.

74. The EA also relied on IDFG's management of wolves to ignore BLM's own obligation to evaluate impacts to wolves. Wolves are a BLM special status species. As such, BLM is obligated to inventory and monitor wolf populations in the Idaho Falls District and to ensure its actions enhance wolf recovery. But BLM failed to evaluate impacts to wolves, never presented local population information, and never evaluated whether the wolf derby will undermine wolf recovery. BLM also failed to disclose and consider Idaho's declining wolf population under current IDFG management and never evaluated whether the derby will add to this decline.

75. The EA also relied on statewide population trends to determine impacts to predators other than wolves would be insignificant. BLM never considered local population levels and trends in the Salmon area, which is where most of the killing would occur, and assumed statewide trends are reflective of local conditions. The EA thus failed to take the required NEPA "hard look" at effects to local and regional populations.

76. The EA further relied on the broad assertion that predator management is important to prevent adverse impacts. BLM provided no support for this claim, which runs counter to ecological science – including studies that have documented the ecological benefits attributed to the return of gray wolves to the Northern Rockies since the 1990s, and showing the critical role predators play in a properly-functioning ecosystem. The EA did not even attempt to

assess whether these predator populations are causing any adverse impacts in the local area, or whether removing a number of them through the derby would disrupt balanced ecosystems and cause adverse effects by disrupting social packs or by allowing prey species to increase.

77. Neither did the EA present any information discussing how many of the target species are also prey species for other wildlife in the area like lynx, wolverine, and fisher, or impacts to those larger predators from removing some of their food source. Lynx are threatened and wolverine and fisher are sensitive species, so BLM was obligated to consider impacts to them from potential loss of prey species in this area.

78. Likewise, the EA presented no discussion of the potential for killing or disturbance of non-target species due to the derby. For instance, the EA did not assess whether greater sage-grouse could be disturbed in their winter habitat due to derby contestant activities, even though the permit will allow the activity to take place in sage-grouse “priority habitat,” and even though sage-grouse are another BLM sensitive species and currently designated as a species that “warrants” ESA listing.

79. In considering whether the derby will be consistent with RMPs, the EA looked only at recreation provisions in the RMPs, and never considered RMP provisions for protecting biological diversity, wildlife, special status species, or WSAs. This omission is particularly glaring regarding the 792,567-acre Challis Resource Area located in Lemhi and Custer Counties, where much of the derby hunting will occur. The Challis RMP contains a biological diversity goal to maintain functional and repair non-functional ecological systems and processes, and directs BLM to analyze “biodiversity effects” at the species, community, and landscape levels as part of project planning, as well as to assess “patterns of diversity for wide-ranging species” specifically including wolves. For special status species, the Challis RMP has a goal to maintain

species and habitat over their “range of natural distribution and habitat conditions” and directs BLM to include a “site-specific field assessment” of special status species as part of assessing all authorized actions and, where adverse effects of a project cannot be mitigated, directs BLM to monitor and assess the cumulative effects of the action. The Challis RMP also contains both general and specific direction for managing the fourteen ACECs in the area.

80. The EA also failed to appropriately consider impacts to Wilderness Study Areas, summarily concluding that the derby meets the non-impairment standard for WSAs. The EA asserted that the derby would not create new surface disturbance in WSAs, without any supporting analysis or explanation. The EA also claimed the wolf derby is not a chronic or repeated short-term use, because any increase in visitation above existing recreational hunting use would be insignificant, but without presenting any information on existing use. And the EA asserted that the derby will not create demand for uses incompatible with wilderness designation, even though the EA acknowledged that this derby is likely to grow in size over the permit period, and that such a derby would not be permissible in designated wilderness.

81. The EA also ignored BLM’s own management policies for WSAs, which do not provide for recreational or indiscriminate hunting of predators in WSAs. Rather, BLM’s policies require that predator removal in WSAs target only specific animals and proceed only under certain conditions, none of which are present here. Thus, any predator control must be limited to either the USDA Animal and Plant Health Inspection Service-Wildlife Services or an Idaho State agency if BLM specifically delegates WSA predator control responsibility to the State. The EA failed to recognize that no provision in BLM Manual 6330 allows BLM to grant access to a private group such as Idaho for Wildlife to undertake predator control in WSAs.

82. The EA also assumed that compliance with BLM's travel management requirements will avoid adverse impacts, including the spread of weeds. But BLM never discussed what these requirements are and never demonstrated that the travel plans are up-to-date and adequate to avoid impacts of the derby.

83. The EA further did not take a hard look at impacts to recreation. The EA presumed that hunting contestants would disperse over the vast area of eastern Idaho encompassed by the derby, thus downplaying likely impacts to recreationists in the area around Salmon where hunting will likely be concentrated. The EA ignored adverse impacts to individuals' enjoyment of recreation experience for those who do not want to hear gunshots, to see dead wolves and other wildlife, or to know that wanton killing is occurring in the area. The EA also ignored impacts to public safety from having hundreds of people, including children, in the area driving around on small roads and shooting guns.

84. BLM also violated its NEPA duty to consider a reasonable range of alternatives in the EA, which considered only the Proposed Action and a No Action Alternative. BLM never considered other reasonable alternatives, such as excluding WSAs and other ecologically-sensitive areas from the permitted derby area, more limited hunting, or other conditions.

85. In addition, BLM ignored the comments submitted by Plaintiffs and others disputing the EA's assertion that the proposed predator killing would be simply recreational activity. In truth, the hunter/participants are licensed agents of the State of Idaho in conducting "predator removal" in accordance with Idaho legislative authority, including the Idaho Wolf Plan. As the commenters pointed out, contestants would be required to hold wolf hunting licenses issued by IDFG, and IDFG considers wolf hunting by licensed sportsmen to be a method

of “predator removal” as part of Idaho’s “management” of predator populations. BLM ignored this and erred when it termed such predator removal as a recreational activity in the EA.

86. Furthermore, in asserting that the derby will supposedly comply with IDFG hunting requirements, BLM ignored the fact that IDFG has a policy against events like the Idaho Predator Hunt Derby. IDFG’s “Policy for Avian and Mammalian Predation Management” states that: “The Department will not support any contests or similar activities involving the taking of predators which may portray hunting in an unethical fashion, devalue the predator, and which may be offensive to the general public. The Department opposes use of bounties as a predator control measure.”

87. Finally, the EA and FONSI wholly ignore the precedential impact that would be set by BLM authorizing a competitive wolf hunting derby to be conducted on public lands, and how such action will help foment anti-wolf sentiments rather than promote the social acceptance of wolves that the federal government has sought to achieve through the Northern Rockies wolf reintroduction program.

FIRST CLAIM FOR RELIEF:
NEPA and APA Violations
For Failing to Prepare An EIS

88. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

89. This First Claim for Relief challenges BLM’s violations of NEPA, 42 U.S.C. §§ 4321-4370h, and NEPA’s implementing regulations, in approving the SRP for the Idaho Predator Hunt Derby without preparing a full Environmental Impact Statement. Plaintiffs bring this claim pursuant to the judicial review provisions of the APA, 5 U.S.C. § 706.

90. NEPA requires federal agencies to prepare a full EIS for “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C).

91. Under NEPA's implementing regulations, significance requires an evaluation of both the "context" of the action and its "intensity." Context "means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality." 40 C.F.R. § 1508.27(a)-(b).

92. "Intensity" refers to the "severity of impact." *Id.*, § 1508.27(b). Factors relevant in this determination include impacts that may be both beneficial and adverse; the degree of impact on public safety; unique characteristics of the geographic area; whether the proposed action is highly controversial; whether the proposed action involves highly uncertain or unknown risks; whether the action will set a precedent for future actions; whether there will be cumulatively significant impacts; and whether the action threatens a violation of other federal or state laws, policies or requirements. *Id.*

93. As alleged hereinabove, BLM's approval of a 5-year SRP for the proposed Idaho Predator Hunt Derby is a major federal action significantly affecting the quality of the human environment and required preparation of a full EIS under NEPA, for many reasons including:

- (a) It will set national precedent in allowing a competitive wolf hunting derby to occur on public lands, and allowing establishment of the Idaho Predator Hunt Derby as an annually recurring event for at least five years;
- (b) The proposal has engendered high public controversy as well as serious scientific controversy;
- (c) The direct, indirect, and cumulative impacts may be significant for wolves and other wildlife populations, impacts on WSAs and other sensitive lands, and impacts to recreationists using the public lands;

(d) The BLM's approval of the proposed Idaho Predator Hunt Derby is inconsistent with the federal government's efforts to secure social acceptance of wolves as part of the reintroduction and recovery of gray wolves in the Northern Rockies; and inconsistent with IDFG's policy against competitive predator hunting derbies.

94. BLM violated NEPA by refusing to prepare an EIS to evaluate the proposed competitive predator hunting derby on BLM lands despite the significant impacts posed by the proposal, the precedential nature of BLM's action in approving the first-ever wolf killing competition on public lands, the uncertain risks and the clear threats to public safety, inconsistencies with Federal and State law and policies, and the significant scientific and public controversy that Idaho for Wildlife's proposal has engendered.

95. Because BLM has violated NEPA's requirements by failing to prepare an EIS before approving the SRP for the proposed Idaho Predator Hunt Derby, its action is arbitrary, capricious, not in accordance with law, without observance of procedure required by law, and/or in excess of statutory jurisdiction, authority, or limitations, within the meaning of the judicial review provisions of the APA, and must be held unlawful and set aside under 5 U.S.C. § 706.

WHEREFORE, Plaintiffs pray for relief as set forth below.

SECOND CLAIM FOR RELIEF:

NEPA and APA Violations

For Inadequate EA/FONSI

96. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

97. This Second Claim for Relief challenges BLM's violations of NEPA, 42 U.S.C. §§ 4321-4370h, and NEPA's implementing regulations, in approving the Idaho Predator Hunt Derby based on the defective EA and FONSI without taking a "hard look" at potential impacts

and alternatives, as required by NEPA. Plaintiffs bring this claim pursuant to the judicial review provisions of the APA, 5 U.S.C. § 706.

98. As alleged hereinabove, and as will be presented in detail in further briefing before the Court, the EA, FONSI and DR are based upon misstatements, errors, and omissions which render the EA grossly deficient under NEPA, including but not limited to the following:

- (a) Mischaracterizing the activity as simply involving recreational hunting use of public lands and failing to gather basic facts about the derby;
- (b) Misportraying where the wolf and other predator hunting is likely to occur in areas around Salmon, and failing to assess those impacts;
- (c) Failing to identify and assess likely impacts on local and regional populations of wolves, coyotes and other wildlife, including numerous sensitive species;
- (d) Misrepresenting and ignoring well-established science regarding the important ecological roles played by wolves and other predators;
- (e) Failing to disclose and assess applicable provisions of relevant Resource Management Plans, including regarding maintaining biodiversity in the Challis RMP, and of the Special Recreation Permit regulations;
- (f) Failing to address potential impacts to sensitive lands and resources, including Wilderness Study Areas, and failing to address the limitations placed upon predator management activities within WSAs;
- (g) Failing to acknowledge IDFG's policy against use of competitive hunting derbies as a method of predator control;
- (h) Failing to consider all direct, indirect, and cumulative effects; and
- (i) Failing to present high quality information and accurate scientific analysis.

99. BLM also violated NEPA by failing to consider a range of reasonable alternatives to Idaho for Wildlife's desired proposal. BLM failed to consider any of a number of ways it could have conditioned the permit to address impacts, such as by avoiding unique, ecologically-critical, or sensitive areas and species (like WSAs, ACECs, gray wolves, and greater sage-grouse); limit the size and/or duration of the derby to a shorter period of time, fewer years, fewer participants, and/or a smaller area; protect against uncertain risks and ensure greater public safety; and otherwise to conform to BLM and/or IDFG policies and other legal requirements.

100. Because BLM has violated NEPA's requirements in relying on the defective EA and FONSI in approving the SRP for the Idaho Predator Hunt Derby, its action is arbitrary, capricious, not in accordance with law, without observance of procedure required by law, and/or in excess of statutory jurisdiction, authority, or limitations, within the meaning of the judicial review provisions of the APA, and must be held unlawful and set aside under 5 U.S.C. § 706.

WHEREFORE, Plaintiffs pray for relief as set forth below.

THIRD CLAIM FOR RELIEF:
FLPMA and APA Violations

101. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

102. This Third Claim for Relief challenges Defendants' violations of FLPMA, 43 U.S.C. §§ 1701-1785, and BLM's implementing regulations, handbook, manual, and policies, through Defendants' unlawful approval of the five-year SRP for the proposed Idaho Predator Hunt Derby. This claim is brought pursuant to the judicial review provisions of the APA, 5 U.S.C. § 706.

103. As alleged hereinabove, and as will be presented in detail in further briefing before the Court, the EA, FONSI and Decision Memo approving the SRP for the Idaho Predator

Hunt Derby violate numerous requirements of FLPMA and BLM's implementing regulations, policies and other requirements, including the following:

- A. RMP Consistency Requirements: BLM failed even to address much less adhere to the requirements of the applicable RMPs in approving the SRP, including RMP provisions governing management of WSAs and other ecologically-sensitive areas, and sensitive wildlife species, 43 C.F.R. § 1601.0-5;
- B. SRP Regulation Requirements: BLM has failed to demonstrate that issuance of the SRP for the Idaho Predator Hunt Derby is consistent with the Special Recreation Permit Regulations, which require consideration of conformance with RMPs, public safety, other uses, protection of resources including sensitive species, and the public interest, 43 C.F.R. § 2932.26, or to consider whether it should condition the Special Recreation Permit to protect these values;
- C. WSA Non-Impairment: BLM has failed to demonstrate that issuance of the SRP for the Idaho Predator Hunt Derby will not impair 17 WSAs that fall within the permitted area, 43 U.S.C. § 1782(c) and 23 U.S.C. § 1131(a); and failed to ensure that the SRP complies with the requirements of BLM's management policies and requirements to ensure non-impairment of WSAs.

104. BLM's approval of the SRP for the Idaho Predator Hunt Derby is thus arbitrary, capricious, not in accordance with law, without observance of procedure required by law, and/or in excess of statutory jurisdiction, authority, or limitations, within the meaning of the judicial review provisions of the APA, and must be held unlawful and set aside under 5 U.S.C. § 706.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

- A. Order, declare, and adjudge that BLM's EA, FONSI and Decision Record approving the SRP for the Idaho Predator Hunt Derby are arbitrary and capricious, an abuse of discretion, and otherwise not in accordance with law under NEPA, FLPMA and/or the APA;
- B. Vacate, reverse, and remand the EA, FONSI, Decision Record and SRP;
- C. Enter such temporary, preliminary, or permanent injunctive relief as Plaintiffs may hereafter seek;
- D. Award Plaintiffs their reasonable costs, litigation expenses, and attorney's fees associated with this litigation under the Equal Access to Justice Act and/or all other applicable authorities; and
- E. Grant such further and additional relief as the Court deems just and proper in order to remedy Defendants' violations of law and protect the public interest.

Dated this 13th day of November, 2014.

Respectfully submitted,

/s/ Laurence J. Lucas
Laurence ("Laird") J. Lucas
Bryan Hurlbutt

Attorneys for Plaintiff Defenders of Wildlife

/s/ Amy R. Atwood
Amy R. Atwood

*Attorney for Co-Plaintiffs Center for Biological
Diversity, Western Watersheds Project, and Project
Coyote*