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Date: <u>Aug. 31, 2018</u>	
Time: <u>9:00 a.m.</u>	
Judge/Calendar:	
<u>Hon. Carol Murphy</u>	

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

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CENTER FOR BIOLOGICAL DIVERSITY
and CASCADIA WILDLANDS,

Petitioners,

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v.

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WASHINGTON DEPARTMENT OF FISH
AND WILDLIFE; KELLY SUSEWIND, in
his official capacity as Director of the
Washington Department of Fish and Wildlife;
and LISA WOOD, in her official capacity as
the SEPA Coordinator of the Washington
Department of Fish and Wildlife,

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Respondents.

No. 18-2-04130-34

**DECLARATION OF PAULA SWEDEEN,
PH.D. IN SUPPORT OF BRIEF OF
PROPOSED *AMICUS CURIAE*
CONSERVATION NORTHWEST IN
SUPPORT OF THE WASHINGTON
DEPARTMENT OF FISH AND
WILDLIFE'S OPPOSITION TO MOTION
FOR PRELIMINARY INJUNCTION**

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Paula Swedeem, Ph.D. states and declares as follows:

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1. I am over the age of eighteen, I have personal knowledge of the facts set forth herein, and I am competent to testify to them at trial.

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2. I am the Policy Director for amicus curiae Conservation Northwest. I have worked on wolf conservation issues for Conservation Northwest since March of 2014, first as

1 a consultant, in the position of Carnivore Policy Lead, then as a full time staff person in the
2 position of Policy Director starting in October, 2017.

3 3. I am currently a member of Washington Department of Fish and Wildlife's
4 (WDFW) Wolf Advisory Group (WAG) and have served on the WAG since March of 2014.

5 4. I have a B.S.in Biology from Indiana University; a Masters of Arts in Political
6 Science and Environmental Studies from Western Washington University; and a Ph.D. in
7 Interdisciplinary Studies with a focus on Ecological Economics from the Union Institute and
8 University.

9 5. I worked as a wildlife biologist for the Washington Department of Natural
10 Resources from 1994-2000 and as a wildlife biologist for the Washington Department of Fish
11 and Wildlife from 2000-2006.

12 6. I have worked in the non-profit sector since 2006 and have worked on
13 endangered species conservation throughout all my employment since 1990.

14 7. Conservation Northwest is a 501(c)(3) environmental conservation non-profit
15 organization that has been working in Washington State since 1989 in order to connect,
16 protect, and restore the Pacific Northwest's wildlands and wildlife.

17 8. Conservation Northwest has been involved in wolf recovery and conservation
18 in Washington State since 2007. We had staff that served on WDFW's Wolf Working Group
19 from 2007 to 2011. This group helped develop WDFW's Wolf Conservation and
20 Management Plan, which was completed in 2011. In 2008, a participant in our organization's
21 Citizen Wildlife Monitoring Project documented the first reproductive wolf pack, named the
22 Lookout Pack, in the Methow Valley.

23 9. In 2010, we began educating ourselves about non-lethal methods for avoiding
24 wolf-livestock conflicts by attending workshops and interviewing ranchers in Montana and
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1 Alberta, Canada who were using these methods. In 2011, Conservation Northwest started
2 working with ranchers in Washington and the Washington Department of Fish and Wildlife to
3 provide private cost-share funding and training on proactive non-lethal methods to deter
4 wolves from attacking livestock. We have raised private dollars and assisted ranchers every
5 year since then. During most of these years, we worked with a handful of ranchers on
6 individual ranches to help them hire and deploy range riders, who are specialized ranch
7 workers that keep track of both cattle and wolf locations and behavior. Their purpose is to
8 take advantage of wolves' aversion to human presence, to detect and remove sick and injured
9 livestock before they become an attractant to wolves, and to physically haze wolves away
10 from livestock if they get too close or look like they are trying to prey on livestock. Our goal
11 in starting this program was to set an example and create a community of learning for
12 ranchers, and provide support to WDFW to grow its conflict-prevention efforts. Starting in
13 2017 and continuing this season, we also have allocated funding to roaming range riders who
14 can assist a number of ranchers depending on locations of wolf activity near livestock that
15 could turn into conflict. A more detailed description of Conservation Northwest's range rider
16 program can be found at: [https://www.conservationnw.org/our-work/wildlife/range-rider-
17 pilot-project/](https://www.conservationnw.org/our-work/wildlife/range-rider-pilot-project/)

18 10. We had a staff member who lived and worked out of Omak, Washington from
19 2011 to 2017, whose job it was to work with ranchers and other community members to
20 encourage them to adopt non-lethal methods in their ranching business practices in order to
21 decrease the likelihood that wolves would need to be lethally removed, and to decrease
22 animosity among ranchers and rural communities towards the recovering wolf population.
23 Since 2016, we have had a staff member living and working out of Chewelah, Washington
24 who does the same thing, and who has also started a community collaborative organization to
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1 further advance adoption of and continued learning about the best techniques to reduce the
2 likelihood of cattle getting injured or killed by wolves.

3 11. We invest in non-lethal deterrence and in building relationships and trust with
4 ranchers and other residents of rural Washington because we think, based on the biological
5 and social science literature, that human-caused mortality and lack of social tolerance for
6 wolves are the biggest limiting factors to attaining recovery, and once recovered, allowing
7 wolves to live on the landscape with a minimal amount of harassment and persecution from
8 people. We believe that preventing or reducing the risk of wolves killing and injuring
9 livestock reduces animosity towards wolves. This is one reason we support the work of the
10 Wolf Advisory Group.

11 12. Social science also suggests that working with people in a manner that allows
12 them a sense of autonomy, competence, and self-determination results in better conservation
13 outcomes than trying to force people to adopt particular ways of doing things. *See, e.g.,*
14 Daniel DeCaro, Marco Janssen & Allen Lee, *Synergistic Effects of Voting and Enforcement*
15 *on Internalized Motivation to Cooperate in a Resource Dilemma*, 10 JUDGMENT AND
16 DECISION MAKING 6:511-37 (Nov. 2015); Daniel DeCaro & Michael Stokes, *Social-*
17 *Psychological Principles of Community-Based Conservation and Conservancy Motivation:*
18 *Attaining Goals within an Autonomy-Supportive Environment*, CONSERVATION BIOLOGY
19 22:1443-1451 (March 2008). This is another reason we support the work of the Wolf
20 Advisory Group.

21 13. We also think that if we as an organization want to have wolves living in
22 Washington that we also have an ethical obligation to share in the economic burden and
23 attempt to minimize the hardships that multiple losses of livestock can cause to ranching
24 operations. Part of that obligation is accepting that when good faith efforts at proactive non-
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1 lethal measures do not work, ending depredations through limited lethal removal of wolves
2 may be necessary. Our organization does not like to see wolves killed as a general rule.
3 However, we have publicly supported the Department in conducting lethal removal when we
4 are confident that such actions are consistent with agreements negotiated in good faith with
5 good public process, informed by research findings, when non-lethal efforts have been made
6 by the ranchers and the Department, when the action is needed to stop continued damaging
7 incidents of livestock loss, and when a removal action will not ecologically impair recovery.

8 14. Our experience working with ranchers has also taught us that they are willing
9 to work very hard at preventing the need for lethal removal if they know that the expectations
10 of them are not always changing, and that if their best efforts fail, lethal removal is there as a
11 backstop. Ranchers we work with in the field and on the Wolf Advisory Group have told us
12 that if lethal removal was not available as a last-resort tool, they would be much less willing
13 to go to the extra effort and expense that doing skilled range riding requires.

14 15. Through these next statements, I will describe my experience as a member of
15 the Wolf Advisory Group and my sense of the quality of its deliberative and decision-making
16 processes, and the importance of this process for creating and maintaining social acceptance
17 of wolves, leading to a recovered and resilient population.

18 16. The 2011 Wolf Recovery and Management Plan called for the formation of a
19 multi-stakeholder advisory group to assist the Department in implementation of the plan. The
20 Wolf Advisory Group started meeting in July of 2013. It had nine members from the
21 livestock, conservation, and hunting communities. Conservation Northwest had a staff person
22 serving on the WAG from the beginning of its work. The WAG discussed lethal control
23 protocols and whether to codify parts of the Wolf Plan into rule. The first draft of the
24 protocol in 2013 allowed for lethal removal to occur after two depredations in one calendar
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1 year and after minimal and poorly-defined non-lethal measures were tried but failed to stop
2 depredations. Conservation Northwest did not think this approach was adequate.

3 17. When I joined the WAG in March of 2014, discussions of what the protocol
4 should include were still in process. In general the group functioned as a collection of
5 individuals that provided input to the Department but did not discuss issues with each other or
6 consider ourselves to be a joint problem-solving entity. Producers wanted very liberal lethal
7 control guidance with basic non-lethal measures while conservation groups wanted stricter
8 guidelines with higher numbers of livestock being killed over a shorter period of time and
9 high levels of non-lethal deterrents prior to the Department using lethal control. The
10 Department took all opinions under advisement but did not openly discuss how they used
11 WAG member input to make their decisions.

12 18. The Department adopted a protocol in the late spring of 2014 without explicit
13 agreement from the WAG as a whole. There were aspects of the protocol that no one liked
14 and everyone criticized its implementation during a high-profile depredation event involving
15 the Huckleberry Pack and over 25 sheep confirmed killed during the summer of 2014. The
16 Department lethally removed one member of the Huckleberry Pack. Many groups in the wolf
17 conservation community, including Conservation Northwest, were upset with lack of
18 transparency and poor communication on the Department's part and felt that the producer
19 could have done more to prevent the situation. I heard the sheep rancher and his community
20 express that they did everything they could and that the Department forced them to move their
21 sheep to different pasture prior to when they otherwise would have, thus causing them to
22 incur burdensome expenses in addition to the lost sheep, and that the State did not kill enough
23 wolves to remedy the situation. The intensity of disagreement and animosity over this event
24 reached a fevered pitch and required the Governor's intervention. WAG members were hard
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1 pressed to speak to each other or conduct any meaningful dialogue at the meeting following
2 this incident.

3 19. In late 2014, several stakeholders, including Conservation Northwest, pressed
4 WDFW and the Governor's office to hire someone more skilled in dealing with wildlife
5 related conflict to assist them, and to make changes to the WAG. WDFW responded by
6 hiring Francine Madden, a human-wildlife conflict transformation specialist, to conduct an
7 initial assessment of the wolf conflict and recommend next steps. Ms. Madden had over 20
8 years of experience all over the world successfully moving people toward better
9 understanding of the origins of their animosity towards each other and wildlife in order to
10 solve problems in a way that conserved local populations of animals (*e.g.*, gorillas, elephants,
11 jaguars, tigers, and cougars) and allowed communities negatively impacted by large animals
12 to meet their needs without resorting to poaching or other forms of retaliatory killing. As
13 result of her assessment, in which she interviewed around 100 people, nearly all stakeholders
14 and the Department decided to bring her on full time for a two-year contract to facilitate the
15 WAG and work with stakeholder groups to build and repair relationships, understand the
16 nature of the conflict, and work to find solutions that the entire WAG and as many other
17 groups as possible could support.

18 20. In May of 2015, with an expanded WAG membership of 18 people across the
19 original stakeholder groups plus some unaffiliated members of the public from both eastern
20 and western Washington, we had our first WAG meeting with a facilitator trained in the use
21 of conservation conflict transformation. The facilitator helped set a tone of mutual respect
22 among members, helped us learn more about our commonalities as humans, and learn about
23 the origins and drivers of conflict in general and our current conflict over wolves. We spent
24 time laying the foundation for a functional group decision-making process. We also devoted
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1 several meetings and a special field trip to improved understanding of the conservation
2 community's hopes and expectations around use of proactive non-lethal measures to prevent
3 livestock depredations, the challenges experienced by ranchers in trying to use various
4 methods, and the physical and financial support they needed to be successful. After five
5 meetings between May and December of 2015, I was very impressed with the improved
6 relationships, commitment on the part of ranchers to support higher quality and more
7 consistent non-lethal deterrence measures among their peers, and improvement in the
8 Department's transparency and their deep involvement of WAG as a citizen advisory group in
9 how to implement a plan that had already gone through SEPA and had been adopted by the
10 Fish and Wildlife Commission.

11 21. An important moment for me came in the December 2015 meeting when one
12 of the livestock producer members said that he did not want to see wolves killed and that he
13 now trusted that conservation members of the WAG also did not want him to lose his sheep.
14 This producer had showed us his operation on the ground on a field trip the month before and
15 how he implemented preventative deterrence measures, and was willing to take advice from
16 experts that members of the wolf conservation community respected on how to improve his
17 approach. This expression of mutual trust and understanding was not something I expected to
18 hear after my initial experiences with conflict over wolves in 2014.

19 22. All of this work set a foundation for the WAG to re-look at recommendations
20 to WDFW on the conditions under which lethal removal would be considered to stop repeated
21 livestock depredations. At this point, we were functioning more as a deliberative body than a
22 collection of individuals speaking to the Department about our separate perspectives. It was
23 also very important to me that we had spent a lot of time figuring out how to ensure that the
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1 Department and ranchers had sufficient understanding and financial resources to make
2 genuine efforts at preventing depredations prior to lethal removal being considered.

3 23. The WAG took up formal consideration of a revised protocol at a meeting in
4 February of 2016. We considered scientific literature, field experience of the Department's
5 conflict specialists and wolf biologists, logistical considerations of ranchers, and conservation
6 groups' and the public's interests in a recovered population and humane treatment of
7 individual animals.

8 24. Between the February and May 2016 WAG meetings, conservation members
9 of the WAG also had several in-person, phone, and video meetings with other conservation
10 groups working on wolf conservation to get their input on what they would like to see in the
11 revised protocol. While it is not possible to always get everything that one's stakeholder
12 group would like to see during a multi-stakeholder negotiation process, I personally did my
13 best, and I witnessed my fellow conservation WAG members do their best, to represent the
14 ideas of our broader community. Both petitioner groups were involved in these meetings.

15 25. The WAG came to a consensus set of recommendations during our May 2016
16 meeting. Department staff took those recommendations and turned them into a draft protocol,
17 and then allowed us to help them make sure their text reflected our agreements and that the
18 language was as unambiguous as possible. Conservation WAG members again sought
19 comments from our conservation colleagues. We incorporated several detailed comments
20 from one of the petitioners in this case, Cascadia Wildlands, on the final draft, which the
21 Department used in its final version.

22 26. The WAG held two meetings with expanded public comment opportunities, to
23 process how implementation of the protocol went during the grazing season of 2016, one in
24 September of 2016 and another in February of 2017. Many members of the public, as well as
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1 members of the wolf conservation community, were upset about a particular lethal removal
2 operation. The WAG and Department staff listened to this input and used it to update our
3 recommendations for the 2017 Wolf-Livestock Interaction Protocol. Again, both petitioner
4 organizations presented comments publicly, and conservation members of the WAG voiced
5 input of our colleagues during the revision process, both in written and verbal form.

6 27. The 2017 protocol process also included a review of published literature, field
7 experience of WDFW biologists, ranchers' economic and operational concerns, and
8 observations from conservation interests about improving coverage of range riders, improving
9 the quality of documenting how non-lethal measures are implemented, applying lethal control
10 in an incremental manner to avoid needing to remove entire packs, and attending to animal
11 welfare.

12 28. The WAG agreed to a consensus set of recommendations again in March of
13 2017. Department staff again turned these recommendations into a document that was then
14 reviewed for clarity and accuracy. I and my WAG conservation colleagues provided
15 extensive input on the final form of the protocol that was incorporated by the Department.

16 29. We have been told by ranchers and community leaders that the existence of a
17 protocol that the WAG agreed to, coupled with the Department following through on
18 implementation, has made it easier for more ranchers to undertake high-quality deterrence
19 measures. Data from WDFW and from the number of ranchers that Conservation Northwest
20 serves plus a new grant program from Department of Agriculture on the uptake of various
21 forms of non-lethal measures corroborates these anecdotes. Between 2013 and 2015 there
22 was an average of less than 40 ranchers utilizing formal payment programs either through the
23 State or non-profits. From 2016-2018, those numbers have averaged slightly over 60.
24 WDFW conflict specialists have reported to us that the number of ranchers employing non-
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1 lethal measures without some form of contract or payment is higher, and that now the demand
2 for cost-share funds exceeds the availability of funding. Conservation Northwest has also
3 received more requests for range rider coverage than we have funds to supply. While it may
4 seem paradoxical, we think that allowing lethal removal to be one tool in the Department's
5 toolbox increases the uptake of non-lethal measures across the landscape and decreases
6 overall conflict between wolves and humans.

7 30. I have been involved in many public processes on agency decisions, as an
8 agency staff person responding to SEPA comments, as a citizen providing comments through
9 formal SEPA and NEPA processes, and as a professional representing environmental
10 organizations. I have never been involved in a process that has taken as much time, care, and
11 consideration of technical, biological, social, and economic factors to implement a recovery
12 plan (or any other type of environmental decision), let alone one that has already undergone
13 formal agency decision-making through SEPA. In my opinion, The Washington Department
14 of Fish and Wildlife, through its WAG process, is implementing reasoned public involvement
15 in a more in-depth manner than any other process I have been involved in. I am unaware of
16 any other state agency with wolves that goes to the lengths that WDFW has gone to in order
17 to implement recovery actions that vastly different stakeholder groups can live with and that
18 are resulting in a growing population. Wolves are also the most controversial species I have
19 worked on in my career.

20 31. I would also observe that the WAG process has allowed for genuine dialogue
21 and improved substantive understanding of the complex issues involved in management
22 decisions involving wolf recovery. While SEPA is important from a procedural perspective
23 and is in my opinion intended to also improve understanding of the impacts of decisions, it
24 does not by itself allow for the kind of true democratic, face-to-face dialogue that the WAG
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1 has created. The types of comments that come through SEPA often do not carry the depth of
2 understanding and connection to the issues that have emerged from the discussions that I
3 experienced as a participant of the WAG. As described above, I think that decision-making
4 we undertook was built upon an improved understanding of the perspectives of all
5 stakeholders involved, and that this improved understanding has resulted in better
6 implementation and deployment of non-lethal deterrence methods than would likely have
7 occurred under a standard public comment and rule-making format.

8 32. Finally, the WAG process has demonstrated the importance of relationships
9 and trust across urban and rural stakeholders and communities. Coming to agreement among
10 conservations groups, ranchers, hunters, and Department staff over improved commitment to
11 and implementation of non-lethal measures and conditions under which the Department could
12 consider using lethal removal of wolves as a management tool is no small feat, especially in
13 light of the high level of political polarization among these groups at the present time. I
14 believe that sticking with the agreements made by the group, and allowing the Department to
15 implement those decisions, as long as they are otherwise in accordance with federal and state
16 law, is important to maintaining trust across these different groups, and important to the social
17 underpinnings of successful long-term wolf recovery and persistence. I believe that granting
18 an injunction to the petitioners will cause damage to the improvements in social acceptance of
19 wolves in Washington and could set back the work that members of the WAG have done,
20 along with the Department, to work towards meeting the needs of all Washingtonians who
21 have an interest in robust native wildlife populations and in the ability of human communities
22 to co-exist with wildlife with a minimum of conflict.

1 I declare under penalty of perjury under the laws of the state of Washington that the
2 foregoing is true and correct.

3 DATED this 29th day of August, 2018, at Port Townsend, Washington.
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Paula Swedeem, Ph.D.
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1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies as follows:

3 1. I am employed at Corr Cronin LLP, attorneys for Amicus Conservation
4 Northwest.

5 2. On August 29, 2018, I caused a true and correct copy of the foregoing
6 document to be served on the following parties in the manner indicated below:

7 ***Attorneys for Petitioner:***

8 Claire Loeb Davis, WSBA No. 39812
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13 ***Via Email and Hand Delivery***

7 ***Attorneys for Respondent State of
8 Washington, Department of Fish and
9 Wildlife:***

10 Joseph E. Shorin III, WSBA No. 19705
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13 WASHINGTON
14 1125 Washington Street SE
15 Olympia, WA 98504
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17 ***Via Email***

18 I declare under penalty of perjury under the laws of the state of Washington that the
19 foregoing is true and correct.

20 DATED this 29th day of August, 2018 at Seattle, Washington.

21 *s/ Lauren Beers*
22 Lauren Beers