

Talasi B. Brooks (ISB #9712)
Laurence (“Laird”) J. Lucas (ISB #4733)
ADVOCATES FOR THE WEST
P.O. Box 1612
Boise, ID 83712
(208)342-7024
(208)342-8286 (fax)
tbrooks@advocateswest.org
llucas@advocateswest.org

Kristin F. Ruether (ISB #7914)
WESTERN WATERSHEDS PROJECT
P.O. Box 2863
Boise, ID 83701
(208)440-1930
(208)472-4705 (fax)
kruether@westernwatersheds.org

Attorneys for Plaintiffs

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

WESTERN WATERSHEDS PROJECT,
WILDEARTH GUARDIANS, CENTER FOR
BIOLOGICAL DIVERSITY, and PREDATOR
DEFENSE,

Plaintiffs,

v.

USDA APHIS WILDLIFE SERVICES,

Defendant.

No. 1:17-cv-206-BLW

DECLARATION OF KENNETH COLE

I, Kenneth Cole, declare as follows:

1. The following facts are personally known to me, and if called as a witness I would and could truthfully testify to these facts.

Personal Background and Travels Across Idaho

2. I am a resident of Boise, Idaho. I have lived in Idaho almost all of my life, and several generations of my family are from Idaho. My great-grandfather moved here in 1888. I have a bachelor's degree in biology from Idaho State University.

3. I currently serve as Executive Director of the Buffalo Field Campaign, a media-based campaign to end the slaughter of America's last wild buffalo herd.

4. From January 2015 to July 2017, I served as Western Watersheds Project's (WWP) Idaho Director. I was previously the NEPA Coordinator for WWP, a position I held from August 2008 to December 2014. My duties for WWP included conducting site visits to Idaho public lands, during which I routinely observed the conditions of the uplands, riparian areas, and wildlife habitat. I remain a member of WWP.

5. While at WWP I learned to use ArcGIS, and I frequently used data obtained through Freedom of Information Act (FOIA), public records requests, and websites to create maps. For instance, I created a map of the BLM's Twin Falls District, comprising the Jarbidge, Burley, and Shoshone Field Offices, with the grazing allotments labeled to help discern where Wildlife Services' coyote-killing is concentrated. I created this map using data I obtained from the Interactive Numeric and Spatial Information Data Engine for Idaho (INSIDE Idaho) website (a geospatial data clearinghouse run by University of Idaho and others).

6. I still travel regularly to Idaho public lands for work and for enjoyment. I am an avid photographer. I take many photographs from my public lands visits and upload many of them online to share with family and friends. I particularly enjoy taking photographs of wildlife, native fish, and plants.

7. I also visit Idaho public lands for the purposes of camping, fishing, finding peace and solitude, and searching for wildlife and their sign. For several years, I had a dog and frequently took him on my trips to public lands. I treasure Idaho public lands because their size allows them to have an almost intact ecosystem with all native species. I get a lot of enjoyment from being in an ecosystem that I know is in its natural balance with predators playing their natural role. For these reasons I regularly recreate on public lands across southern and central Idaho, and have done so for my whole life.

8. For example, I have extensively visited all across the BLM's Boise District, for years. One of my favorite locations there is the Owyhee Front near Murphy, Idaho. I enjoy visiting here to hike, take photographs, enjoy the scenery, and look for wildlife. Other favorite areas in the Owyhees are Juniper Mountain, the North Fork Owyhee River, and the Silver City area.

9. In the BLM's Bruneau Field Office, I have visited the Battle Creek grazing allotment several times to enjoy its broad expanses and vistas and intact sagebrush habitat. I enjoy fishing and camping on many of the small reservoirs on the Bruneau including Bybee Reservoir, Shoofly Reservoir, Payne Reservoir, Little Blue Reservoir, and Grasmere Reservoir. I have visited these all many times.

10. I have visited the BLM lands in the Twin Falls District for years. For example, I have visited the Jarbidge Field Office many times to document habitat conditions and look for wildlife. In 2016, I visited the Antelope Springs allotment along with the BLM Field Office Manager to observe and discuss the condition of the allotment. On that same trip, I visited the Cedar North sage-grouse lek. I have visited many other sage-grouse leks in the area over time. I

have seen sage-grouse performing their mating dance in the spring at dawn, including on the Antelope Springs allotment.

11. Other favorite areas on the Jarbidge are China Mountain and Brown's Bench, scenic ridges with great sage-grouse habitat on the higher elevations. I have been to them at least three times in the last 10 years. I enjoyed finding some Native American hunting pits on Brown's Bench (places where hunters had cleared out rocks on a talus slope as a sort of hunting blind).

12. I have visited the public lands of the BLM's Burley Field Office several times. For example, I enjoyed visiting the City of Rocks and Castle Rocks areas in 2015 or 2016. The parks themselves are managed by the National Park Service and the state, but the surrounding lands are BLM. I enjoyed the scenery, the sagebrush habitat, and looking for wildlife. I observed a rattlesnake hibernaculum and a variety of birds, including pinyon jays (very rare in Idaho).

13. I have visited the Idaho Falls District BLM lands many times, including the Pleasantview allotment southwest of Pocatello. I accompanied BLM staff on a tour of the allotment to observe grazing conditions. This is near one of the areas where Wildlife Services has proposed to conduct raven killing to protect sage-grouse.

14. The BLM lands of the Upper Snake Field Office are some of the most spectacular lands in the West, and I have been there many times to assess conditions and enjoy the breathtaking scenery and wildlife. For example, a few years ago, I visited most of the BLM grazing allotments in the Little Lost River drainage that had bull trout habitat, and prepared a series of reports for BLM on the grazing management problems I found. I have also visited the BLM allotments in the stunning Pahsimeroi Valley many times to assess conditions and look for

wildlife. And I enjoy camping and fishing at Chilly Slough, some spring-fed ponds west of Mount Borah. I first started going there in the late 1990's and have been there at least 7 or 8 times.

15. And I have visited the public lands of the BLM's Shoshone Field Office many times for years. Some of my favorite areas here include the lower Big Wood River, near the Magic Reservoir. I often fish until dark and walk back to my car, and often hear coyotes howling. In the Little Wood watershed, I have fished the Little Wood River around Beartrap-Williams Park several times over the years (between Shoshone and Carey), as well as the Little Wood River just below Little Wood Reservoir and Fish Creek Reservoir.

16. I really enjoy visiting this southern part of the Pioneer Mountains. It's a lot more mountainous and more forested than most BLM lands in Idaho, so it has different wildlife as well. For example, there have been sporadic reports of bighorn sheep in the Pioneer Mountains. I would love for them to reestablish a healthy population there. It's good habitat for them and I think they could reestablish if the domestic sheep were removed (domestic sheep transmit diseases to bighorn sheep). This area is great wildlife habitat and if given a break from sheep grazing and predator killing, this area could have its full suite of native wildlife.

17. An acquaintance of mine took a photo of a wolverine in this area in 2011, and I know that one was trapped not far from here (near Arco) a few years ago as well. (And just this month, another wolverine was accidentally snared near Salmon.) I truly hope no more get caught in traps or snares because their population is so small. Any trapping or snaring in this area is risky for this reason.

18. Unfortunately, Wildlife Services is particularly active in this area of the southern Pioneers because it is heavily grazed by sheep (and sheep ranchers call Wildlife Services the

most for predator control actions). One permittee in particular is known for lambing outdoors and calling Wildlife Services when predators inevitably take some of the lambs. I have visited one of his allotments near the Little Wood Reservoir.

19. I have frequently visited Chilly Slough in the upper Big Lost River Valley near the base of Mt. Borah where I've seen and heard coyotes howling.

20. I intend to continue visiting all of these areas in the future, as I have in years past, for recreational purposes and to observe and photograph wildlife. I am looking forward to getting out and camping and fishing this spring and summer when it warms up. For example, I plan to go to Mackey Reservoir and Chilly Slough this summer.

Interest in and Experiences Viewing Coyotes

21. I enjoy photographing coyotes and other wildlife in the wild. It is particularly challenging to photograph coyotes because of their elusive nature, and I am pleased when I am able to get a good photo of one.

22. I often see coyotes while driving and stop to try to photograph them. Usually, as soon as I stop to take a picture they run off because they are wary from being shot at all the time.

23. I have seen coyotes dozens and dozens of times on my travels throughout southern and central Idaho. As I mentioned, I have frequently seen and heard coyotes in one of my favorite places to fish, on the Big Wood River near the Magic Reservoir. I've heard them at Shoofly Reservoir, west of Riddle. I can remember numerous times where I've seen and heard them howling at Chilly Slough, even during the day.

24. My favorite memories of coyotes are of howling with them in the wild. Close to 20 years ago I skied into central Idaho's Bull Trout Lake to fish. There was a coyote near the mouth of the lake inlet that began howling. I howled back at it and we went on like that for 15

minutes or half an hour. This was the first time I had had an interaction with wildlife where it responded to me and the experience is engraved in my memory.

25. I also accompanied coyote expert Dr. Jon Way in Massachusetts while he was tracking coyotes on Cape Cod. We tracked and saw several of them. I enjoyed seeing how these coyotes lived in such a populated area. These coyotes were visibly larger than those I am used to seeing in Idaho because they have some wolf genetics.

26. In 2014, while visiting family in Western Massachusetts, I went catfish fishing on the Connecticut River one night with family. I howled, and a whole bunch of coyotes howled back. My family members thought it was really cool because they had never known there were coyotes there.

27. I plan to continue recreating and visiting areas throughout southern and central Idaho, and I hope to continue to see and photograph coyotes during those visits.

Personal Knowledge of Wildlife Services' Coyote Killing in Idaho

28. I have attempted to closely track and monitor Idaho Wildlife Services for many years, because it undertakes a wide variety of wildlife-killing programs that I believe are inhumane, indiscriminate, unnecessary, and cause significant adverse environmental impacts to wildlife populations that I care about, and the ecology of the public lands. For this reason, for years I have reviewed their NEPA documents, followed news articles and news bulletins about the agency, and kept an eye out for Wildlife Services activities while out on the public lands.

29. I have seen them or their activities several times. On the morning of April 6, 2002, while working for Idaho Fish and Game at the East Fork Salmon River fish trap, I witnessed a spotter plane and helicopter doing aerial gunning. I learned later that they killed a wolf pack that had been implicated in livestock depredations. I believe this was a joint operation

by Wildlife Services and the U.S. Fish and Wildlife Service. I was very disturbed by what I had seen. I was extremely disappointed that my chances of viewing a wolf had been severely diminished because all of the wolves that lived in this pack were killed.

30. Several years ago, I again saw a small plane flying the lower East Fork Salmon drainage. I suspected it was a Wildlife Services aerial gunning plane because it was a small plane, flying very low and slowly, and circling around, which is consistent with aerial gunning. I was angry when I saw this, and worried for the wolves and coyotes of the area.

31. I have also come across the warning signs Wildlife Services posts when it has set out traps and poisons like M-44s “cyanide bombs.” For example, I came across the sign pictured below in May of 2002 in the Seven Devils near Riggins, Idaho. At the time, I didn’t know what an M-44 was or how dangerous they were. When I learned later that they are baited and will indiscriminately kill any dog, coyote, or wolf (or even person) that came upon it and pulls up the device, I was freaked out that I had been so close to one.



32. I remember reading in USFWS wolf updates about a few incidents in that area where Wildlife Services accidentally killed wolves with M-44s while they were still listed as a threatened species. I was disgusted that such deadly, indiscriminate devices were being placed on our public lands and killing protected wildlife.

33. I have frequently encountered dead coyotes on Idaho public lands in my travels across Idaho, both for my former job with WWP and for recreation. I remember one particularly disturbing instance on BLM lands in the Owyhee foothills where I came across 4 dead coyotes. I was saddened at the cruelty and senselessness of killing them.

34. I have come across traps and snares in my travels in southern and central Idaho. It is always upsetting to see these, as it makes me fear for the safety of any dogs in my group, as well as fear for nearby wildlife. I am well aware that traps and snares can easily catch animals other than the ones they are legally intended to catch. As I mentioned, just this month, a trapper near Salmon set a snare for foxes, and accidentally trapped and killed a rare wolverine instead. A wolverine was killed in a Wildlife Services trap on the Payette National Forest a few years ago. I believe they had been trying to trap wolves on a sheep allotment. I have even heard of a few instances in Idaho where Wildlife Services set snares for wolves and, ironically, accidentally snared cattle instead.

35. Once while on the BLM Upper Pahsimeroi allotment a few years ago, I came across multiple snares (8 or 9) in a small drainage. The remains of coyotes were scattered on the ground. I had my dog with me at the time and I was really worried because I wondered if there were even more. I took him back to the car for his safety.

36. During October 2015, on a trip to the Copper Basin region of central Idaho (managed by the Forest Service), my group ran into some Wildlife Services personnel. We

asked them what they were doing and they said they were setting traps for wolves along the East Fork of the Big Lost River. We checked the Annual Operating Instructions for that allotment and learned that cattle had been required to vacate this unit on July 31. I found it very disturbing that Wildlife Services was placing traps on this beautiful landscape, and that they were trapping wolves to ostensibly protect cattle that had been required to leave over two months prior.

37. Coming across traps and snares also saddens me because I am aware that animals can languish in the traps for days on end before the trapper comes and shoots it. I have learned from friends with expertise in trapping that even if a trapper catches the wrong type of animal and tries to release it, the animals often do not survive due to dehydration, starvation, frostbite, stress, and/or sustaining injuries from the trap. And if the trapped animal was a nursing mother, her young may have died while she was in the trap.

38. I believe these issues are a particular problem with Wildlife Services traps because Wildlife Services is exempt from State of Idaho trap-check time requirements that apply to other trappers. So days may go by between checking traps.

39. Several years ago, someone sent photos to me of the Wildlife Services gunner plane with stickers of paw-prints on them. Each paw-print sticker apparently represented a wolf that they had killed from the plane. I posted the photos on a blog I contribute to, The Wildlife News. I, and many of our readers, were saddened by the callous attitude about killing wolves that the stickers represented. It received media attention west-wide.

40. It grieves me greatly that Wildlife Services kills coyotes in Idaho using these cruel methods such as indiscriminate aerial gunning, trapping and poisoning. It hurts my interest in seeing coyotes in their natural role in the wild. It seems arbitrary and pointless to

indiscriminately kill coyotes at the request of livestock producers. To the extent the motivation is retribution for livestock losses, the individual coyotes involved aren't even targeted.

Impacts of Killing Coyotes on Coyote Population Dynamics

41. Obviously, killing coyotes reduces the number of coyotes on the landscape for some time. I am concerned that heavy reductions or even local extirpations may be occurring in areas with frequent aerial gunning such as southern Idaho BLM lands. I am concerned that this would cause changes to the ecosystem, such as mesopredator release, that Wildlife Services has not considered. This could have impacts on other species such as sage-grouse.

42. More moderate levels of killing causes changes in breeding behavior. I learned more about this phenomenon when I met with coyote expert Dr. Jon Way a few years ago. At the time he was doing a study on impacts of coyote control. I learned that indiscriminate coyote killing has two main impacts: increases in coyote numbers and expansion of their range. Because the social structure and normal coyote behavior makes it so that only certain animals breed, killing them means more coyotes breed and have more litters of pups. Also, even if the litters aren't bigger, more pups survive to adulthood or the stage of becoming predators on their own. Persecution also changes their behavior with regard to prey: if pups didn't learn over time to stay away from livestock from experienced animals, they were more likely to prey on livestock. That is an ironic negative impact to the livestock industry: when you break up the coyote social structure, they will cause more problems to livestock than they would have otherwise.

43. I remember hearing about a Wyoming rancher who refused to allow coyote hunting on his ranch for this reason. He realized that hunting actually caused him to have more problems with coyotes killing his livestock.

44. Wildlife Services' killing of coyotes in Idaho injures and saddens me because it is pointless and cruel. It ignores the mountain of scientific evidence finding that killing coyotes doesn't work to protect sheep.

45. It also saddens me because it disrupts the natural balance of the ecosystem. Nature will keep coyotes in control just fine without our help, based on available prey and the presence of wolves (which will kill coyotes). Activities by Wildlife Services that kill coyotes, remove coyote packs, and reduce the coyote population in Idaho injure my interests in observing, studying, and looking for coyotes and my enjoyment of being in an ecosystem that I know is in its natural balance with predators playing their natural role.

46. It is very frustrating that Wildlife Services never admits these facts, or legitimately considers changing its approach to resolving coyote-livestock conflicts, such as using the many available non-lethal options. This injures my interests in having Idaho wildlife management based on science.

Sage-Grouse Predator Killing

47. During the course of my tenure at WWP, Wildlife Services also proposed several times to kill ravens to increase sage-grouse nest success. WWP opposed each effort because the proposals were poorly designed and would not produce the intended results. This Court twice held that previous raven-killing proposals were unlawful.

48. I was peripherally involved with our work related to these proposals; I made maps of target leks showing where the leks were in relation to grazing allotments.

49. I also have been involved in sage-grouse conservation issues more broadly on behalf of WWP. I closely tracked the federal land-use plan revisions intended to operate as a

substitute for Endangered Species Act listing for the bird, and wrote WWP's protest of BLM's Utah land-use plan related to sage-grouse conservation.

50. I have a particular interest in sage-grouse, and the condition of sage-grouse habitats have become a great interest of mine. I enjoy seeing and photographing them in their natural environment and I particularly enjoy watching them strut. I enjoy viewing their habitat as well. I have been fortunate to see sage-grouse in various areas of Nevada, Oregon, and Idaho, and I have taken renewed interest in them since they have seen serious declines in habitat quality and population levels in the areas I enjoy seeing them.

51. Through WWP's efforts, as well as my personal interest in viewing and photographing these birds, I've become quite familiar with sage-grouse science and habitat needs.

52. Based on my background with this issue, I believe sage-grouse predator-killing is unwarranted and unlikely to work; Wildlife Services is not addressing the underlying cause of sage-grouse decline, which is habitat losses and degradation including overutilization of forage that sage-grouse use for hiding cover.

53. I don't buy the rationale that predator control can provide a necessary short-term fix to make up for poor habitat quality. If you're not addressing the habitat, how can you assume your action will work in the long-term? Besides, Wildlife Services doesn't manage the habitat and I have seen no evidence that they are coordinating with land management agencies to ensure that any predator-killing occurs only where habitat is compromised.

54. The bottom line is that the cause of sage-grouse declines is habitat degradation. The land-management agencies have not put adequate protections in place to avoid further anthropogenic disturbance to habitat. They don't have minimum stubble heights, adequate lek

buffers, or restrictions on grazing during periods where grazing ungulates could damage nesting and brood-rearing cover. Without addressing these things, predator control will not have any impact on sage-grouse populations.

55. I am injured by Wildlife Services' failure to disclose any details about the sage-grouse predator-killing it proposes. Without site-specific information about things like habitat quality and other sage-grouse threats, I am highly skeptical that the proposed predator killing will benefit sage-grouse. It means the public cannot even assess what the other problems in the area might be. The potential for the needless destruction of wildlife injures me—it lessens my ability to see and enjoy wildlife in nature and disrupts the natural balance of ecosystems that I value so highly.

Eagles

56. I am also disturbed by potential impacts to eagles and other raptors from the lead shot Wildlife Services uses to kill coyotes.

57. I love eagles, and consider it a highlight if I see them. I've seen both bald and golden eagles frequently on public lands, often scavenging on carcasses. I enjoy photographing them when I can. I'm always looking for eagles and other raptors when I'm hiking and when I'm driving. They are awesome, majestic raptors, and they are rare enough that you don't see them very often.

58. During one of my trips to the Jarbidge Field Office, on the Twin Falls District in Southern Idaho, I saw eagles feeding on a dead cow carcass.

59. One time about 17 years ago, I was house-sitting on the Payette River in November and watching some trees along the river with a spotting scope. I saw a bunch of

eagles in these trees and counted 35 bald eagles roosting in this small group of trees. I'd never seen anything like it.

60. I am aware that lead fragments in gut piles and dead animals that have not been recovered can be extremely toxic to eagles and other scavenging raptors. It causes them neurological problems and death. As a result, I advocate for banning lead ammunition whenever the opportunity arises.

61. I am gravely concerned about the impacts Wildlife Services' use of lead ammunition for coyote gunning could have on eagles. Even a tiny bit of lead is enough to kill an eagle. It's just another rotten side effect of Wildlife Services' coyote-killing program.

62. I am personally injured whenever Wildlife Services kills eagles, whether it does so by trapping them accidentally, or poisoning them with lead fragments. Knowing that Wildlife Services is wantonly killing these iconic large raptors disgusts me and lessens my enjoyment of the public lands where I know Wildlife Services is active.

63. I am also injured because Wildlife Services has simply swept these potential impacts under the rug. If Wildlife Services actually analyzed the impacts its aerial gunning and other activities could have on raptors, it could adopt measures like using nontoxic ammunition or picking up carcasses of shot animals that would lessen the effects of its actions. But Wildlife Services refuses to change its activities in any way to protect any wildlife, let alone eagles and scavenging raptors.

Injuries from Wildlife Services' Activities

64. Wildlife Services' campaign of killing predators in Idaho greatly harms my interest in coyotes and eagles and ability to enjoy an ecosystem in its natural balance in Idaho, and if it continues to do so, it will continue to harm those interests.

65. As noted above, Wildlife Services has killed and continues to kill coyotes and packs of coyotes in places that I visit regularly, care about, and recreate in. This has injured my ability to enjoy the areas.

66. In addition, I understand Wildlife Services plans to conduct an ill-defined sage-grouse predator-killing experiment somewhere in Idaho. If Wildlife Services conducts this experiment it will reduce my ability to observe, study, and enjoy whatever predator Wildlife Services targets, and will lessen my enjoyment of the project area, because I will know that it was the site of pointless wildlife slaughter, with wildlife populations being artificially manipulated by Wildlife Services.

67. I plan to continue to visit natural areas throughout Idaho in the near future. My enjoyment of these areas increases by trying to observe native predators like coyotes and wolves in their natural habitats, and just knowing that the ecosystem is in its natural state. Activities by Wildlife Services and IDFG that kill native predators, remove coyotes and coyote packs, and reduce, alter, and destabilize the coyote population in Idaho injure my interests in observing, studying, and looking for coyotes and my enjoyment of being in an ecosystem where predators are playing their natural role.

68. Yet Wildlife Services is notorious for conducting its wildlife-killing programs out of public view and without adequate public disclosure under NEPA.

69. Wildlife Services has carried out extensive coyote killing in Idaho for years at the behest of cattle and sheep ranchers, shooting, trapping, or otherwise killing thousands of coyotes. It has also killed hundreds of wolves in Idaho. Yet Wildlife Services has never prepared any EIS in compliance with NEPA discussing its Idaho coyote and wolf killing activities, despite their substantial adverse impacts on the coyote and wolf populations and packs, on the ecological

roles played by wolves as apex predators, and on people – like me and many other WWP members – who love native carnivores and are harmed when Wildlife Services kills them.

70. I have a strong interest in seeing Wildlife Services bring its antiquated approach to wildlife management into the 21st century through compliance with the NEPA process. I have an interest in accurate scientific analysis that considers opposing viewpoints as the basis for environmental decision-making. I have a specific interest in seeing Wildlife Services prepare an EIS disclosing and analyzing all of its Idaho activities, using accurate science. I do not believe adequate analysis and public disclosure is possible without such a comprehensive analysis. And Wildlife Services should stop its predator killing activities in the meantime.

I declare under penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct.

Executed this 26th day of January, 2018, in Boise, Idaho.

A handwritten signature in blue ink that reads "Ken Cole". The signature is written in a cursive, flowing style.

Kenneth Cole