

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 BROOKS FAHY**

I, Brooks Fahy declare:

1. My name is Brooks Fahy. I have personal knowledge of the matters set forth below, and if called as a witness I could and would truthfully testify thereto.

2. I currently reside in Washington. I previously lived in Oregon from 1977, through 2015.

3. I serve as Executive Director of Predator Defense, a national wildlife advocacy nonprofit based in Eugene, Oregon, and have maintained this position since I founded the organization in 1990. Predator Defense is a 501(c)(3) with over 16,000 active followers and supporters.

4. Predator Defense's mission is to protect native predators, including the coyote, and to end America's war on wildlife.

5. When Predator Defense began, it included a wildlife rescue component that rehabilitated predators, including bears, bobcats, cougars, coyotes, and foxes. However, over time, finding suitable release sites for rehabilitated animals became increasingly difficult. At the same time, rampant use of predator control methods such as leg hold traps, poisons, snares, aerial gunning, bounties, and designated hunting seasons was profoundly impacting existing populations and undermining the second chance for rehabilitated animals. In 1995 the organization closed the rehabilitation center and embarked on a new path--focusing its resources on protecting predator species more broadly.

6. A major focus of our work has been reforming the strategically misnamed agency within the USDA called "Wildlife Services." Each year Wildlife Services maims, poisons, and brutalizes millions of wild animals—including tens of thousands of native predators—using methods that also endanger humans and kill countless pets. They killed over 2.8 million wild animals and birds in 2016 alone. The methods they use are indiscriminate, ineffective, and largely funded by federal tax dollars.

7. Predator Defense advocates against Wildlife Services through media that brings the agency's activities into the public eye, as well as outreach to members of Congress and participation in administrative proceedings and lawsuits.

8. For example, I worked for a year with Tom Knudson, a Pulitzer Prize-winning journalist from the *Sacramento Bee*, on an exposé on USDA Wildlife Services' out-of-control "predator control" program. As a result, the *Bee* published an impressive, in-depth series of investigative pieces. Just a few of the headlines included: "The killing agency: Wildlife Services' brutal methods leave a trail of animal death," "Wildlife Services' deadly force opens Pandora's box of environmental problems," "Suggestions in changing Wildlife Services range from new practices to outright bans," and "Reform urged for Wildlife Services."

9. Predator Defense has also worked for years to get a Congressional investigation and oversight hearings on Wildlife Services. In 2012 a bipartisan group of four U.S. Representatives requested a Congressional investigation via a letter to the Chairman of the Committee on Oversight and Government Reform. In their letter, the two U.S. Representatives we'd been working with—Peter DeFazio (D-Oregon) and John Campbell (R-Irvine)—cited the program's waste of federal dollars, harm to ecosystems, and secrecy regarding practices and spending. Oversight hearings have not yet been held, and remain desperately needed.

10. We also provide support to pet owners and other individuals who have been injured by Wildlife Services' activities. Over my decades of work with Predator Defense, I have helped countless people from around the country deal with the death or injury of their pets (usually dogs) as a result of unmarked traps and poisons placed by Wildlife Services agents, often illegally and without adequate warning signs.

### **Advocacy to End Use of M-44s**

11. I've also worked with people who have been poisoned by M-44 sodium cyanide devices placed by Wildlife Services agents who have suffered devastating, ongoing effects on their health. All victims and I have been irreparably damaged by the stress and trauma of these events.

12. In March 2017, Canyon Mansfield, a fourteen year-old boy, stumbled across an M-44 device Wildlife Services had placed on BLM land within ¼ mile of his family's Pocatello, Idaho, residence, while out walking with his family dog. Thinking the device was a sprinkler head, Canyon bent down and touched it. Orange gas shot out, knocking Canyon over and killing his dog, Kasey. In the months following the incident, Canyon continued experiencing side effects related to cyanide poisoning. Following this incident, I began working with his family. We traveled to Washington D.C., where Canyon's family urged Congress to ban M-44s.

13. This incident was particularly shocking because I was aware at the time that Wildlife Services had promised in its 2016 Environmental Assessment to stop using M-44s on public lands in Idaho. On March 28, 2017, Predator Defense joined forces with a coalition of environmental groups, including Western Watersheds Project, Center for Biological Diversity, and WildEarth Guardians, to petition Wildlife Services to cease the use of M-44s in Idaho. Wildlife Services granted our petition and agreed to temporarily suspend the use of M-44s in Idaho.

14. A few months later, Wildlife Services held a series of public information meetings in Idaho concerning M-44s. The meetings highlighted Wildlife Services' new Directives intended to make use of M-44s safe. Members of the Mansfield family attended all of the meetings and spoke out powerfully against the use of M-44s.

15. I believe that Idaho Wildlife Services intends to re-commence the use of M-44s on private lands in Idaho in the future.

16. In August 2017, Predator Defense also joined with a coalition of 17 other environmental groups in a petition to EPA to ban the use of M-44s nationwide.

17. Predator Defense has been aware of the hazards associated with M-44s and advocating to ban them for all of the 28 years we have been in existence.

18. Our first big case was in 1994, when Amanda Wood Kingsley was walking with her dog on her family's property in Harrisburg, Oregon. Her dog, Ruby triggered an M-44 set on her property without her permission. Amanda tried to give her dog a mouth-to-mouth resuscitation and suffered secondary poisoning from the sodium cyanide. She suffered physical effects for months and emotional effects to this day.

19. In 2006 we documented several incidents of M-44 poisoning in Utah. One of these cases involved a senior citizen who was poisoned by a U.S. government M-44 and continues to suffer greatly from this poisoning.

20. In 2007, we first lobbied EPA for an investigation into whether M-44s had been associated with human poisoning and called for an immediate moratorium on their use. Our first bill to ban M-44s was introduced in Congress in 2007, but failed. Additional bills to ban M-44s were introduced in 2010, 2012, and 2017. In 2010 we released a film featuring interviews with two victims of M-44s poisoning as part of our advocacy efforts against M-44s.

21. Our 2013 award-winning documentary film, "EXPOSED: USDA's Secret War on Wildlife," also featured Wildlife Services' misuse of M-44s. The film features three former federal agents and a prominent U.S. Congressman blowing the whistle on Wildlife Services as an unaccountable agency that acts at the bidding of corporate agriculture and the hunting lobby.

One of the former federal agents discussed a haunting incident in which he was working for Wildlife Services and his supervisor killed numerous stray dogs using expired M-44s at the town dump, for fun.

22. I traveled to Idaho to promote this film through a series of screenings in 2015, and it was well-received by audiences in Boise, Sun Valley, and Pocatello.

23. M-44s have no place in Idaho or anywhere in the West. I love to hike on, and otherwise enjoy, public lands in Idaho whenever I have the chance. My use and enjoyment of public lands in Idaho and throughout the West is harmed because I fear my pets could be poisoned by unmarked M-44s devices or other Wildlife Services traps, as has happened to so many members of the public I have worked with.

24. I also personally oppose the use of M-44s because they aid in Wildlife Services' indiscriminate slaughter of thousands of coyotes and kill other "non-target" animals. Wildlife Services uses M-44s—originally called "coyote-getters"—to kill coyotes. I am aware that it also traps coyotes, shoots them from the air and the ground, and suffocates coyote pups in their dens using gas cartridges, in Idaho and throughout the West. Wildlife Services accidentally killed one of the few gray wolves in Oregon with an M-44 in February 2017.

**Experiences With Wildlife Services' Coyote-Killing.**

25. I first became aware of Wildlife Services in 1977 when I went to the Mount Hood National Forest with a friend to pick mushrooms. When we were heading out there he said that Animal Damage Control was going to be in the area aerial gunning coyotes. We were in the area picking mushrooms and heard the gun as Wildlife Services gunned down coyotes. It lasted for hours. It ruined my day and I never forgot it.

26. A few years later, I was doing volunteer work for the Oregon Humane Society and I got a call about some orphaned coyote pups. This was in the early 1980s, in the Columbia River Gorge. I went out and found these emaciated pups and I learned from one of the neighbors that the government trapper had been in the area and orphaned these pups. I took the pups and raised them and eventually they were eventually they were released.

27. When I started the animal rescue hospital we received a lot of animals that would come in that were caught in Wildlife Services traps.

28. In 1992 I received a call about a coyote caught in an illegally set trap on private property. I went out and found a coyote in a trap next to a Christmas tree farm, in Lane County, Oregon. It was a Wildlife Services trap set without the landowner's permission. A beautiful male coyote was caught in it. His front left foot was almost completely chewed off, just hanging on by a little bit of tissue. There were snow and mud on the ground and there were appeared to be other coyote tracks around him. I believed that his mate was coming to him and bringing food to him. He was dehydrated, very thin, and had probably been there for at least a week. I threw a blanket over him, removed the trap, and carried him out. I remember feeling the tenseness in his body when I first picked him up, but once I had him securely he went completely limp. We had a clinic we dealt with in cases like this and we took him there immediately. He was basically in perfect health, but my ultimate decision was to euthanize him, and it was an extremely difficult decision. I knew it would be almost impossible for him to survive in the wild with just one front leg. It was a profound, gut-wrenching experience. On that day I swore to myself that I would do everything in my power to expose Wildlife Services atrocities. It's one of the reasons I'm still doing this work. I still feel guilt, and anger related to this experience. I've dealt with a lot of

other animals in traps over the years, but none have affected me more than this poor coyote. There's not a day that goes by when I don't think about him.

29. This is a photograph of that coyote:



30. That was a classic example of Wildlife Services' failure to get permission from property owners, post signs and check traps at humane intervals. Frequently when we find animals stuck in Wildlife Services' traps, they are mummified, they have been there so long. It breaks my heart to think of these terrified animals caught in traps and left there to starve to death, or die of thirst and exposure. It is unspeakably cruel.

31. I've always loved and empathized with coyotes. For me the coyote was the ultimate underdog, even more so than the wolf. Predator Defense's logo is actually not a wolf, it's a coyote! I find them to be fascinating—their intelligence, the fact that they're monogamous, and their incredible beauty. I grew up around dogs and it wasn't much of a stretch for me to

extend the love I felt for dogs to coyotes. To me, I just felt this connection to these amazing creatures.

32. Over the years I've raised well over 100 orphaned coyote pups. At least half the animals that came to our facility were coyotes. I also got to spend a lot of time watching coyotes during their soft release periods on private and public forested lands in Oregon. In the early 90s Weyerhaeuser Timber Company welcomed our coyotes, bobcats and cougars on their lands to help control the damage deer would cause from crowning their newly planted trees.

33. I've always impressed by the stoic nature of coyotes. They are remarkably resilient and vibrant and can take a tremendous amount of abuse. I encountered coyotes that had been snared, trapped, poisoned, shot, hit by vehicles, torn up by dogs set loose on them while they were in traps, and burned alive.

34. They are incredibly brave and intelligent. Compared to a dog, the level of intelligence of coyotes is remarkable. My experience dealing with them was you could only trick them once. Whether you were trying to sneak some medication into their food, capture them for an exam, whatever, they were always wary the next time around.

35. They are fascinating creatures and I have always felt a special appreciation for them due to the persecution they have endured. The level of abuse and exploitation coyotes have suffered over an extended period of time is just staggering. I've seen it up close and personal. I wish more people would care about them.

36. In one case, I was called about some orphan coyote pups. Turned out that a group of young teenagers had shot a pregnant female and noticed her belly was moving. They cut her open and removed the pups. I ended up taking them. They all survived, just barely though. Those pups were released the following spring with several other coyotes of the same age.

37. Still to this day, when I see a coyote, I stop and reach for my binoculars. I always feel extremely fortunate for that opportunity to cross paths with them. I think they are breathtakingly beautiful.

38. I have seen and heard coyotes in Idaho. Outside of Ketchum one time I watched a coyote hunting small rodents through binoculars. I just returned from Idaho where we screened one of our films. I will be returning in February and March, 2018, as well. I expect I will continue to return in future years. During these trips I will spend time in southern Idaho, in particular in Boise and Pocatello. I hope to see and hear coyotes while I am there.

39. It's awful when I learn that Wildlife Services has been gunning in an area I have visited, in particular because it is completely futile. I've heard a lot of stories about sheep ranchers who never had problems with coyotes until their neighbors started killing coyotes, and then they started having problems with coyotes. At the end of the day protecting animals from predation is about one thing: ranchers practicing proper husbandry with their livestock. This isn't rocket science!

40. I am injured by Wildlife Services' aerial gunning and killing of coyotes because it haunts me. It takes away the quality of my life. As a documentary wildlife filmmaker for over 25 years, working to help people coexist with wild animals and end America's war on wildlife, and a user of Idaho public lands, I am harmed by Wildlife Services' program of killing coyotes and other wildlife in Idaho. The killing of non-target animals by Wildlife Services hurts my interests as a hiker and nature-lover, as well as those of Predator Defense and its films. Incidental capture, injury, and potential death of animals like wolves and eagles are yet another injury I experience as a result of Wildlife Services' methods and policies.

41. Predator Defense and its followers and supporters, including myself, have a specific interest in ensuring that federal agencies, such as the U.S. Department of Agriculture's Animal and Plant Health Inspection Service-Wildlife Services (Wildlife Services), comply with all federal laws, including the National Environmental Protection Act (NEPA), the Administrative Procedure Act (APA), and their own establishing legislation, in this case the Animal Damage Control Act (ADCA). My interests, of those of Predator Defense's followers and supporters, are harmed when federal agencies violate federal law. Here, my interests, and those of Predator Defense's followers and supporters, have been and continue to be harmed by Wildlife Services' failure to comply with NEPA, the APA, and the ADCA. Until and unless the Court grants Plaintiffs' requested relief, we will continue to be harmed by Wildlife Services' failure to comply with NEPA, the APA, and the ADCA.

42. Both Predator Defense as an organization, working on behalf of our followers and supporters, and myself as an individual have a strong interest in ensuring that coyotes and other predators are not subject to human-caused threats, including indiscriminate slaughter by use of poisons, traps, and gunning. My interests in protecting native predators' opportunity to perform their key role in the ecosystem and to live without unnecessary human threats will be harmed by Wildlife Services' activities in Idaho under the Environmental Assessment and Decision/FONSI at issue here and by Wildlife Services' failure to comply with NEPA, the APA, and the ADCA. The relief requested in this litigation would prevent injuries to my interests by Wildlife Services.

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

Executed this 25th day of January, 2018, at Vashon Island, WA.

A handwritten signature in cursive script that reads "Brooks Fahy". The signature is written in black ink on a white background.

---

Brooks Fahy