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10 **STATE OF WASHINGTON**
11 **THURSTON COUNTY SUPERIOR COURT**

12 WASHINGTON WILDLIFE FIRST and
13 MARTHA HALL,

14 Petitioner,

15 v.

16 WASHINGTON DEPARTMENT OF
17 FISH AND WILDLIFE, KELLY
18 SUSEWIND, in his official capacity as
19 Director of the Washington Department of
20 Fish and Wildlife, LISA WOOD, in her
21 official capacity as SEPA Coordinator for
22 the Washington Department of Fish and
23 Wildlife, and JAMES ANDERSON,
24 JOHN LEHMKUHL, BARBARA
25 BAKER, MOLLY LINVILLE, LORNA
26 SMITH, MELANIE ROWLAND,
WOODROW MYERS, STEVEN
PARKER, and VICTOR GARCIA, in their
official capacities as Washington Fish and
Wildlife Commissioners,

Respondents.

NO. _____

**PETITION FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 **NATURE OF ACTION**

2 1. Petitioners Washington Wildlife First and Martha Hall file this action to
3 challenge the sweeping Game Management Plan (“GMP”) impacting all Washington’s hunted
4 species, approved by the Washington Fish and Wildlife Commission (“Commission”) on
5 February 13, 2026, in accordance with the Determination of Nonsignificance (“DNS”) issued
6 by the Washington Department of Fish and Wildlife (“WDFW”) on July 7, 2025. Petitioners
7 ask the Court to invalidate, reverse, and declare these actions illegal because WDFW failed to
8 meet the *prima facie* requirements for the State Environmental Policy Act (“SEPA”) and its
9 issuance of a DNS was clearly erroneous under SEPA; and because through the development
10 and approval of the 2026 GMP, WDFW violated its responsibilities under RCW 77.04.12
11 (“Mandate”) and as a public trustee of Washington’s fish and wildlife on behalf of current and
12 future generations of Washingtonians.

13 **PARTIES**

14 **I. Petitioners**

15 2. Petitioner Washington Wildlife First is a 501(c)(3) nonprofit organization
16 incorporated in the State of Washington with its principal place of business in Vashon,
17 Washington. Washington Wildlife First is dedicated to using the power of the law, informed
18 advocacy, and strategic partnerships to transform Washington’s relationship with its fish and
19 wildlife from an approach centered around consumptive use to a more democratic paradigm that
20 values science, recognizes the intrinsic value of individual animals, and prioritizes protecting,
21 preserving, and perpetuating wild lives. Petitioner Martha Hall is resident of Skagit County,
22 Washington.

23 3. One of Washington Wildlife First’s objectives is to ensure WDFW’s
24 compliance with laws designed to protect fish, wildlife, and the environment, including SEPA,
25 the Mandate, and WDFW’s responsibilities as a public trustee of the state’s fish and wildlife.
26

1 Washington Wildlife First monitors WDFW’s plans, policies, programs and activities on
2 behalf of its board, staff, donors, members, and supporters (collectively, “Members”).

3 4. Hall, Washington Wildlife First, and its Members follow WDFW proposals and
4 attend and testify at meetings of the Commission. Hall, Washington Wildlife First, and its
5 Members routinely submit comments and provide testimony regarding WDFW proposals and
6 actions, including comments about the development of a new GMP, the draft 2025 GMP, the
7 draft 2025 DNS, and the final 2026 GMP and DNS, as well as WDFW’s chronic failure to follow
8 SEPA’s requirements. Hall, Washington Wildlife First, and its Members have suffered, and will
9 continue to suffer, procedural and informational harms connected to their substantive,
10 conservation, recreational, and scientific activities resulting from Respondents’ failure to
11 comply with SEPA regulations.

12 5. Hall, Washington Wildlife First, and its Members rely on WDFW fulfilling its
13 obligations as a public trustee and under the Mandate to ensure that Washington’s fish and
14 wildlife are preserved, protected, perpetuated, and managed for the benefit of all current and
15 future Washingtonians.

16 6. Hall, Washington Wildlife First, and its Members also rely on WDFW’s
17 adherence to SEPA’s requirements to protect vulnerable, declining, threatened, and endangered
18 species, safeguard healthy ecosystems, prevent environmental harms, and provide them with
19 meaningful information about the potential adverse impacts of WDFW’s plans, proposals,
20 programs, and activities. Respondents’ failure to comply with SEPA’s requirements, including
21 in regard to the 2026 GMP, has deprived Hall, Washington Wildlife First, and its Members of
22 meaningful information about the environmental impacts of WDFW’s plans and policies,
23 thereby harming their efforts to effectively advocate for and protect their interests in
24 Washington’s fish and wildlife.

25 7. Hall and Washington Wildlife First’s Members regularly spend time outdoors
26 enjoying Washington’s fish and wildlife. Hall and Washington Wildlife First’s Members have

1 visited many areas in the state to enjoy wildlife in the past, and have specific plans to continue
2 to visit those locations to enjoy wildlife in the coming weeks, months, and beyond. Hall is an
3 avid outdoor recreationalist, a former wildlife rescue/rehabilitator and educator, and an
4 amateur naturalist and citizen scientist, who has spent decades observing and researching
5 Washington's wildlife. Washington Wildlife First's Members observe, study, photograph, and
6 appreciate wildlife and wildlife habitat by engaging in such activities as wildlife-watching,
7 hiking, camping, skiing, fishing, and hunting in areas around the state.

8 8. Hall and Washington Wildlife First's Members derive scientific, educational,
9 recreational, health, conservation, spiritual, social, and aesthetic benefits from the fish and
10 wildlife of the state, and the existence of natural, wild, and healthy ecosystems.

11 9. The past, present, and future enjoyment of Hall and Washington Wildlife First's
12 Members, including their recreational, aesthetic, spiritual, social, and scientific interests, have
13 been and will be harmed by WDFW's disregard of the Mandate and the Public Trust and its
14 continued violation of SEPA, including its failure to complete an EIS to evaluate potential
15 alternatives to the 2026 GMP and the significant adverse impacts the chosen plan will have on
16 the state's environment and wildlife.

17 10. Hall, Washington Wildlife First, and its Members have injuries that are actual,
18 concrete and/or imminent, and are fairly traceable to Respondents' violations of the law as
19 described herein, which the Court may remedy by declaring that Respondents' actions are
20 illegal and issuing injunctive relief vacating Respondents' actions and requiring Respondents
21 to comply with their obligations under statute and the Public Trust.

22 11. Washington Wildlife First's main office is at 20520 105th Ave. SW, Vashon,
23 WA 98070, within King County, and its mailing address is P.O. Box 760, Copalis Crossing,
24 WA 98536. Hall resides and receives mail at 2617 16th Street, Anacortes, WA 98221.
25
26

1 **II. Respondents**

2 12. Respondent WDFW is an agency of the State of Washington. WDFW’s
3 administrative offices are in the Natural Resources Building at 1111 Washington Street S.E.,
4 Olympia, WA 98501, and its mailing address is P.O. Box 43200, Olympia, WA 98504-3200.

5 13. The decision-making authority for WDFW rests with the Commission, which is
6 directed to act through “an open and deliberative process that encourages public involvement
7 and increases public confidence in department decision making.” RCW 77.04.013.

8 14. The Commission is specifically tasked with “establishing policies to preserve,
9 protect, and perpetuate wildlife, fish, and wildlife and fish habitat,” “maximiz[ing] fishing,
10 hunting, and outdoor recreational opportunities compatible with healthy and diverse fish and
11 wildlife populations,” and establish[ing] hunting, trapping, and fishing seasons and
12 prescribe[ing] the time, place, manner, and methods that may be used to harvest or enjoy game
13 fish and wildlife.” RCW 77.04.055. The director of WDFW (“Director”) serves at the pleasure
14 of the Commission. *Id.*

15 15. Respondent Kelly Susewind is sued in his official capacity as the Director of
16 WDFW, appointed by the Commission in accordance with RCW 77.04.055(7). The Director is
17 required to “supervise the administration and operation of the department and perform the
18 duties prescribed by law and delegated by the commission.” RCW 77.04.080. Susewind could
19 respond to orders from this Court granting declaratory or injunctive relief or a writ of
20 mandamus.

21 16. Respondent Lisa Wood is sued in her official capacity as WDFW’s SEPA
22 Coordinator. Wood could respond to orders from this Court granting declaratory or injunctive
23 relief or a writ of mandamus.

24 17. Respondents James Anderson, John Lehmkuhl, Barbara Baker, Molly Linville,
25 Lorna Smith, Melanie Rowland, Woodrow Myers, Steve Parker and Victor Garcia, are sued in
26 their official capacities as members of the Commission that approved the 2026 GMP on

1 February 13, 2026. As commissioners, they are responsible for ensuring that WDFW complies
2 with applicable laws, fulfills its responsibilities under the Public Trust and the Mandate, and
3 for overseeing the development and implementation of the GMP. They could respond to
4 orders from this Court granting declaratory or injunctive relief or a writ of mandamus.

5 **LEGAL BACKGROUND**

6 **I. Jurisdiction and Venue**

7 18. Jurisdiction is proper in this Court pursuant to RCW 7.24.010 (declaratory
8 relief), RCW 7.40.010 (injunctive relief), RCW 34.05.570 (Administrative Procedure Act),
9 RCW 43.21C.075 (SEPA), WASH. CONST. art. IV § 6; (constitutional writ of certiorari), and
10 RCW 7.16.160 (writ of mandamus).

11 19. Venue is proper in this Court pursuant to RCW 4.92.010 and RCW
12 34.05.514(1)(b).

13 **II. WDFW's Duties as a Public Trustee**

14 20. Washington's duty to act as a public trustee for the state's wildlife is deeply
15 rooted in common law and the Washington Constitution. *See* WASH. CONST. art. XVII, § 1;
16 *Graves v. Dunlap*, 87 Wash. 648, 651-52, 152 P. 532 (1915) ("the title to game belongs to the
17 state in its sovereign capacity, and that the state holds this title in trust for the use and benefit
18 of the people of the state"). The Washington legislature confirmed this responsibility by
19 statute, and delegated it to the Commission, the Director, and WDFW. RCW 77.04.012
20 ("Wildlife, fish, and shellfish are the property the state. The commission, director, and the
21 department shall preserve, protect, perpetuate, and manage the wildlife and food fish, game
22 fish, and shellfish in state waters and offshore waters.").

23 21. As a public trustee, WDFW is required to manage the state's wildlife for the
24 benefit of all current and future state residents, and may not take actions that would
25 substantially impair wildlife populations. *Caminiti v. Boyle*, 107 Wn.2d 662, 732 P.2d 989
26

1 (1987); *Ctr. for Biological Diversity v. Dep't of Fish & Wildlife*, 14 Wn. App. 2d 945, 986,
2 474 P.3d 1107 (2020).

3 22. As a trustee, WDFW has a duty to exercise prudence, care, skill, and caution in
4 protecting and managing wildlife for the benefit of current and future generations of
5 Washingtonians. It also owes a duty of undivided loyalty to the people of Washington, whom
6 it must treat impartially, reasonably balancing their interests without being influenced by
7 personal bias. Restat. 3d of Trusts, § 79 (2012) (a trustee's management may "not to be
8 influenced by the trustee's personal favoritism or animosity toward individual beneficiaries").
9 It is also impermissible for a trustee to "ignore the interests of some beneficiaries merely as a
10 result of oversight or neglect, or because a particular beneficiary has more access to the
11 trustee or is more aggressive").

12 **III. Codification of Public Trust Doctrine in SEPA and Mandate**

13 23. The Public Trust Doctrine does not require codification. However, Washington
14 legislature has codified some of WDFW's duties as a public trustee through laws designed to
15 protect the state's environment and wildlife. These laws include SEPA, which imposes a
16 continuing responsibility on all state agencies to "use all practicable means" to "improve and
17 coordinate plans, functions, programs, and resources" so that the state may "[f]ulfill the
18 responsibilities of each generation as trustee of the environment for succeeding generations."
19 See RCW 43.21C.020.

20 24. The legislature specifically instructed WDFW, the Commission, and the
21 Director regarding their trust responsibilities through Chapter 77.04 RCW, which establishes
22 the Mandate to "preserve, protect, perpetuate, and manage the wildlife and food fish, game
23 fish, and shellfish in state waters and offshore waters." RCW 77.04.12. The Mandate also
24 directs WDFW to "conserve the wildlife and food fish, game fish, and shellfish resources in a
25 manner that does not impair the resource," and grants the commission the authority to
26 "authorize the taking of wildlife, food fish, game fish, and shellfish only at times or places, or

1 in manners or quantities, as in the judgment of the commission does not impair the supply of
2 these resources.” *Id.*; see also RCW 77.04.055 (the Commission must establish “policies to
3 preserve, protect, and perpetuate wildlife, fish, and wildlife”); RCW 77.04.080 (the Director
4 must “carry out the basic goals and objectives” listed in RCW 77.04.055).

5 **IV. SEPA Requires WDFW to Fully Consider Impacts to Wildlife**

6 25. SEPA “is a procedural law that ensures state agencies...consider environmental
7 impacts and alternatives before taking certain actions.” *Cornelius v. Dep’t of Ecology*, 182
8 Wn.2d 574, 598, 344 P.3d 199 (2015). SEPA has been described as an “environmental full
9 disclosure law.” *Norway Hill Pres. & Prot. Ass’n v. King Cty. Council*, 87 Wn.2d 267, 272,
10 552 P.2d 674 (1976).

11 26. SEPA applies to both “project actions,” such as specific construction projects,
12 and “nonproject actions,” involving “decisions on policies, plans, or programs.” WAC 197-11-
13 704(2)(a), (2)(b); WAC 197-11-774.

14 27. In the absence of a categorical exemption, an agency must make a threshold
15 determination of whether an action “is likely to have a probable significant adverse
16 environmental impact[.]” WAC 197-11-330(1)(b). The lead agency must make its threshold
17 determination based on information reasonably sufficient to evaluate the environmental
18 impact of a proposal. WAC 197-11-335. With some exceptions, agencies must use an
19 environmental checklist prepared by the Department of Ecology to assist them in making
20 threshold determinations. WAC 197-11-315. The purpose of the checklist is to ensure an
21 agency, at the earliest possible stage, fully discloses and carefully considers a proposal’s
22 environmental impact before adopting it. *Spokane County v. E. Wash. Growth Mgmt. Hr’gs*
23 *Bd.*, 176 Wn. App. 555, 579, 309 P.3d 673 (2013).

24 28. An agency may issue a DNS if it determines that a project or nonproject action
25 will have no probable significant adverse environmental impacts. WAC 197-11-340(1).
26 However, agencies must prepare an EIS for covered actions “having a probable significant,

1 adverse environmental impact.” RCW 43.21C.031(1). This means an agency must prepare an
2 EIS whenever a policy or plan is “reasonably likely” to have more than a “moderate effect on
3 the quality of the environment.” *Norway Hill Pres. & Prot. Ass’n*, 87 Wn.2d at 278.

4 29. Among the factors the agency must take into account are adverse impacts on
5 endangered species. WAC 197 11 330(3)(e)(ii). The cumulative effect of small environmental
6 impacts “when considered together may result in a significant adverse impact.” WAC 197-11-
7 330(3)(c).

8 30. Agencies must base threshold determinations on “information reasonably
9 sufficient to evaluate the environmental impact of a proposal.” WAC 197-11-335. When
10 issuing a DNS, agencies “must be able to demonstrate that environmental factors were
11 considered in a manner sufficient to amount to prima facie compliance with the procedural
12 requirements of SEPA.” *Juanita Bay Valley Cmty. Ass’n v. Kirkland*, 9 Wn. App. 59, 73, 510
13 P.2d 1140 (1973) (internal citation omitted).

14 31. A court will reverse a DNS if it is “clearly erroneous,” or when “although there
15 is evidence to support it, the reviewing court on the entire evidence is left with the definite and
16 firm conviction that a mistake has been committed.” *Norway Hill Pres. & Prot. Ass’n*, 87
17 Wn.2d at 274. Courts will also reverse a DNS if it is based on a checklist that does not meet
18 the law’s *prima facie* requirements. *King County v. Friends of Sammamish Valley*, 3 Wn. 3d
19 793, 825, 556 P.3d 132 (2024).

20 **V. Authorities to Enforce SEPA, Mandate, and Public Trust**

21 32. Several courts have suggested that citizens can bring a direct action under SEPA
22 in response to a wrongful DNR, although that authority has not been definitively established.
23 Other laws also provide the opportunity to raise a SEPA claim, as well as claims for violations
24 of the Mandate and Public Trust Doctrine.

25 33. Agencies may only exercise “powers expressly granted by statute or ...
26 necessarily implied [by] statutory delegation of authority.” *See Lenander v. Dep’t of Ret. Sys.*,

1 186 Wn.2d 393, 404, 377 P.3d 199 (2016). An agency action is invalid under the APA if it is
2 (1) unconstitutional; (2) outside the statutory authority of the agency or the authority conferred
3 by a provision of law; (3) arbitrary and capricious; or (4) taken by persons not lawfully
4 entitled to take such action. RCW 34.05.570(4)(c).

5 34. Under the Uniform Declaratory Judgment Act, Washington courts “shall have
6 power to declare rights, status and other legal relations whether or not further relief is or could
7 be claimed.” RCW 7.24.010. In so doing, it also gives courts the power to grant “[f]urther
8 relief based on a declaratory judgment or decree... whenever necessary or proper.” RCW
9 7.24.080.

10 35. Under the statutory writ of mandamus, a court may “compel the performance of
11 an act which the law especially enjoins as a duty resulting from an office, trust or station.”
12 RCW 7.16.160.

13 36. Washington residents possess a “fundamental right to be free from lawless
14 action by administrative agencies.” *Bridle Trails Cmty. Club v. Bellevue*, 45 Wn. App. 248,
15 253, 724 P.2d 1110 (1986). State courts have the inherent authority, recognized in the
16 Washington Constitution, to “review administrative decisions for illegal or manifestly arbitrary
17 and capricious acts[.]” *Id.* at 251; WASH. CONST. art. IV § 6.

18 **FACTUAL BACKGROUND**

19 **I. WDFW Continues its History of SEPA’s Requirements**

20 **A. Prior Game Management Plans Follow WDFW’s Pattern of Skirting 21 SEPA Review**

22 37. WDFW adopted its first Game Management Plan on January 1, 2003 (“2003
23 GMP”). WDFW issued a Determination of Significance for the 2003 GMP, which it described
24 as a “comprehensive 6-year management plan designed to define management direction for
25 Washington’s game species (deer, elk, migratory birds, upland birds, cougar, moose, mountain
26 goat, big horn sheep, black bear, rabbits, furbearers, and unclassified game animals).” In its

1 scoping document for its EIS, WDFW identified three areas for discussion: (1) the
2 management of population for “a sustained yield,” (2) the management of wildlife for a
3 “variety of recreational, educational and aesthetic purposes” and (3) the need to “[p]reserve,
4 protect, perpetuate, and manage wildlife and their habitats to ensure healthy, productive
5 populations.”

6 38. In 2008, WDFW adopted changes to the 2003 GMP through the 2009-2015
7 Game Management Plan (“2009 GMP”). It indicated that this revision included significant
8 changes and the inclusion of new issues, including “hunting near urbanizing areas; improved
9 communications and outreach by the department; re-introduction of antelope; and wolf re-
10 colonization.” Although WDFW purported to develop a Supplemental Environmental Impact
11 Statement (“SEIS”), in reality, the 2008 SEIS was just the copy of the 2009 GMP under a
12 different title.

13 39. In 2014, WDFW adopted changes to the 2009 GMP through the 2015-2021
14 Game Management Plan (“2015 GMP”). It indicated that these changes included new
15 information and research, a shift in priorities and emphasis, revised objectives and strategies,
16 and the inclusion of new issues, including “wildlife conflict management; recruitment and
17 retention of hunters; hunter access to private lands; disease in big game; re-introduction of
18 pronghorn; and wolf management.” WDFW purported to develop another SEIS for the 2015
19 GMP, but, once again, the 2014 SEIS was just a copy of the 2015 GMP under a different title.

20 40. These evasions of are part of a long and continuing pattern of WDFW refusing
21 to abide by the requirements of SEPA. Based on publicly available information, over the past
22 five years, WDFW has performed a full EIS on only one project—a wolf-livestock rule that
23 Governor Inslee ordered it to consider, and which management sought to defeat. Over the past
24 several years, WDFW avoided SEPA entirely for many other significant actions, including its
25 25-Year Strategic Plan; its “R3” Program to Recruit, Retain, and Reactivate more hunters; and
26 its 2018 decision to increase salmon hatchery production by more than 50 million smolts per

1 year. Upon information and belief, it has issued a summary DNS based on inadequate SEPA
2 checklists for dozens of other plans, policies, programs, and actions submitted through the
3 SEPA process, including several management plans impacting large areas and groups of
4 species.

5 **B. WDFW Approach to SEPA for New GMP: Disregard Requirements**
6 **and See What Happens**

7 41. Internal notes provided in response to a public disclosure request filed by Hall
8 (“Hall PDR”) indicate that by fall 2021, WDFW Game Division Manager Anis Aoude had
9 determined that WDFW would need to develop a SEIS on the new GMP. In October 2021,
10 managers even drafted a “Determination of Significance and Request for Comments on Scope
11 of EIS,” which found that the proposal “may have a significant impact on the environment”
12 and that an EIS or SEIS was required.

13 42. However, in a March 17, 2022, presentation to the Commission’s wildlife
14 committee (“Wildlife Committee”), Aoude made it apparent that he did not believe that an
15 SEIS would require a full environmental review of impacts. Rather, he said all SEPA required
16 for an SEIS was that WDFW provide an opportunity for the public to comment on the
17 changes. Internal notes produced in response to a Hall PDR indicate that other members of the
18 management team walked this statement back in a subsequent closed-door meeting with the
19 Wildlife Committee on or about May 24, 2022, clarifying that an EIS or SEIS would require a
20 full analysis of the impacts of the proposal and potential alternatives—particularly because
21 WDFW had not done that sort of analysis for its past GMPs.

22 43. In the same meeting, however, WDFW management revealed its broader
23 strategy toward SEPA compliance: disregard SEPA and wait to see if anyone will call the
24 agency on it. In answer to the question of “what is the practical effect of not doing good
25 SEPA?” the internal notes indicate the following response:

26 Even if someone does sue; we don’t need a GMP to do our business. We have a
mandate to provide hunting, can continue to have hunting seasons, offer permits

1 Hunting seasons are SEPA exempt. Thus, litigation risk is low (could lose but to
2 what end?). Who would challenge, what would they get out of it?

3 **II. Drafting New Game Management Plan (2021-2026)**

4 44. The 2015 GMP was only supposed to be in effect for six years. However, in
5 2020, WDFW extended it to last until June 30, 2023, purportedly to align it with the timeline
6 with the three-year cycle of setting new hunting seasons and regulations.

7 45. Staff began the process of revising the 2015 GMP in fall 2021, with the intent of
8 completing it by December 2022.

9 46. On May 5, 2020, WDFW management again spoke to the Wildlife Committee
10 about the GMP. The presentation for that day indicates that management has “heard
11 Commissioners’ values and expectations,” and that staff is working to “envision a revised
12 process” that will create “distinct guidance plans for species, species guilds, and other
13 management” and “incorporate[] SEPA processes.”

14 47. WDFW management made another presentation to the Wildlife Committee on
15 June 23, 2022 and another to the full Commission on June 25. Managers told the committee
16 that Responsive Management had just completed a general survey of the Washington public to
17 guide the objectives for the new GMP, and was finishing a survey specifically geared toward
18 hunters. Managers proposed that instead of developing a comprehensive GMP, WDFW would
19 develop individual management plans for each species or species group addressed in the GMP.
20 Management also asked the Commission to identify the “touch points” on which the
21 Commission wanted to be involved in developing policy for the GMP.

22 48. On October 26, 2022, management presented the Wildlife Committee with a
23 development plan for the GMP that envisioned the creation of an overarching plan
24 supplemented by species and species guild plans, all of which would go through a SEPA
25 phased-review process that would include four phases.
26

1 49. Management and the Wildlife Committee held additional meetings to discuss
2 aspects of the GMP throughout 2023. On February 16, 2023, WDFW set up a special internal
3 work space for the Wildlife Committee to work collaboratively with staff on the GMP,
4 warning that “to avoid having a quorum, the other Commissioners cannot access or work with
5 any of you on the documents” and that “[s]ince the material cannot be shared with other
6 Commissioners, it is also inappropriate to share it with the public.”

7 50. On June 22, 2023, the Commission voted not to extend the 2015 GMP when it
8 expired on June 30, 2023. It also voted to have the species and species guild plans combined
9 into a single GMP, which staff would develop in conjunction with the Wildlife Committee
10 before submitting it through a single SEPA process.

11 51. Using the internal portal, management began providing the four members of the
12 Wildlife Committee with drafts sections of the GMP for their review and comment by late
13 2023 or early 2024. These draft sections were not provided to the commissioners who did not
14 sit on the Wildlife Committee, to the great frustration of some commissioners who had put a
15 lot of thought into the structure of the GMP and hoped to participate in the process.

16 **III. Early and Exclusive Involvement of Hunting Groups**

17 **A. Hunters Play Diminishing Role in State Wildlife Management**

18 52. According to a 2022 survey commissioned by WDFW, 71% of Washingtonians
19 participate in wildlife watching. On the other hand, the survey showed that only 4% of
20 Washingtonians over 16 and older participate in hunting. Hunting license numbers suggest that
21 this level is even lower. Statistics compiled by the U.S. Fish and Wildlife Service indicate
22 Washington had only 164,261 hunting license holders in 2025, a mere 2% of the state’s
23 population of 7.958 million.

24 53. Despite their low numbers, hunters have long been perceived as the chief source
25 of support for state conservation work. Although WDFW has long claimed that hunters pay for
26 a significant portion of its budget, those numbers have been challenged for several years, and

1 recently WDFW conceded that hunters only pay for approximately 8% of WDFW’s budget
2 through license fees and an excise tax on hunting supplies and ammunition. This is roughly the
3 same amount that WDFW spends directly on administering hunter programs, without counting
4 the cost of overhead, support services, and administrative expense.

5 54. A 2018 study highlighted Washington’s growing shift toward “mutualist”
6 values towards wildlife (i.e., seeing wildlife as part of one’s social community and deserving
7 of rights like humans) and a decline in values emphasizing “domination” (i.e., treating wildlife
8 as a resource used solely for human benefit). The study also pointed to a concerning gap in
9 wildlife value orientations between Washingtonians and WDFW: mutualists compose 38% of
10 the public, but only 17% of WDFW employees, while traditionalists compose 28% of the
11 public, but 48% of employees.

12 55. A 2022 poll suggests even a deeper split, with 67% of Washingtonians
13 indicating that wild animals have an intrinsic value worthy of protection in their own right and
14 only 17% indicating that they are resources that should primarily be used to benefit humans.
15 The poll also suggests a significant gulf between WDFW and the Washington public on
16 specific issues in which WDFW’s policies cater to the fringe interests of Washington’s
17 hunters. For example, 80% of Washingtonians oppose the spring bear hunt that WDFW
18 management as long championed on behalf of trophy hunters; 77% oppose WDFW’s policies
19 on coyotes, which allow year-round, unlimited killing with almost no restrictions on methods,
20 and no usage and reporting requirements; 75% oppose its policies on beavers, which allow
21 unlimited and unreported trapping and killing by landowners, in addition to liberal
22 “recreational” beaver trapping, which typically involves holding beavers underwater for as
23 long as 30 minutes until they drown.

24 56. Although WDFW has long given hunters a privileged seat at the table in
25 creating state wildlife policy, only 25% of Washingtonians supported this approach, with 76%
26 indicating that all Washingtonians should have an equal say. Similarly, although WDFW

1 managers have long emphasized the portion of their mission that indicates that they should
2 “maximize” hunting opportunities, only 20% of Washingtonians believe that should be their
3 primary goal, while 59% say managers should be focused on preserving and protecting state
4 wildlife.

5 **B. WDFW Favor Interests of Hunters over the Rest of Washington**

6 57. Nevertheless, WDFW management continues to provide preferential treatment
7 to hunter special interests, in violation of its obligation to treat all beneficiaries of the wildlife
8 trust evenhandedly. This preferential treatment is displayed by the exclusive access WDFW
9 gave hunting groups to the development of the GMP—even as it shut out most of the
10 commission and the rest of the public.

11 58. A presentation from the March 17, 2022 Wildlife Committee meeting touts that
12 the GMP is “based upon and grounded in the Department’s mission and mandate[.]” It
13 indicates the “purpose of the Game Management Plan is to assess current issues for hunted
14 wildlife and outline strategies to help WDFW prepare for the future.”

15 59. Aoude was more direct in his remarks at that meeting. He made it clear the
16 GMP was about figuring out how to maximize hunting opportunity, to “try to get the most out
17 of the resource as we can without harming the resource.” He said that for WDFW’s Game
18 Division, any thought of curtailing hunting for any of the state’s game species was off the
19 table: “For us, at least, in the game division, it’s a foregone conclusion that we are hunting
20 these things. It’s kind of already in place.....[so] our main work is how can we harvest these
21 species without diminishing their populations.”

22 60. Consistent with WDFW’s goal of using the GMP primarily to serve the interests
23 of hunters, Aoude told the Wildlife Committee that WDFW’s Game Management Advisory
24 Council (“GMAC”) usually helps WDFW develop the issue statements to define the scope of
25 the GMP, and then reviews drafts of the rest of the plan and provides comments before it is
26 provided to the rest of the public.

1 61. The GMAC’s charter provides that its purpose is to “advise the department and
2 present hunter’s views to the Commission and the legislature on game management issues.”
3 Part of the GMAC’s vision is to “[m]aintain our hunting heritage by providing maximum
4 sustainable hunting and viewing opportunity to Washington State’s residents.” Its member
5 description provides that WDFW shall “seek and consider a broad range of stakeholders with a
6 demonstrated positive view towards game management and hunting.”

7 62. Consistent with these directions, the GMAC instructed Aoude in June 2024 to
8 focus on recruiting new members from “made up of various hunting organizations and
9 individual” that included prominent hunting organizations and “considering a wide variety of
10 interests and diversity” that included things such as “weapons preference” and “species
11 preference hunted.” On information and belief, all the members of the GMAC are hunters. The
12 most recent roster shows that more than 70% of its members are affiliated with major hunting
13 and trapping organizations, including the Washington Trappers Association, the Boone &
14 Crocket Club, the Rocky Mountain Elk Foundation, Backcountry Hunters and Anglers, Howl
15 for Wildlife, the Conservation Coalition of Washington, the American Bear Foundation, the
16 First Hunt Foundation, and the Washington State Archery Association.

17 63. On June 17, 2023, Aoude met with the GMAC and told them he expected the
18 Commission would direct staff to develop a single, comprehensive GMP, and highlighted that
19 the wolf, cougar, and furbearer sections would be the “most problematic.” The GMAC asked
20 to be allowed to review all chapters of the GMP during the drafting process. During the same
21 meeting, the GMAC expressed disagreement with the Commission’s approach and fears that it
22 would limit bear hunting, cougar hunting, and beaver trapping. The GMAC concluded that the
23 Wildlife Committee appeared to have a “climate driven ideology.”

24 64. On December 2, 2023, Aoude agreed he would immediately provide all GMAC
25 members with all the completed draft chapters for their comment, allowing them to review the
26 chapters at the same time as the members of the Wildlife Committee, if not before. By the

1 GMAC’s next meeting on June 1, 2024, the GMAC had already seen the first three draft
2 chapters of the GMP, and Aoude indicated that he would continue to send each of the chapters
3 when they were ready.

4 65. The GMAC discussed some of its concerns with the initial draft chapters of the
5 GMAC at its next meeting on August 24, 2024. These included a criticism of WDFW’s cougar
6 population estimates, a push to ease restrictions on cougar hunting, a desire to put more
7 emphasis on the importance of hunting, and a request to allow the continued trapping of
8 beavers, even in areas to where they have been relocated to improve ecosystem health.

9 66. On information and belief, GMAC review of the plan continued through late
10 2024 and early 2025. By the GMAC’s June 21, 2025 meeting, the group had finished giving
11 input on the draft plan, with Aoude noting that the council had “an early influence by
12 contributing review and comments.”

13 **IV. WDFW Finalizes 2026 GMP**

14 **A. Issues a DNS for the 2025 Draft GMP**

15 67. After the input from the GMAC has been incorporated, WDFW submitted the
16 draft plan to Washington Tribes for review, completing the Tribal review process in June
17 2025. On or about June 18, 2025, WDFW completed a draft GMP for public review (“2025
18 Draft GMP”).

19 68. Using the form provided by the Department of Ecology, WDFW prepared a
20 SEPA Environmental Checklist on the 2025 Draft GMP (“2025 Checklist”) in June 2025,
21 which Aoude signed on or about July 1, 2025. The 2025 Checklist fails to provide any
22 meaningful information about the potential impacts of the 2025 Draft GMP.

23 69. The 2025 Checklist acknowledges that WDFW may “undertake specific
24 projects or actions under the guidance of this GMP” and that the GMP will “guide the
25 development of hunting seasons.” It acknowledges that the GMP’s “affected geographic area
26 is statewide,” and that the wildlife impacted includes “All Washington State wildlife.”

1 70. In response to the question about what vegetation is on the “site” of the GMP,
2 the 2025 Checklist checks all kinds of vegetation. However, the 2025 Checklist responds
3 “N/A” in answer to the question about how it would impact vegetation. The 2025 Checklist
4 lists the following recreational activities that will occur in the immediate vicinity of the area
5 impacted: “Statewide hunting, fishing, hiking, horseback riding, wildlife viewing, hunt dog
6 trials and training, boating photography, running, mountain biking, swimming, geocaching,
7 and falconry.” However, it fails to acknowledge that the hunting contemplated by the GMP
8 will displace any existing recreational uses.

9 71. WDFW failed to respond to most of the questions in the supplemental portion
10 of the checklist specifically designed for nonproject actions. It answered “N/A” to questions
11 about how the plan would deplete natural resources, affect land and shoreline use, and impact
12 water and air quality. Instead of answering the question about how the proposal would likely
13 “affect plants, animals, fish, or marine life,” WDFW merely restated the “overall goals of the
14 GMP.”

15 72. Based on this dearth of information, WDFW’s SEPA Coordinator Lisa Wood
16 issued a DNS (“2025 DNS”) six days after Aoude completed the 2025 Checklist. It concluded
17 summarily that the “proposal will not have a probable significant adverse impact on the
18 environment and that an environmental impact statement (EIS) is not required under RCW
19 43.21C.030(2)(c).” The DNS provided no rationale for this conclusion.

20 73. Neither the 2025 Checklist nor the 2025 DNS explained how WDFW concluded
21 there would be no “probable significant adverse impact” from a sweeping plan that impacts
22 the entire state and describes goals, strategies and objectives for all of Washington’s hunted or
23 trapped species, including species that the Department itself has noted are Priority Species,
24 Species of Greatest Conservation Need, and vulnerable and declining species especially
25 sensitive to ongoing habitat degradation and accelerating climate change. Nor does the 2025
26 Checklist or the DNS explain why WDFW has determined that this version of the GMP will

1 have less of an environmental impact than all the prior iterations that it concluded *would have*
2 a “probable significant adverse impact on the environment,” mandating the preparation of an
3 EIS or SEIS.

4 **B. WDFW Releases 2025 DNS and 2025 Draft Plan for Public Comment**

5 74. More than a year after it provided hunting groups with a chance to comment on
6 the GMP, WDFW released the 2025 Draft GMP and DNS to the public for comment on July
7 7, 2025. Originally, WDFW provided the public with only 30 days to comment on the entire
8 214-page plan, setting August 6, 2025 as the deadline for comments on both the 2025 Draft
9 GMP and the 2025 DNR. Following several requests, WDFW extended this time period by 30
10 days, setting the new comment deadline for September 5, 2025.

11 75. WDFW later indicated that it received 65 comments from individuals, Tribes,
12 and organizations. This included more than 20 lengthy comments that Hall submitted, a
13 comment Washington Wildlife First submitted on the 2025 DNS, and a 25-page comment
14 Washington Wildlife First submitted on the 2025 Draft GMP on behalf of itself, four
15 organizations, and three individuals, along with dozens of supporting materials.

16 76. WDFW’s next public presentation about the 2025 Draft GMP was at the
17 January 9, 2026 Commission meeting, during which it briefly summarized the public
18 comments and presented its responses. This hearing was a briefing only—the Commission did
19 not schedule a hearing that gave the public the opportunity to testify about the 2025 GMP
20 prior to adoption.

21 **C. Commission Accepts DNS and Approves Plan**

22 77. Aoude presented the 2025 Draft GMP for the Commission’s approval on
23 February 13, 2026.

24 78. Commissioners expressed serious concerns about lack of data to support the
25 plans for some of the species covered in the 2025 Draft GMP, the unlimited hunting of species
26

1 with little to no population data, the continued hunting declining and vulnerable species like
2 mountain goats, and the lack of attention to the ethics regarding game management.

3 79. One commissioner said he would support the plan, although there are parts that
4 seriously trouble him, such as hunting small and precarious populations like mountain goats,
5 and the continued hunting of other species for which WDFW has no idea of population status,
6 especially when they did not even track the number of animals killed. The same commissioner
7 asked Aoude about the concern raised by some commentators that the GMAC had been given
8 a special opportunity to review and comment on the plan that was not given to the non-hunting
9 public.

10 80. Aoude responded that the GMAC was not “exclusive” but was “open to all,” and
11 that when there was an opening, they “open it to everyone.” However, he said that “to be
12 aboveboard, it is mostly hunters,” because “we don’t usually get very many people who are
13 nonhunters.” He did not mention the instructions in the GMAC charter regarding membership
14 or his efforts to recruit representatives of hunting special interest groups.

15 81. Aoude emphasized that the GMP would not authorize specific actions, he
16 acknowledged that it will be used to guide future rulemaking, including the setting of but
17 hunting seasons and limits. He also conceded that the last real environmental analysis of a
18 GMP was on the EIS on the 2003 Plan, calling the 2014 SEIS a “non-traditional EIS.”
19 However, he reassured commissioners that more searching SEPA review could take place at
20 later stages—even as he conceded that WDFW is exempt from SEPA in setting the hunting
21 seasons that would follow the guidance from the GMP.

22 82. In defending WDFW’s DNS, Aoude demonstrated a startling lack of
23 understanding of the rigorous assessment of potential adverse environmental impacts that
24 SEPA requires—especially given that he was the person who completed the 2025 Checklist.
25 He contended that the focus on SEPA review was misplaced because “the rulemaking process
26 is actually more rigorous than the SEPA process.” He emphasized the process WDFW must

1 undergo in developing a rule setting hunting seasons, involving many opportunities for public
2 input. By contrast, he said that “SEPA is basically, you ask folks what they think, you print
3 what they thought, and then you do what you do. ...It’s basically just to get a feel for where the
4 public are.”

5 83. Nevertheless, multiple commissioners expressed concern about the adequacy of
6 the SEPA review. One commissioner asked: “how can you say something this big, this
7 comprehensive, this detailed is not likely to have environmental impacts that should be studied
8 further?”

9 84. Yet another commissioner said she was concerned about the level of analysis
10 but had been reassured that the commission could later bring up problems in each chapter one
11 at a time as they arose and “then do a subsequent SEPA.” Ultimately, she said, the adequacy of
12 the DNS was not her decision to make, because “the ultimate decision on that is a judicial
13 one.”

14 85. Despite the deep misgivings of some commissioners, the Commission
15 unanimously approved the 2026 GMP on February 13, 2026.

16 **V. The 2025 DNS and the 2026 GMP Violate WDFW’s Legal Obligations**

17 **A. The 2026 GMP Will Clearly Have a Significant Impact on Wildlife
18 and the Environment**

19 86. The 2026 GMP is a 214-page document providing direction for the management
20 of all of Washington’s hunted species—more than 50 species and subspecies of birds and
21 mammals. It identifies issues of concern, objectives, and strategies to direct WDFW’s
22 management of all these species, as well as regarding overarching management issues
23 including the protection of ecosystem health, population management, the use of science, the
24 allocation of hunting opportunity, and ethical hunting. Unlike prior GMPs, it has no end date,
25 so the 2026 GMP will continue to influence WDFW’s wildlife management rules, policy,
26 programs, and practices indefinitely, across the entire state. Many of the concepts in the GMP

1 may be applied by WDFW without further action, so it will have a significant, direct impact
2 on Washington’s wildlife without intervening action. It will also shape and direct future
3 actions such as the development of hunting seasons and regulations, which are exempt from
4 SEPA’s requirements. Going further, the 2026 GMP will also have profound impacts on
5 ecosystem health, non-hunted species, surrounding vegetation, alternate land use, and other
6 recreational activities, including hiking, camping, and wildlife-watching.

7 87. WDFW concedes that it has not performed a meaningful environmental review
8 of any of its GMPs since at least 2003. It also failed to provide any meaningful review of the
9 2026 GMP, approving it without any assessment of its potential environmental impacts, based
10 on a cursory checklist that was summarily reviewed prior to the immediate issuance of a DNS.

11 **B. The 2026 GMP is Insufficient to Meet WDFW’s Duties under the**
12 **Mandate and Public Trust Doctrine**

13 88. The 2026 GMP fails to fulfill WDFW’s responsibility under the Mandate and
14 the Public Trust to “preserve, protect, perpetuate, and manage” Washington’s wild species.
15 The Plan lacks or defers decision-critical elements (adequate data, numeric triggers,
16 monitoring standards, disease and genetic safeguards, habitat and climate integration); is
17 devoid of transparent or enforceable protocols and compliance mechanisms; and prioritizes
18 hunting and trapping without adequate scientific justification, ethical review, or a means of
19 judging the environmental impact of its provisions. Instead, the Plan allows wide discretion for
20 management decisions that have little or no scientific basis and which pose a significant risk of
21 impairing wildlife populations and causing other ecological, environmental, and public health
22 harms.

23 89. The Plan presents management objectives (e.g., harvest levels, permit
24 allocations, and “opportunity” objectives) without explaining how it selected those objectives,
25 weighed competing social values and ecological factors, and balanced competing public
26 interests. As the public trustee for Washington’s wildlife, WDFW must show how it considers

1 the Public Trust, account for its balancing of the conflicting interests of its trustees, and
2 translate its Mandate to “preserve, protect, perpetuate, and manage” wildlife into concrete,
3 evidence-based decision rules.

4 90. In setting its goals, objectives, and strategies, the 2026 GMP suggests that it
5 engages in some “balancing” of values and risks, but it provides no transparent process or
6 objective criteria for deciding which values take priority when they conflict (for example,
7 hunter satisfaction vs. species conservation or non-consumptive public use). Many species
8 chapters include both (a) objectives to maintain or expand hunting opportunity and (b)
9 separate objectives to “maintain and promote” non-hunting values (e.g., viewing,
10 photography). Yet the Plan lacks any mechanism for evaluating conflicts between those
11 objectives, and generally defaults to promoting hunting opportunity on behalf of the few,
12 rather than protecting wildlife for the benefit of the many.

13 91. When the WDFW permits hunting, trapping, translocations, or releases of
14 wildlife, it makes choices that can harm local populations and the ecosystems those
15 populations depend on. The Plan repeatedly presents monitoring as central to decision-making,
16 but it does not disclose the clear metrics, rules, data checks, or fallback actions needed to
17 provide a reliable basis for policy decisions. To the contrary, in determining population
18 objectives and monitoring plans, the 2026 GMP relies heavily on four weak or easily-
19 confounded data sources that provide insufficient information to determine species trends or
20 the potential impact of hunting allocations: hunter-reported “harvest” data, voluntary online
21 reporting and tooth submissions, program counts tied to release programs (e.g., pheasant
22 releases), and occasional aerial or camera surveys.

23 92. The Plan notes the existence of a broad range of human-caused mortality not
24 accounted for in its hunting numbers, including the killing of wildlife in response to purported
25 conflicts with agricultural interests, loss due to wounding caused by hunters, and Tribal
26 hunting, but it does not integrate that data into WDFW’s mortality estimates. This leads to

1 WDFW underestimating the total human-caused mortality considered in setting “harvest”
2 levels and risks the overexploitation of species. This is especially dangerous in small, isolated,
3 or disease-vulnerable populations where even a few additional removals can erode
4 recruitment, reduce effective population size, and compromise genetic health.

5 93. The Plan does not set guidelines for the amount or quality of population
6 information WDFW should require before allowing or expanding hunting. To the contrary,
7 some chapters seek to expand the hunting of species for which there is little to no information
8 about populations or trends.

9 94. When data is nonexistent, weak or biased, the Public Trust and the Mandate
10 require WDFW to act conservatively, including by reducing or eliminating hunting seasons,
11 reducing quotas, closing hunting units, and protecting sensitive age/sex classes. However, the
12 2026 GMP provides no consistent guidelines for doing so. To the contrary, it allows for
13 continued (and often unlimited) exploitation of species, such as “furbearers” and “small game”
14 species like beaver, badger, river otter, and fox, with little to no information about their
15 population status, trends, or the number killed each year. Meanwhile, the 2026 GMP almost
16 completely disregards the health and sustainability of populations of “unclassified” wildlife
17 species which can typically be hunted without limits, including species like porcupine,
18 suspected to be in decline, and spotted skunk, which is listed in the 2026 State Wildlife Action
19 Plan as a Species of Greatest Information Need.

20 95. While the 2026 GMP acknowledges that disease (especially respiratory disease
21 in bighorn sheep and other pathogens in small, isolated populations) is one of the gravest
22 short-term risks to long-term population persistence, it does not provide specific strategies
23 necessary for managers to effectively prevent, detect, and respond to outbreaks. Diseases can
24 cause declines potentially leading to population collapse, especially for species with small
25 herd sizes or isolated groups such as bighorn sheep and most mountain goat herds.
26

1 96. Counting animals is not the same as conserving them. WDFW’s obligations
2 under the Mandate and the Public Trust to “preserve, protect, perpetuate, and manage” wildlife
3 and avoid the impairment of species requires it to consider factors beyond a mere population
4 count, such as genetic health, connectivity, and effective population size—the number of
5 breeding individuals that determine a population’s capacity to survive, adapt, and recover.
6 Census counts (i.e., the number of animals observed) can be misleading: a group with a
7 reasonable total count can still have too few breeders, poor genetic diversity, or be isolated
8 from other groups in ways that make it vulnerable to inbreeding, disease, or environmental
9 change.

10 97. Small, isolated groups can lose genetic diversity, suffer inbreeding, and be less
11 able to recover from disease, fire, or climate shocks. Removing a few adults from such groups
12 can have outsized, long-term impacts. Yet the 2026 GMP fails to set standards for the genetic
13 checks, connectivity analyses, or safeguards needed to avoid causing long-term harm when
14 allowing hunting and trapping, conflict kills, or translocations, even of small, declining, and
15 isolated populations. For example, the 2026 GMP allows for the continued hunting of small
16 and declining herds of mountain goats, even while such herds may not be able to withstand
17 even small additional mortality.

18 98. Responsible management of wildlife under the Public Trust Doctrine and the
19 Mandate also requires actions to protect and improve habitat, and mechanisms for adjusting
20 hunting pressure in the face of habitat decline. Although the 2026 GMP lists some habitat
21 goals, it does not provide measurable habitat indicators, procedures for mapping of suitable
22 habitat vs. population distribution, estimates of changing carrying capacity, timelines for
23 habitat monitoring, or guidelines to link habitat trend thresholds to management changes (for
24 example: reducing hunting and trapping, suspending releases due to unsuitable habitat, or
25 prioritizing restoration).

1 99. The 2026 GMP also fails to take into account the increasing pressures of
2 climate change when continuing to authorize the hunting and trapping of small and isolated
3 populations that may be especially susceptible to such changes, such as some herds of
4 mountain-goats and bighorn sheep, and some subunits of moose or elk. By allowing for the
5 continued recreational trapping and unlimited landowners killing of beavers, it also disregards
6 essential value that they can play in restoring healthy ecosystems, mitigating climate change,
7 and helping both wildlife and humans to survive.

8 100. The 2026 GMP treats population abundance and distribution as the primary, and
9 often the only, measures of species' health. But real conservation and responsible wildlife
10 protection demand a broader perspective. It is well-established that killing, trapping,
11 translocations, and releases can negatively impact animals' well-being (exposure/injury when
12 trapped, orphaned young), social structure and behavior (loss of experienced adults or social
13 leaders, intraspecific strife), ecological dynamics and ecosystem function (predator-prey
14 dynamics, bear movement patterns, beaver hydrology, nutrient/seed flows), and human–
15 wildlife relationships (increases in conflict and encroachment, loss of viewing experiences),
16 even when headcounts or hunting indices appear stable. The Plan rarely acknowledges these
17 other impacts, and therefore does not provide any guidelines for how WDFW will measure,
18 manage, and limit them. That narrow focus matters: many of the Plan's regulatory choices
19 (quotas, season openings, releases, or translocations) can have large local impacts and should
20 be justified not only by raw counts but by evidence that the actions will not compromise
21 genetic health, social stability, ecosystem processes, or successful coexistence. These
22 deficiencies are particularly apparent in chapters on mountain goats, bighorn sheep, cougars,
23 black bears, bobcats, beavers, river otters, pheasants, Harlequin ducks, moose, elk, and
24 pronghorn.

25 101. The 2026 GMP repeatedly refers to “adaptive management,” but it is little more
26 than a buzzword. The Plan discusses “adaptive” approaches, learning, and future adjustments,

1 yet it fails to provide a decision-making structure for employing and monitoring adaptive
2 management to reach desired outcomes, including metrics that trigger protective outcomes.
3 Adaptive management cannot substitute for environmental review—especially where an
4 agency fails to define monitoring protocols, thresholds, or mitigation triggers. Such ad hoc
5 management is not just ineffective; it is dangerous.

6 102. The 2026 GMP and supporting documents repeatedly rely on quantitative
7 models (population reconstructions, integrated population models, intrinsic-growth functions)
8 to set “harvest” guidance, quotas, and unit rules. However, WDFW provides few citations or
9 technical summaries that would permit independent evaluation of these models, providing no
10 way to determine if they are reasonable, appropriate, or reliable.

11 103. For the sake of maximizing recreational hunting and trapping opportunity for a
12 small number of Washingtonians, the 2026 GMP authorizes irreversible actions (“harvest,”
13 translocations, large-scale releases, and program expansions) without decision-quality data,
14 disease and genetic safeguards, habitat- and climate-informed limits, or sufficient
15 precautionary measures. These are not mere technical omissions; they are an abdication of
16 WDFW’s responsibilities under the Mandate and the Public Trust Doctrine. These failures also
17 pose a significant risk to the health and sustainability of Washington’s wildlife populations
18 that WDFW was required to consider through an EIS.

19 **CLAIMS FOR RELIEF**

20 **First Claim for Relief – SEPA Violation**

21 104. Petitioners incorporate by reference all preceding paragraphs.

22 105. SEPA requires a threshold environmental determination before any action is
23 taken by a state agency, including the adoption of policy or plans. WAC 197-11-310. In
24 conducting a threshold determination, an agency issues a DNS if it determines that the project
25 will have no probable significant adverse environmental impacts. WAC 197-11-340(1).
26 However, agencies must prepare an EIS for covered actions “having a probable significant,

1 adverse environmental impact.” RCW 43.21C.031(1). This means an agency must prepare an
2 EIS whenever a policy or plan is “reasonably likely” to have more than a “moderate effect on
3 the quality of the environment.” *Norway Hill Pres. & Prot. Ass’n*, 87 Wn.2d at 278. The
4 cumulative effect of small environmental impacts “when considered together may result in a
5 significant adverse impact.” WAC 197-11-330(3)(c).

6 106. Agencies must base threshold determinations on “information reasonably
7 sufficient to evaluate the environmental impact of a proposal.” WAC 197-11-335. When
8 issuing a DNS, agencies “must be able to demonstrate that environmental factors were
9 considered in a manner sufficient to amount to prima facie compliance with the procedural
10 requirements of SEPA.” *Juanita Bay Valley Cmty. Ass’n*, 9 Wn. App. at 73 (internal citation
11 omitted).

12 107. A court will reverse a DNS if it is “clearly erroneous,” or when “although there
13 is evidence to support it, the reviewing court on the entire evidence is left with the definite and
14 firm conviction that a mistake has been committed.” *Norway Hill Pres. & Prot. Ass’n*, 87
15 Wn.2d at 274. Courts will also reverse a DNS if it is based on a checklist that does not meet
16 the law’s *prima facie* requirements. *Friends of Sammamish Valley*, 3 Wn. 3d at 825.

17 108. For the reasons described above, WDFW’s DNS was clearly erroneous, because
18 the sweeping 2026 GMP is extremely likely to have significant negative impacts and hunted
19 wildlife; non-hunted wildlife; vulnerable, threatened, and endangered wildlife; ecosystem
20 health; land use; and recreation.

21 109. WDFW failed to demonstrate prima facie compliance with SEPA because it
22 failed to do any meaningful analysis of the impacts of the 2026 GMP, issuing its DNS without
23 thought, diligence, or careful review.

24 110. For the foregoing reasons, the 2025 DNS and the 2026 GMP violate SEPA (*see*,
25 *e.g.*, RCW 43.21C.075(1)) and are arbitrary and capricious and contrary to law under the APA
26 (*see, e.g.*, RCW 34.05.570). The Court should issue an order declaring the DNS illegal and

1 invalid under the APA; vacate and reverse the 2025 DNS and the 2026 GMP; issue a writ of
2 mandamus (RCW 7.16.160) requiring WDFW to complete an EIS on the 2026 GMP within a
3 specified period of time; declare the 2025 DNS and the 2026 GMP illegal and invalid, and/or
4 vacate and reverse the 2025 DNS and the 2026 GMP under the Court’s inherent authority to
5 review illegal government actions pursuant to Article IV, Section 6 of the Washington
6 Constitution.

7 111. Petitioners are entitled to an award of costs, attorneys’ fees, and other expenses
8 associated with this litigation pursuant to the Equal Access to Justice Act, RCW 4.84.350.

9 **Second Claim for Relief - Violation of Public Trust and Mandate**

10 112. Petitioners incorporate by reference all preceding paragraphs.

11 113. Under the Public Trust Doctrine, WDFW is required to manage the state’s
12 wildlife for the benefit of all current and future state residents, and may not take actions that
13 would substantially impair wildlife populations.

14 114. As a trustee, WDFW has a duty to exercise prudence, care, skill, and caution in
15 protecting and managing wildlife for the benefit of current and future generations of
16 Washingtonians. It also owes a duty of undivided loyalty to the people of Washington, whom
17 it must treat impartially, reasonably balancing their interests without being influenced by
18 personal bias.

19 115. Washington legislature has codified some of WDFW’s duties as a public
20 trustee through laws designed to protect the state’s environment and wildlife, including its
21 Mandate to “preserve, protect, perpetuate, and manage the wildlife and food fish, game fish,
22 and shellfish in state waters and offshore waters” and “conserve the wildlife and food fish,
23 game fish, and shellfish resources in a manner that does not impair the resource.” RCW
24 77.04.12.

25 116. For the reasons described above, WDFW has violated its duties as a trustee by
26 failing to exercise prudence, care, skill, and caution in protecting and managing wildlife for

1 the benefit of current and future generations of Washingtonians, and by showing preferential
2 treatment to some of the beneficiaries of its trust at the expense of others. The 2026 GMP also
3 fails to meet WDFW's obligations under both the Public Trust and the Mandate, to preserve,
4 protect, perpetuate and manage Washington's wildlife for the benefit of all Washingtonians
5 and avoid taking actions that may impair wildlife populations.

6 117. For the foregoing reasons, the 2025 DNS and the 2026 GMP violate WDFW's
7 duties under the Public Trust and the Mandate. Under the authority provided by the Uniform
8 Declaratory Judgement Act and the Court's inherent authority to review illegal government
9 actions pursuant to Article IV, Section 6 of the Washington Constitution, the Court should
10 issue an order declaring the 2025 DNS and the 2026 GMP illegal and invalid, directing
11 WDFW to take action in accordance with its legal duties under the Mandate and as a public
12 trustee, and provide any other such relief as it shall deem just and equitable.

13 **PETITIONERS' PRAYER FOR RELIEF**

14 *Petitioners respectfully request that this Court:*

- 15 1. Declare that WDFW's 2025 DNS for 2026 GMP were illegal, invalid, and clearly
16 erroneous;
 - 17 2. Wholly or partially invalidate the 2026 GMP;
 - 18 3. Direct WDFW to perform an EIS on the 2026 GMP within a specified period;
 - 19 4. Direct WDFW to abide by its responsibilities as a public trustee and under the
20 Mandate;
 - 21 5. Award Petitioners their costs of suit and attorneys' fees; and
 - 22 6. Grant Petitioners such other relief as the Court deems just and equitable.
- 23
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1 DATED: March 16, 2026

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