

1 Julie Cavanaugh-Bill (NV Bar No. 11533)
2 Cavanaugh-Bill Law Offices, LLC
3 401 Railroad Street, Suite 307
4 Elko, NV 89801
5 Tel: (775) 753-4357
6 Fax: (775) 753-4360
7 julie@cblawoffices.org

8 Jennifer Rose Schwartz (OSB No. 072978), *application for Pro Hac Vice to be filed*
9 WildEarth Guardians
10 P.O. Box 13086
11 Portland, OR 97213
12 (503) 780-8281
13 jschwartz@wildearthguardians.org
14 *Will comply with LR IA 11-2 within 14 days*

15 Talasi B. Brooks (ISB No. 9712), *application for Pro Hac Vice to be filed*
16 Western Watersheds Project
17 P.O. Box 2863
18 Boise ID 83701
19 Tel: (208) 336-9077
20 tbrooks@westernwatersheds.org
21 *Will comply with LR IA 11-2 within 14 days*

22 *Attorneys for Plaintiffs*

23 **UNITED STATES DISTRICT COURT**
24 **DISTRICT OF NEVADA**

25 WILDEARTH GUARDIANS and
26 WESTERN WATERSHEDS PROJECT,
27
28 Plaintiffs,

vs.

U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH
INSPECTION SERVICE WILDLIFE
SERVICES, U.S. FOREST SERVICE, and
BUREAU OF LAND MANAGEMENT,
Defendants.

Case No.: _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

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3 1. Every year, our nation’s most majestic animals, including wolves, bears, coyotes,
4 bobcats and mountain lions, are poisoned, trapped and gunned down by Wildlife Services, an
5 agency within the United States Department of Agriculture (“USDA”), Animal and Plant Health
6 Inspection Service (hereinafter “APHIS” or “Wildlife Services”). Funded with millions of
7 taxpayer dollars, and without modern scientific support, this program uses cruel and often
8 archaic methods to capture and kill wildlife from their native ecosystems, largely at the behest of
9 livestock producers. Across Nevada, Wildlife Services uses fixed-wing aircraft and helicopters to
10 aeri ally shoot coyotes; body-gripping traps, neck snares and leghold traps to kill mountain lions,
11 black bears, bobcats, badgers, coyotes, skunks, hares, ground squirrels, beaver and foxes; gas
12 cartridges and poisons to exterminate coyotes in their dens; M-44 devices (also known as
13 “sodium cyanide bombs”) to kill canines like foxes and coyotes; and other poisons to annually
14 eliminate thousands of native birds like ravens. Wildlife Services’ indiscriminate killing methods
15 have also resulted in scores of unintentional animal deaths and injuries nationwide, including
16 federally-protected endangered and threatened species and even family pets.
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20 2. Plaintiffs WildEarth Guardians (“Guardians”) and Western Watersheds Project
21 (“WWP”) challenge Nevada (NV)-Wildlife Services’ July 2020 *Final Environmental*
22 *Assessment: Predator Damage Management in Nevada* (“Final 2020 EA” or “2020 Nevada
23 PDM EA”) and associated Decision Notice/Finding of No Significant Impact (“DN/FONSI”).
24 These decision documents purport to authorize NV-Wildlife Services to continue, as well as
25 expand, its program of aerial gunning, poisoning, trapping, and other killing of coyotes,
26 mountain lions, ravens, and a host of other wildlife across Nevada without fully disclosing or
27 adequately analyzing environmental impacts, in violation of the National Environmental Policy
28

1 Act (“NEPA”), 42 U.S.C. § 4321 *et seq.*, and its implementing regulations, 40 C.F.R. §§ 1500-
2 1508,¹ issued by the Council on Environmental Quality (“CEQ”).

3
4 3. Even though it devotes millions of dollars and thousands of person-hours each
5 year to aerial gunning, poisoning, shooting, trapping, and otherwise killing thousands of animals
6 across Nevada, and even though there is a growing body of science contesting the efficacy of
7 these actions and pointing out their adverse environmental impacts, NV-Wildlife Services has
8 unlawfully refused to prepare a comprehensive Environmental Impact Statement (“EIS”)
9 disclosing the direct, indirect, and cumulative effects of its Nevada “predator damage
10 management” activities, as required by NEPA.

11
12 4. A full EIS is required in light of the potentially significant environmental effects
13 of NV-Wildlife Services’ statewide predator damage management program (“PDM”), including
14 the decision to allow predator control activities to resume and potentially expand within
15 congressionally designated Wilderness Areas and agency-designated Wilderness Study Areas.
16 As discussed *infra* ¶ 75, pursuant to the settlement agreement reached in *WildEarth Guardians v.*
17 *U.S. Dep’t of Agric., APHIS*, No. 2:12-cv-00716-MMD-PAL (ECF No. 67-1, filed October 5,
18 2016), Wildlife Services ceased predator control activities in Wilderness Areas and Wilderness
19 Study Areas until adopting the 2020 DN/FONSI and issuing the 2021 Annual Work Plans
20 challenged herein.
21

22
23 5. NV-Wildlife Services’ killing of native wildlife in designated Wildernesses for
24 the stated purpose of protecting private agricultural interests (*i.e.*, preventing or reducing future
25

26 ¹ All citations are to the 1978 Council on Environmental Quality (“CEQ”) regulations, 40 C.F.R.
27 Part 1500, which were in effect at the time Wildlife Services issued the 2020 Nevada PDM EA
28 and DN/FONSI challenged herein and are the CEQ regulations that these decisional documents
purport to follow. On September 14, 2020, the Trump Administration issued a final rule revising
the CEQ regulations. *See* 85 Fed. Reg. 43304 (July 16, 2020) (Update to the Regulations
Implementing the Procedural Provisions of the NEPA, Final Rule).

1 losses of commercial livestock), with the approval of Defendant U.S. Bureau of Land
2 Management (“the Bureau” or “BLM”) through the Nevada BLM 2021 Annual Work Plan and
3 the Bureau’s associated Decision Record/FONSI and Minimum Requirements Decision Guide,
4 also violates the Wilderness Act, 16 U.S.C. §§ 1131-1136, by sanctioning an impermissible
5 “commercial enterprise” within designated Wilderness Areas, *id.* § 1133(c), without
6 demonstrating that lethal PDM is either necessary for a valid “wilderness purpose,” *id.* §
7 1133(d)(5), or necessary for preventing serious losses of domestic livestock, and by offending
8 the Act’s mandate to preserve the untrammeled and “natural conditions” that are a part of the
9 “wilderness character” of the applicable designated Wildernesses, *id.* §§ 1131, 1133. Defendants
10 Wildlife Services and the Bureau have similarly violated Nevada’s Wilderness enabling
11 legislation because lethal control of wildlife in Bureau-managed Wildernesses for the stated
12 purpose of protecting commercial livestock is outside the scope of permissible wildlife
13 management activities under The Lincoln County Conservation, Recreation, and Development
14 Act of 2004 (Pub. L. No. 108-424) (“Lincoln County Conservation Act”) and The White Pine
15 County Conservation, Recreation, and Development Act, or Pam White Wilderness Act, of 2006
16 (Pub. L. No. 109-432) (“White Pine County Conservation Act”).

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21 6. Plaintiffs bring related claims against Defendants U.S. Forest Service and the
22 Bureau for authorizing NV-Wildlife Services to annually kill native wildlife on federal public
23 lands, including within ecologically significant and specially designated areas like Wildernesses
24 and Wilderness Study Areas, through Annual Work Plans. The Annual Work Plans provide no
25 public disclosure of the efficacy or local environmental impacts of Wildlife Services’ activities
26 and do not demonstrate consistency with federal land management requirements.² By approving
27

28

² The Bureau’s April 2021 Decision Record/FONSI and Determination of NEPA Adequacy for
BLM Adoption of Activities Proposed and Analyzed in BLM-Administered Designated

1 NV-Wildlife Services' wildlife killing on these federal public lands without legally adequate
2 site-specific environmental analyses, the Bureau and Forest Service violate NEPA.

3 7. NV-Wildlife Services' annual killing of native predators, including coyotes and
4 thousands of ravens, to purportedly "benefit" sage grouse is also unlawful because it exceeds the
5 agency's statutory authority under the Animal Damage Control Act, which only allows Wildlife
6 Services to take actions deemed "necessary" to control "injurious animal species." 7 U.S.C. §
7 426. The 2020 Nevada PDM EA and DN/FONSI fail to establish that ravens and coyotes are
8 depressing or otherwise injuring populations of sage-grouse and are thus "injurious," and hence
9 Wildlife Services lacks the statutory authority to undertake the killing of native wildlife for this
10 stated purpose.
11

12 8. Accordingly, Plaintiffs request that this Court reverse, vacate, and set aside the
13 2020 Nevada PDM EA and DN/FONSI and the 2021 Forest Service and BLM Annual Work
14 Plans. Plaintiffs further request that this Court enjoin NV-Wildlife Services from conducting its
15 PDM activities on the affected federal public lands unless and until Defendants have fully
16 complied with federal law.
17

18 **JURISDICTION AND VENUE**

19 9. This Court has jurisdiction over Plaintiffs' claims herein pursuant to 28 U.S.C. §
20 1331 (federal question jurisdiction), 28 U.S.C. § 1346(a)(2) (an agency of the United States as
21 the defendant), and 5 U.S.C. §§ 701-706 (the Administrative Procedure Act, or "APA"). There
22 now exists between the parties an actual, justiciable controversy within the meaning of the
23 Declaratory Judgment Act, 28 U.S.C. § 2201.
24
25

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27 *Wilderness and Wilderness Study Areas in the Environmental Assessment: Predator Damage*
28 *Management in Nevada* similarly fails to provide the requisite public disclosure and site-specific
analysis of the full scope of PDM activities that BLM authorized under the Nevada BLM 2021
Annual Work Plan for the applicable BLM Districts in Nevada.

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