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**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

WILDEARTH GUARDIANS and PROJECT
COYOTE, a project of the Earth Island Institute,
FOOTLOOSE MONTANA, and the GALLATIN
WILDLIFE ASSOCIATION,

Petitioners,

v.

STATE OF MONTANA, by and through the
MONTANA DEPARTMENT OF FISH,
WILDLIFE, AND PARKS and the MONTANA
FISH AND WILDLIFE COMMISSION,

Respondents,

and

OUTDOOR HERITAGE COALITION and
MONTANA SPORTSMEN FOR FISH AND
WILDLIFE,

Respondent-Intervenors.

Case No. BDV-2022-896

**PETITIONERS' BRIEF IN SUPPORT
OF MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

TABLE OF CONTENTS

INTRODUCTION	1
I. STATEMENT OF FACTS	2
A. Background	2
B. The 2025 Wolf Rules.	3
C. Risk of irreversible harm to Montana’s wolf population.	4
D. Unreliable and misleading population estimates.	7
II. LEGAL STANDARD.....	9
III. ARGUMENT	10
A. Actions that degrade and jeopardize the stability Montana’s wolf population violate the Montana Constitution.	11
1. The 2025 seasonal kill allowance and rules threaten to degrade Montana’s environment.	11
2. The Commission relied on inaccurate and unscientific information and did not provide for a fair hearing of amendments.	13
B. Petitioners have met the requirements for a Preliminary Injunction.	14
1. Petitioners are likely to succeed on the merits.	14
2. Allowing the 2025 seasonal rules to be fully implemented will cause great or irreparable injury to Petitioners.	15
3. The balance of equities tips in Petitioners’ favor.	17
4. An injunction is in the public interest.	18
C. An injunction is necessary to preserve the status quo.	19
IV. CONCLUSION.....	20

INTRODUCTION

This motion seeks relief from Defendants Montana Fish and Wildlife Commission and Montana Department of Fish Wildlife & Parks's approval of seasonal wolf hunting rules that threaten to destabilize and degrade Montana's gray wolf population by authorizing the killing of 558 wolves this year. This extreme quota threatens to eradicate an unsustainably high percentage of the state's over-estimated wolf population, which will undermine the population's genetic viability and authorize wolf killing at a level that—even by Defendants' own projections—risks severe population depletion. This risk to wolves is further augmented by additional rule changes that increase bag limits, reduce trapping setbacks, allow infrared and thermal scopes for night hunting on private land, and facilitate “reimbursement” payments for proven wolf kills of up to \$1,500 per wolf pelt. Petitioners seek relief as well from MFWP's implementation of these new rules, which poses an immediate threat of irreparable harm to Montana's wolves. Petitioners therefore urge the Court to enjoin Defendants from implementing these extreme measures, which plainly threaten to degrade the environment in violation of the right to a clean and healthful environment, as established by Article II, Section 3 and Article IX, Section 1 of the Montana Constitution.

In addition, the Commission referenced and relied upon false information at its August 21, 2025, meeting, misrepresenting the text of recently enacted House Bill 259 of 2025 as requiring, rather than merely allowing, the Commission to approve the use of thermal imaging scopes and requiring multiple wolf kills per license. In fact, the Commission was bound by no such mandate and failed to provide its own members or the public with accurate information to support its decision, which is additional reason for these misinformed rules to be enjoined and vacated.

Petitioners, as interested persons under §§ 2-4-102(5) and 2-4-506, MCA, request that the Court issue a temporary injunction prohibiting implementation of the 2025 hunting and trapping rules until this Court can fully consider the merits of Petitioners request for a preliminary injunction. Petitioners further request that the Court issue a preliminary injunction until the Court can fully consider the merits of Petitioners' Second Amended Complaint.

1 **I. STATEMENT OF FACTS**

2 **A. Background**

3 Wolves are native to Montana and integral to the maintenance of Montana's natural
4 environment. *See e.g.*, 2002 Wolf Plan, pp. 3-5 (recounting the gray wolf's decline and
5 subsequent efforts to protect and reintroduce the species). The 2002 Wolf Plan recounts the story
6 of the gray wolf in Montana, including its near-extirpation, federal protection, gradual recovery,
7 and later actions to reintroduce the species in Central Idaho and Yellowstone National Park. *Id.*
8 Montana's recovering wolf population grew steadily from less than 10 wolves in the early 1980s
9 to an estimated peak of 1,270 wolves in 2011 when wolves were delisted. *See* Declaration of
10 Susann Bradford, Exh. F, p. v (Montana Gray Wolf Program 2024 Annual Report (2024 Wolf
11 Report)). As a result of federal delisting, Montana assumed regulatory authority over wolf
12 management in 2011, and for ten years maintained the population at an average of approximately
13 1,138 wolves. *Id.* at 16. Between 2015 and 2024, the average human-caused wolf mortality in
14 Montana was 332 wolves per year, from all documented sources. *Id.* at 25.

15 However, in 2021 the Montana Legislature enacted several bills (2021 wolf statutes) that
16 aimed to reduce the wolf population to a supposed minimum sustainable level of just 15 breeding
17 pairs. § 87-1-901, MCA; Sen. Bill 314 (2021). The other bills authorized baiting and other
18 aggressive hunting and trapping methods; one bill legalized the use of snares for trapping wolves
19 (§ 87-1-901, MCA; House Bill 224 (2021)), another bill granted the Commission authority to
20 extend the wolf trapping season (§ 87-1-304; House Bill 225 (2021)); while yet another bill
21 allowed private parties to reimburse costs incurred by wolf hunters and trappers. § 87-6-
22 214(1)(d), MCA; Sen. Bill 267 (2021). The 2021 wolf statutes also prohibited the Commission
23 from imposing a hunting exclusion zone around the borders of Yellowstone National Park and
24 Glacier National Park. *See* § 87-1-304(7), MCA.

25 According to MFWP, Montana's wolf population has gradually declined since the passage
26 of the 2021 wolf statutes. Bradford Decl., Exh. F, pp. v-vi, 10. Now, to quicken the pace of wolf
27 decline, the Legislature in 2025 authorized additional aggressive hunting and trapping measures
28 and amended the reimbursement provision to further incentivize wolf killing and include

1 controlled removals. Bradford Decl., Exh. C, D. MFWP responded to this legislation by
2 proposing higher quotas for hunting and trapping, and increased bag limits, which the
3 Commission approved with additional amendments. *See* Bradford Decl., Exh. A (MFWP,
4 [Proposed] Fall 2025–Winter 2026 Furbearer and Wolf Trapping and Hunting Seasons and
5 Quotas); Declaration of Lizzy Pennock, ¶¶ 16, 26-35.)

6 **B. The 2025 Wolf Rules.**

7 On August 21, 2025, the Commission approved new annual quotas and seasonal wolf
8 hunting and trapping rules that authorize the killing of 558 wolves this year. *See* Bradford Decl.,
9 Exh. A; Pennock Decl., ¶¶ 21, 31, 35. This includes a seasonal hunting and trapping quota of 458
10 wolves, plus an additional 100 wolf removals authorized to address alleged wolf-human conflicts.
11 *Id.* During the meeting, MFWP’s Game Management Bureau Chief Brian Wakeling also
12 indicated that the number of removals could be adjusted or increased by the Commission if the
13 100-wolf conflict quota becomes too limiting. Pennock Decl. ¶¶ 18, 21. In addition, the 2025 wolf
14 rules, as amended, eliminate setback requirements for trapping furbearers and wolves on closed
15 roads in Region 2 and everywhere within the Spotted Bear Ranger District and allow each hunter
16 and trapper to obtain up to 15 wolf tags and/or trap up to 15 wolves on a single trapping license,
17 subject to regional restrictions. Pennock Decl., ¶¶ 27, 29; Bradford Decl., Exh. B, pp. 11, 16.

18 The 2025 Wolf Rules also implement aggressive new hunting methods and other changes
19 authorized by the Legislature during the 2025 legislative session. *Id.* House Bill 259 of 2025
20 (H.B. 259) authorized the use of “infrared scopes, or thermal imagery scopes” on private lands
21 and outside of daylight hours, while House Bill 219 of 2025 (H.B. 219) authorized
22 “reimbursements” for costs to be given to persons “who lawfully harvest wolves.” Bradford
23 Decl., Exh. C, D. These new laws make it easier for hunters to kill wolves and provide a financial
24 incentive for licensed hunting and year-round removals through what amounts to a legalized
25 bounty program. *Id.* At least one privately funded program has already announced that it will
26 payout up to \$1,500 per legal wolf kill for costs, including reimbursement for the purchase of
27 guns and ammunition, trucks and ATVs, and other equipment and travel costs associated with
28 hunting and trapping. *See* Bradford Decl., Exh. E.

1 In addition, the August 21, 2025, Commission meeting was confusing and disorganized,
2 allowing only nominal public participation. Pennock Decl., ¶¶ 24-25, 34. The public was initially
3 given just one minute to comment on nine amendments, but after one hour this was cut to a mere
4 thirty seconds. *Id.* at ¶ 25. The public was then given two minutes to comment on the final
5 proposal, but after one hour that was cut to just one minute. *Id.* At the start of the meeting, MFWP
6 Chief of Conservation Policy, Quentin Kujula, also presented and relied upon false information,
7 misrepresenting the text of H.B. 259 as *requiring* rather than merely *allowing* the Commission to
8 approve the use of thermal imaging scopes or increase the number of wolf kills allowed with a
9 single hunting or trapping license. Pennock Decl., ¶¶ 17-19; Bradford Decl., Exh. C. In fact, the
10 Commission was bound by no such mandate, and MFWP and the Commission both failed to
11 ensure that Commission members and members of the public were provided with accurate
12 information. *See* H.B. 259; Bradford Decl., Exh. C.

13 **C. Risk of irreversible harm to Montana’s wolf population.**

14 The Commission has, in total, called for the killing of 558 wolves in a single year. The
15 Commission’s quota is unsupported by science and threatens to push the Montana population
16 toward long-term decline and irreparable harm. Declaration of Dr. Bridgett vonHoldt, Ph.D., ¶¶
17 18-19. The attached expert declarations show that MFWP’s method of estimating and projecting
18 wolf population numbers are both unreliable and fail to provide an accurate measure of genetic
19 viability. *See* Declaration of Dr. Robert L. Crabtree, Ph.D., ¶¶ 10-23; vonHoldt Decl., ¶¶ 6-19.
20 MFWP itself projects complete population collapse at this level of human-caused mortality.
21 Bradford Decl., Exh. F, pp. 41-42.

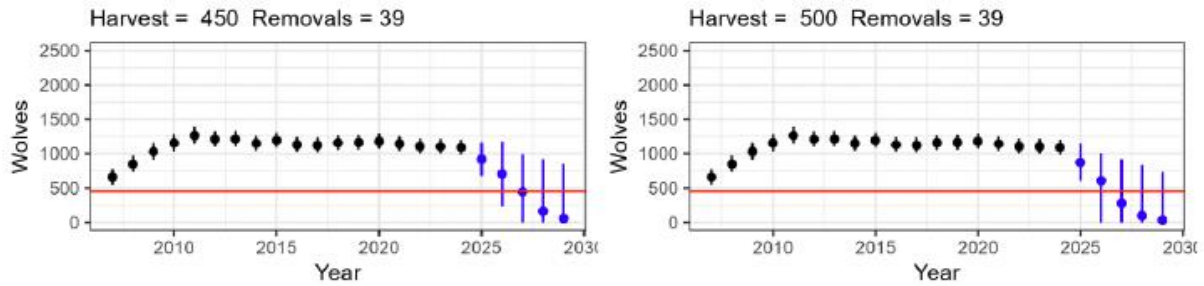
22 In the period since Petitioners initiated this litigation in 2022, Defendants have set annual
23 wolf quotas at levels they claimed would “balance the need to meet Montana’s legislative
24 mandate to reduce the statewide wolf population and provide harvest opportunity while
25 minimizing risk of overharvest that could pose a risk to population stability.” Bradford Decl.,
26 Exh. F, p. 16. Between the 2023-24 season and the 2024-25 season, wolf quotas “were increased
27 slightly,” to arrive at a statewide wolf quota of 334 for the 2024-2025 hunting and trapping
28 season. *Id.* at 38, 39, 42, 45. This status quo resulted in a steadily declining wolf population. *Id.* at

1 v-vi, 10-11. In contrast, Defendants’ 2025 quota allowing 458 wolf kills alongside the removal of
2 100 more, dramatically increases this quota in marked divergence from past practice and without
3 scientific justification. *See* Bradford Decl., Exh. A; Pennock Decl., ¶¶ 21, 31, 35.

4 In fact, even the data and findings published in MFWP’s own 2024 Wolf Report, which
5 was issued in June 2025 to report on the 2024-25 wolf season, indicates that these higher quotas
6 are likely catastrophic. *See* Bradford Decl., Exh. F. In 2024, MFWP estimated Montana’s total
7 wolf population to be approximately 1,091 wolves. *Id.* at v-vi, 10. Later, in Appendix 3 of the
8 report, MFWP asserts that a stable wolf population corresponds to “a human-caused mortality rate
9 index of approximately 27.3%,” while “[a]ll forecast scenarios with 282 (5-year recent mean) or more
10 wolves harvested resulted in predicted population declines, when combined with the 5-year mean
11 number of depredation removals.” *Id.* at 41-42. The 2025 quotas greatly exceed these levels, since
12 a quota of 458 wolf kills without removals equates to a human-caused mortality rate of 42% of
13 the total estimated wolf population of 1,091 wolves, while the total quota with removals 558
14 authorizes a human-caused mortality rate of 51%. *Id.*

15 Critically, “MFWP’s own modelling forecasts warn that status-quo lethal take (~282–308
16 wolves/year with typical depredation removals) will continue to reduce the population size with
17 ‘declines of increasing magnitude.’” Dr. vonHoldt Decl., ¶ 10 (quoting 2024 Wolf Report,¹ p. 38).
18 These declines are illustrated in Appendix 3 of the 2024 Wolf Report at the tables displayed in
19 Figure 3 and Figure 4, which compare projected population levels under different human-caused
20 mortality rates when removals are held constant at 39 and 25 respectively. *Id.* at 44-45. MFWP’s
21 own projections indicate that eradicating more than 450 wolves annually will cause wolf
22 population levels to drop precipitously, while eradicating 539 wolves in one year will lead to
23 severe decline with a potential for total eradication of Montana wolves within one or two years.
24 *Id.* Higher levels, such as those the Commission actually approved, were not even considered. *Id.*
25 An excerpt from Figure 3 is shown below:

26 _____
27 ¹ Dr. vonHoldt’s declaration also cites the 2024 Wolf Report as “Parks, et al. (2025).”
28



Source: MFWP, 2024 Wolf Report, p. 44 (Appendix 3, Fig. 3), Bradford Decl., Exh. F.

Moreover, as explained by Dr. Bridgett vonHoldt, Ph.D., even without these extreme new quotas, “Montana’s 2024 Annual Wolf Report and population-forecast appendix show a population already trending downward and highly sensitive to additional human take.” vonHoldt Decl., ¶ 9. “The baseline is a shrinking population with wide uncertainty,” and the use of unselective quotas to drive down populations “push the system toward thresholds where recovery becomes fragile and population declines become irreversible.” *Id.* at ¶¶ 9-10. As populations become smaller, they also become more vulnerable to fragmentation, genetic isolation, and collapse. *Id.* at ¶¶ 10-11, 13. “In cases where the animal removed is a breeding adult wolf, packs can fragment, territories are lost, and local reproduction collapses.” *Id.* at ¶¶ 6, 12. Evidence of shrinking average pack size also indicates that the risk of irreversible harm is not merely speculative, but population-wide changes are already happening. *Id.* at ¶ 12. These risks are magnified by models that fail to account for “the spatial heterogeneity of wolf occupancy and pack densities,” which “magnif[ies] the risk of local extirpations” and “irreparable damage to genetic connectivity,” *id.* at ¶ 13, and quotas targeting national park boundaries, which further impede genetic exchange. *Id.* at ¶ 14. The practice of “managing to a legal minimum rather than a biologically robust buffer increase[s] the likelihood of stochastic crashes due to any single or combination of negative events (e.g., under-resourced seasons such as too warm of winters, disease, or increased localized mortality rates).” An unselective statewide quota of 558 could severely degrade or even eliminate the breeding population, causing irreversible harm to pack structure and reproduction. vonHoldt Decl., ¶¶ 9-15, 19.

Wolves are also threatened by the liberalized lethal take methods that increase hunting and trapping success, or “effective take,” and challenge the enforcement of quotas. Dr. vonHoldt

Decl., ¶ 14. Recent statutes enable snares, bait, night hunting with artificial light/thermal optics (private lands), and reimbursements for lawful take are already showing that lethal take has increased efficiency. *Id.*; see also Bradford Decl., Exh. C, D. “Combined with inaccurate model predictions, the likelihood of surpassing quotas before enforcement can act, especially given reporting lags and large confidence interval around population size estimates. These liberalized lethal take methods support an increase in short-term take at the cost of sacrificing long-term population stability and increasing risk of irreparable loss.” Dr. vonHoldt Decl., ¶ 14. Thus, “the only evidence-based path to avoid harm is to significantly reduce quotas, protect park-edge source packs, and maintain robust buffers above the 15-breeding-pair minimum.” *Id.* at ¶ 15.

D. Unreliable and misleading population estimates.

Another factor placing wolves in jeopardy of irreversible harm from genetic degradation or population crash is Defendants’ reliance on the “Integrated Patch Occupancy Model” (iPOM) to estimate current wolf populations and project wolf populations into the future. Bradford Decl., Exh. F, pp. 3-13. As Dr. Robert L. Crabtree, Ph.D. explains, iPOM is unreliable and produces inflated abundance estimates that over-estimate the actual number of wolves as a result of inadequate testing and controls. See Crabtree Decl., ¶¶ 10-23. Dr. Scott Creel, Distinguished Professor of Letters and Science from the Department of Ecology at Montana State University also concluded in a 2023 paper examining iPOM that “important changes in the wolf populations of Idaho and Montana are likely to go undetected by the monitoring methods now in use.” Crabtree Decl., ¶¶ 10-11, Exh. B, p.14 (“Methods to estimate population sizes of wolves in Idaho and Montana” (2023), by Dr. Scott Creel). Building on Dr. Creel’s work, Dr. Crabtree and colleagues conducted an independent evaluation of iPOM that assessed its input data, potential biases, variance, sampling design, model coherence, validation, and reproducibility. Crabtree Decl., ¶¶ 10, 17. The results of this study have been peer-reviewed and accepted for publication in the scientific journal *Academia Biology*. *Id.*, Exh. C (“Misleading overestimation bias in methods for estimating wolf abundance using spatial models” (2025), by Dr. Robert L. Crabtree, M. Conner, and A. Treves).

Dr. Crabtree’s analysis found that one source of iPOM’s inaccuracy stems from its

1 reliance on data collected from unverifiable “phone surveys of hunters’ recollections” of wolf
2 observations and made during a period when wolves are highly mobile to determine the number
3 and location of wolves and wolf pack territories. Crabtree Decl., ¶¶ 18-19. In addition, iPOM’s
4 resolution, or grid cell size, is too large to detect localized changes that effect wolves and their
5 prey, making it incapable of detecting important changes in the wolf population. *Id.* at ¶ 20. The
6 model also assumes that wolves occupy stable territories, which does not account for pack
7 dissolution or other changes resulting from wolf mortalities (“closure bias”). *Id.* at ¶ 21. IPOM
8 also under-reports its own uncertainty and “cannot detect a change in abundance from year to
9 year, nor whether Montana’s wolf population falls below a critical level of, say, 150 individuals.”
10 *Id.* at ¶¶ 22-23. The methods used to determine average territory size and pack size are also
11 flawed. *Id.* As a result, Dr. Crabtree concluded that iPOM over-estimates wolf abundance, “lacks
12 the fundamental elements of scientific inference, and produces unreliable predictions.” *Id.* at ¶ 23.
13 As a result of these deficiencies, the actual number of wolves in Montana is unknown, and likely
14 significantly less than iPOM’s estimate of 1,091. *Id.*; Bradford Decl., Exh. F., pp. v-vi, 10.

15 A recent case in federal court also found Dr. Creel’s and Dr. Crabtree’s criticisms of
16 iPOM to raise credible concerns regarding the model’s accuracy, and concluded that the U.S. Fish
17 & Wildlife Service erred in relying on Montana’s wolf population estimates without addressing
18 “serious concerns regarding those estimates.” *See Ctr. for Biological Diversity v. United States*
19 *Fish & Wildlife Serv.* No. CV 24-86-M-DWM (D. Mont. Aug. 5, 2025), 2025 U.S. Dist. LEXIS
20 150500, pp. *78-81, 84-85. The court noted Dr. Creel’s findings that iPOM “fails to predict wolf
21 territory size accurately,” causing it to “systematically overestimate the number of packs that
22 occupy a fixed area, and thus overestimate population size,” and “fails to reflect changes in pack
23 size.” *Id.* at p. *79. The court also noted that “Creel (2022) indicated he was ‘aware of no
24 examples other than the Montana iPOM suggesting that population size can be estimated reliably
25 in the absence of direct demographic data and/or population counts.’” *Id.* at p. *78. The federal
26 court reversed the U.S. Fish & Wildlife Service’s decision to deny the plaintiffs’ petition to list
27 the gray wolf as a threatened species in Montana and across the West, in large part because the
28 states are relying on unverifiable wolf population modeling, like iPOM, which calls into question

1 the credibility of their management decisions. *Id.*

2 Finally, Dr. vonHoldt’s research also shows that abundance estimates, or total population
3 size, fails to provide an accurate index of genetic viability. vonHoldt Decl., ¶¶ 6-8, 16-18.

4 “Population viability analyses (PVA) often fail to capture the demographic realities of social
5 species, like wolves, because their effective population size is only a small fraction of the census
6 size.” *Id.* at ¶ 18. Rather, the “genetic health and long-term viability of the wolf population
7 depend disproportionately on the small subset of individuals that successfully breed (i.e., the
8 effective population).” *Id.* at ¶ 7, 18. The “effective population size estimates for North American
9 gray wolves are on average 5.2-9.3% of census estimates,” which “for an estimated population of
10 1,091 wolves [is] only 56.7 – 101.5 wolves.” *Id.* at ¶ 17-18. A quota that reduces the current
11 population size by 545 wolves would reduce the effective population to a mere 27.7 to 49.6
12 wolves. *Id.* at ¶ 18. Moreover, breeding wolves tend to have greater “genetic fitness” than non-
13 breeding wolves. *Id.* at ¶ 7. “By removing potential or active breeders, lethal control reduces
14 effective population size, elevates inbreeding, and decreases reproductive success,” which
15 “accelerates genetic erosion, increases vulnerability to disease, and jeopardizes the hard-won
16 recovery of wolves in the Northern Rockies.” *Id.* at ¶ 8. Thus, “a decision to eliminate as many as
17 558 wolves (an approved quota of 458 plus 100 additional removals), when coupled with
18 expanded lethal take measures and reliance on flawed or overly optimistic model outputs, also
19 dangerously underestimates the risks of genetic drift and inbreeding, and is likely to push the
20 population toward long-term decline and irreparable harm.” *Id.* at ¶ 19.

21 **II. LEGAL STANDARD**

22 Temporary restraining orders are a form of injunctive relief “made upon notice or an order
23 to show cause, either before or after answer, . . . [and] may enjoin the adverse party until the
24 hearing and decision of the application.” Section 27-19-314, MCA. TROs generally precede an
25 injunction and are intended to last only until a hearing is held and a decision is made on the
26 injunction application. *Marketing Specialists v. Service Mktg of MT, Inc.*, 214 Mont. 377, 388,
27 693 P.2d 540, 546 (1985). A district Court has a high degree of discretion in maintaining the
28 status quo, *Shammel v. Canyon Res. Corp.*, 2003 MT 372, ¶ 12, 319 Mont. 132, 82 P.3d 912, but

1 must minimize the injury to all parties in the controversy, *Benefis Healthcare v. Great Falls*
2 *Clinic, Ltd. Liab. P'ship*, 2006 MT 254, ¶ 14, 334 Mont. 86, 146 P.3d 714.

3 “A preliminary injunction is an extraordinary remedy never awarded as of right.”
4 *Montanans Against Irresponsible Densification, LLC v. State*, 2024 MT 200, ¶ 10 (citing *Winter*
5 *v. NRDC, Inc.*, 555 U.S. 7, 24 (2008)). Montana’s preliminary injunction statute mirrors federal
6 law and requires an applicant to establish four elements: (a) the applicant is likely to succeed on
7 the merits; (b) the applicant is likely to suffer irreparable harm in the absence of preliminary
8 relief; (c) the balance of equities tips in the applicant’s favor; and (d) the order is in the public
9 interest. *Id.*; Section 27-19-201(1), MCA (2025); *see also Starbucks Corp. v. McKinney*, 602 U.S.
10 339, 346, 144 S. Ct. 1570, 1576 (2024) (citing *Winter*, 555 U.S. at 20, 22).

11 “The purpose of a preliminary injunction is to preserve the status quo and minimize harm
12 to all parties pending full trial or resolution on the merits.” *Stephenson v. Lone Peak Pres., Ltd.*
13 *Liab. Co.*, 2025 MT 148, ¶ 14, 423 Mont. 46, 571 P.3d 1042 (internal citations and quotation
14 marks omitted). “The status quo is the last actual, peaceable, non-contested condition [that]
15 preceded the pending controversy.” *Id.* (citing *Flying T Ranch, LLC v. Catlin Ranch, LP*, 2022
16 MT 162, ¶ 28, 409 Mont. 478, 515 P.3d 806). “An applicant for a preliminary injunction must
17 establish a *prima facie* case, or show that it is at least doubtful whether or not he will
18 suffer irreparable injury before his rights can be fully litigated.” *Weems v. State*, 2019 MT 98, ¶
19 18, 395 Mont. 350, 440 P.3d 4 (citing *Porter v. K & S P'ship*, 192 Mont. 175, 181, 627 P.2d 836,
20 839 (1981)). Once the applicant meets this burden, courts are “inclined to issue a preliminary
21 injunction to preserve the status quo.” *Id.*

22 **III. ARGUMENT**

23 Respondents’ actions violate the Montana Constitution. If the public hunt continues,
24 Plaintiffs and their members and supporters will suffer irreparable injury to their informational,
25 organizational, aesthetic, and constitutional interests due to the unlawful killing of more than half
26 of Montana’s gray wolf population in a single year which will substantially degrade a natural
27 resource and the Montana environment and threatens total population collapse. An injunction is,
28 therefore, necessary to ensure that an excessive and damaging number of Montana wolves are not

1 killed this year pursuant to Respondents’ illegal wolf policies.

2 **A. Actions that degrade and jeopardize the stability Montana’s wolf population**
3 **violate the Montana Constitution.**

4 **1. The 2025 seasonal kill allowance and rules threaten to degrade**
5 **Montana’s environment.**

6 This Court has the authority to prohibit the use of 2025 Wolf Elimination Regulations,
7 which were principally informed by unreliable iPOM population estimates and unscientific
8 speculation about wolf behavior, because implementation of these regulations would violate the
9 Montana Constitution. The Montana Constitution secures the right to a clean and healthful
10 environment, as established by Article II, Section 3 and Article IX, Section 1 of the Montana
11 Constitution. Mont. Const., art. II, § 3; art. IX, § 1. Under the Montana Constitution, “[a]ll
12 persons are born free and have certain inalienable rights . . . includ[ing] the right to a clean and
13 healthful environment.” Mont. Const., art. II, § 3. To secure this right, the Constitution also
14 mandates that “[t]he state and each person shall maintain and improve a clean and healthful
15 environment in Montana for present and future generations.” Mont. Const., art. IX, § 1(1).

16 In addition, the Montana Supreme Court has determined that Article II, Section 3 and
17 Article IX, Section 1 impose a mandatory duty on the State to enact and enforce measures to
18 foster a clean and healthful environment. See, e.g., *Held v. State*, 2024 MT 312, ¶ 68, 419 Mont.
19 403, 560 P.3d 1235; *Clark Fork Coalition v. Mont. Dep’t of Natural Res. & Conservation*, 2021
20 MT 44, ¶ 47, 403 Mont. 225, 481 P.3d 198; *Mont. Env’tl. Information Ctr. v. Dep’t of Env’tl.*
21 *Quality*, 1999 MT 248, ¶¶ 63–64, 296 Mont. 207, 988 P.2d 1236.

22 The Montana Supreme Court has also confirmed that the delegates to the Montana
23 Constitutional Convention intended these provisions “to provide language and protections which
24 are both anticipatory and preventative” and “repeatedly emphasized that the rights provided for in
25 subparagraph (1) of Article IX, Section 1 was linked to the legislature’s obligation in
26 subparagraph (3) to provide adequate remedies for degradation of the environmental life support
27 system and to prevent unreasonable degradation of natural resources.” *Mont. Env’tl. Info. Ctr.*, ¶
28 77. Moreover, “[t]he term ‘environmental life support system’ is all-encompassing, including but

1 not limited to air, water, and land,” and thus accorded a broad interpretation. *Held*, ¶ 23 (quoting
2 Montana Constitutional Convention, Verbatim Transcript, March 1, 1972, Vol. IV, p. 1201).

3 The Montana Legislature has also affirmed this constitutional duty extends to the
4 protection of wildlife, by enacting the Nongame and Endangered Species Conservation Act,
5 declaring “the legislature’s intent that the requirements of this part provide adequate remedies for
6 the protection of the environmental life support system from degradation and provide adequate
7 remedies to prevent unreasonable depletion and degradation of natural resources.” § 87-5-103(1),
8 MCA. Article IX, Section 7, which establishes that “[t]he opportunity to harvest fish and wild
9 game animals is a heritage that shall forever be preserved” further underscores the duty to
10 preserve and protect the environmental life support system from degradation, as depletion of
11 wildlife resources and degradation of ecosystems would threaten to undermine this provision and
12 render it meaningless.

13 Here, the Commission’s approval of the 2025 wolf rules and quotas authorized a level of
14 human-caused mortality that is unsustainable and threatens Montana’s wolf population with
15 irreparable harm, including severe depletion, genetic erosion and inbreeding, and risk of
16 eradication. vonHoldt Decl., ¶¶ 6-19; Bradford Dec., Exh F, pp. 41-42, 44-45. The 2024 Wolf
17 Report shows that a hunting and trapping quota of 458 together with 100 removals greatly
18 exceeds the mortality rates associated with stable populations and is likely to cause a severe
19 decline in overall populations. vonHoldt Decl., ¶¶ 9-15; Bradford Decl., Exh. F, pp. 41-42, 44-45.
20 Moreover, because iPOM projections are unreliable and over-estimate wolf abundance, actual
21 population declines may be significantly greater than those projected by iPOM. Crabtree Decl., ¶¶
22 11-23. These projections also fail to consider impacts on the breeding population and
23 consequences for genetic viability. vonHoldt Decl., ¶¶ 6-8, 16-18. Defendants’ extreme quotas,
24 combined with expanded lethal take measures and unreliable population estimates, place
25 Montana’s wolves in danger of irreparable harm. *Id.* ¶ 19. In addition, the new financial incentive
26 of obtaining reimbursement bounties of up to \$1,000 or \$1,500 per wolf kill increases the
27 likelihood that wolf-mortality rates will exceed those of past years and meet or exceed authorized
28 levels. *See* Pennock Decl., ¶ 37; Bradford Decl., Exh. E.

1 The 2025 wolf rules will deplete and degrade Montana’s wolf population, which is a
2 natural resource and part of the state’s environmental life support system, the approval and
3 implementation of these rules is contrary to the state’s duty to preserve the right to a clean and
4 healthful environment. Mont. Const., art. II, § 3; art. IX, § 1. Defendants may not knowingly
5 place Montana’s natural resources, including native gray wolves, at risk of degradation and
6 depletion or eradication. *Mont. Env’tl. Info. Ctr.*, ¶ 77. Accordingly, there is good reason to enjoin
7 Defendants from proceeding with their 2025 quotas and regulations because they will degrade
8 Montana’s wolf population and thereby undermine the right to a clean and healthy environment,
9 until such time as the Petitioners’ claims have been fully and finally adjudicated.

10 **2. The Commission relied on inaccurate and unscientific information and**
11 **did not provide for a fair hearing of amendments.**

12 Under Article II, Section 8, of the Montana Constitution, “[t]he public has the right to
13 expect governmental agencies to afford such reasonable opportunity for citizen participation in
14 the operation of the agencies prior to the final decision as may be provided by law.” Mont. Const.,
15 art. II § 8. “The essential elements of public participation are notice and an opportunity to be
16 heard. *Bitterroot River Protective Ass’n v. Bitterroot Conservation Dist.*, 2008 MT 377, ¶ 21,
17 (citing § 2-3-103(1)(a), MCA). Moreover, “[p]rocedures for assisting public participation must
18 include a method of affording interested persons reasonable opportunity to submit data, views, or
19 arguments, orally or in written form, prior to making a final decision that is of significant interest
20 to the public.” *Id.* (citing § 2-3-111(1), MCA).

21 Here, members of the public were denied a reasonable opportunity to participate in the
22 August 21, 2025, Commission. By failing to provide the public and its own members with correct
23 information concerning recent legislative action to amend the wolf hunting laws (Pennock
24 Decl., ¶¶ 17-19), and by restricting public comments to one minute or thirty seconds (*id.* at ¶ 25),
25 the Commission created confusion and prevented the public from making meaningful public
26 comments concerning the proposed rules and the amendments. Allowing only thirty seconds, or
27 even one minute, for public comments is unreasonable because this does not provide sufficient
28 time for commenters to explain their reasons for supporting or opposing amendments. The

Commission’s actions denied the attending public a reasonable opportunity to submit data, views, or arguments, and reduced “citizen participation” to a merely nominal exercise signaling support or opposition without reasoned discourse, making a mockery of the right to participate in the Commission’s public process.

Therefore, because the Commission failed to provide a reasonable opportunity for citizen participation, it violated the Petitioners’ constitutional right to participate and the Commission’s approval of the 2025 wolf regulations and quotas should be set aside. *See also, Trap Free Montana v. Fish Wildlife and Parks*, DV-25-2025-0000589-DK, First Jud. Dist. Ct., Lewis & Clark County (challenging elimination of 25-wolf increment review of the 100-wolf quota).

B. Petitioners have met the requirements for a Preliminary Injunction.

1. Petitioners are likely to succeed on the merits.

To show a likelihood of success on the merits, a plaintiff “must present a prima facie case but need not show a certainty of winning.” *Cross v. State*, 2024 MT 303, ¶ 33, 419 Mont. 290, 560 P.3d 637 (quoting 13A Charles Alan Wright, Arthur R. Miller, & Edward H. Cooper, Federal Practice and Procedure § 2948.3 (3d ed. 2008)). “Prima facie means literally at first sight or on first appearance but subject to further evidence or information.” *Cross*, ¶ 33 (citing *Weems*, ¶ 18). “In deciding whether an applicant has established a prima facie case, a court should determine whether a sufficient case has been made out to warrant the preservation of the property or rights in status quo until trial, without expressing a final opinion as to such rights.” *Sweet Grass Farms, Ltd. v. Bd. of Cnty. Comm’rs of Sweet Grass Cnty.*, 2000 MT 147, ¶ 28, 300 Mont. 66, 2 P.2d 825.

Based on expert testimony in the attached declarations and exhibits, as well as MFWP’s own projections contained in its 2024 Wolf Report, there exists a high probability that implementation of the 2025 seasonal rules will jeopardize Montana’s wolf population, in violation of Petitioners’ rights to a clean and healthful environment. Mont. Const., art. II, § 3; art. IX, § 1. The Supreme Court of Montana has established that this right is “both anticipatory and preventative,” *Mont. Env’tl. Info. Ctr.*, ¶ 77, which means a substantial risk of harm is sufficient to warrant the Constitutional protection. Moreover, because the right is intended to be “all-encompassing,” *Held*, ¶ 23, it properly extends to Montana’s natural resources, which includes its

1 native wildlife populations. Actions that are likely to degrade natural resources are inconsistent
2 with the protections mandated under Article II, Section 3 and Article IX, Section 1 of the
3 Montana Constitution. *See* Mont. Const., art. II, § 3; art. IX, § 1. In addition, Article IX, Section
4 7, further underscores Defendants’ duty to preserve and protect wildlife resources from depletion
5 and degradation as part of the environmental life support system. Mont. Const., art. IX, § 7; § 87-
6 5-103(1), MCA. Therefore, Petitioners are likely to succeed on the merits.

7 **2. Allowing the 2025 seasonal rules to be fully implemented will cause**
8 **great or irreparable injury to Petitioners.**

9 Plaintiffs seeking preliminary relief must demonstrate that irreparable injury is likely, not
10 merely speculative, in the absence of an injunction. *Montanans Against Irresponsible*
11 *Densification, LLC v. State*, 2024 MT 200, ¶ 15 (citing *Winter*, 555 U.S. at 22). The Montana
12 Supreme Court “ha[s] recognized harm from constitutional infringement as adequate to justify a
13 preliminary injunction.” *Id.* at ¶ 16 (citing *Weems v. State*, 2019 MT 98, ¶ 25 (citing *City of*
14 *Billings v. Cnty. Water Dist.*, 281 Mont. 219, 231; *Mont. Cannabis Indus. Ass’n v. State*, 2012 MT
15 201, ¶ 15 (finding court “properly concluded that the loss of a constitutional right constitutes
16 irreparable harm for the purposes of determining whether a preliminary injunction should be
17 issued”)).

18 Environmental injuries are often irreparable by their very nature. *Amoco Prod. Co. v.*
19 *Village of Gambell*, 480 U.S. 531, 545 (1987). For this reason, reducing a species’ population
20 through state action has often been recognized by courts to cause irreparable harm justifying
21 injunctive relief. *See Fund for Animals v. Norton*, 281 F. Supp. 2d 209, 219-22 (D.D.C. 2003)
22 (enjoining a state plan to kill 525 mute swans from a state population of 3,600); *Fund for Animals*
23 *v. Clark*, 27 F. Supp. 2d 8, 14 (D.D.C. 1998) (enjoining a bison hunt); *Fund for Animals v. Espy*,
24 814 F. Supp. 142, 151 (D.D.C. 1993) (same). The requirement of irreparable harm may also be
25 met by a showing that a temporary injunction is necessary to preserve the status quo until parties
26 can fully litigate their case. *Flora v. Clearman*, 2016 MT 290, 385 Mont. 341, 384 P.3d 448.

27 Like the cases where the court found cause for an injunction, there is clear evidence that
28 the 2025 seasonal rules will cause irreparable harm to Montana wolves. As discussed above, the

1 data and projections contained in MFWP’s 2024 Wolf Report establish that the approved quotas
2 far exceed stable and sustainable human-caused mortality rates and correspond to projections that
3 risk severe population decline. *See infra* § I.A. Expert analyses by Dr. Bridgett vonHoldt, Ph.D.,
4 and Dr. Robert L. Crabtree, Ph.D., further confirm that the risk of irreversible harm to wolves is
5 substantial and may be even more severe than iPOM projections reveal, due to the unreliability of
6 iPOM and the failure of abundance estimates to account for the actual breeding population that is
7 critical to sustain genetic health and viability. *Id.*; Dr. vonHoldt Decl., ¶¶ 6-19; Dr. Crabtree
8 Decl., ¶¶ 9-23. In addition, a recent decision in federal district court also identified “serious
9 concerns” about the accuracy of iPOM’s population estimates. *See Ctr. for Biological Diversity v.*
10 *United States Fish & Wildlife Serv.* (D. Mont. Aug. 5, 2025), 2025 U.S. Dist. LEXIS 150500, pp.
11 *78-81, 84-85. In sum, these risks are not remote or speculative. “Montana’s current quota
12 framework is explicitly aimed at reducing wolf numbers” and together with removals “run[s]
13 counter to the department’s own projections and to prudent wildlife risk management. The likely
14 outcomes are deeper population declines, fragmented structure, and diminished genetic and
15 ecological resilience—losses that, once realized, will be irreparable.” Dr. vonHoldt Decl., ¶ 15.

16 MFWP’s implementation of the 2025 seasonal rules also harms the interests of Petitioners
17 and the recreational and aesthetic interests of their members and supporters, who recreate on
18 public lands in Montana and value the ecological integrity and biodiversity of the National Parks,
19 wilderness, and other wildlands. *See, e.g.,* Pennock Decl., ¶¶ 3-15, 38-44 (describing Wildearth
20 Guardians’ advocacy for gray wolves and its members’ aesthetic and recreational interests in gray
21 wolves, and risk of injury from traps and snares); Declaration of Constance J. Poter, ¶¶ 11-16
22 (describing Footloose Montana’s and its members advocacy and activities on behalf of gray
23 wolves); Declaration of Clinton Nagel, ¶¶ 7-15, 23-24 (describing Gallatin Wildlife Association’s
24 advocacy on behalf of gray wolves, and its members’ aesthetic and recreational interests in gray
25 wolves); Declaration of Norman Bishop, ¶¶ 20-28 (Bishop Decl.) (describing fears for safety and
26 concern that wolf hunt will prevent him and his grandchildren from having the opportunity to see,
27 experience, and photograph Montana wolves in the wild).

28 An injunction to maintain the status quo is necessary to prevent the implementation of the

2025 seasonal rules because they will cause an irreparable injury to wolves, wolf populations, native ecosystems, and thereby also irreversibly harm Petitioners’ interests in aesthetic, recreational, and personal safety.

3. The balance of equities tips in Petitioners’ favor.

The third element of the preliminary injunction inquiry asks whether the equities tip in the applicant’s favor. Section 27-19-201(1)(c), MCA. This means the court “must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief.” *Winter*, 555 U.S. at 24 (citing *Amoco Prod. Co.*, 480 U.S. at 542).

The burden on Petitioners, absent an injunction, would be substantial. Montana’s wolf population is an integral part of Montana’s natural environment, and a natural resource protected by the Constitution and managed in trust for the people of Montana. Mont. Const., art. II, §3, and art. IX, § 1. The injury to Petitioners is not only irreversible, but violates a constitutional right held by all Montanans, as well as the aesthetic and recreational interests of their members. Moreover, the 2024 Wolf Report indicates that Montana’s wolf population is already in decline and at risk of genetic erosion and degradation. MFWP’s own projections also indicate that wolf mortality at the level presently authorized can wipe out in a single year, what has taken more than four decades to restore. Bradford Decl., Exh F., pp. 44-45. Wolf Recovery in Montana has been a decades long process of federal protection and reintroduction, scientific analysis and monitoring to advance sound wolf management at sustainable population levels. *See id.* at pp. v-vi, 1-2, 16. To knowingly risk erasing wolves now would not only waste this massive investment, but rob Montana citizens and future generations of their rightful natural heritage.

In addition, allowing Defendants to proceed with extreme quotas absent an injunction stands to undermine the very purpose of this litigation. That is, even as Petitioners challenge the unsound wolf management program that places Montana wolves at risk of severe degradation or eradication, Defendants propose to increase and expand their wolf eradication program with more aggressive tactics and outrageously high quotas before Petitioners claims can be heard. While the Court found, in 2022, that Petitioners had not shown that Defendants’ wolf program, at that time,

posed a sufficient threat to the overall wolf population to warrant an injunction, the 2025 wolf rules substantially modify that program by abandoning the effort to “minimize[e] risk of overharvest that could pose a risk to population stability.” Bradford Decl., Exh F., p. 16. There is now additional evidence showing that iPOM’s abundance estimates are inflated and unreliable and fail to account for the effective population sufficient to maintain genetic viability. Crabtree Decl., ¶¶ 10-23; vonHoldt Decl., ¶¶ 6-8. 16-19. There is also evidence that Montana’s wolf population is already in decline and experiencing structural degradation and genetic erosion. *Id.* at ¶¶ 9-12. Thus, unlike the situation in 2022, there is now a significant risk that, absent an injunction, Montana’s wolf population will be substantially degraded or eradicated, rendering Petitioners’ litigation futile.

In contrast, an injunction that maintains the status quo poses minimal costs to Defendants. The 2024 Wolf Report shows that they are already complying with the legislative mandate to reduce wolf populations, so maintaining the status quo should not interfere with this objective. Moreover, because the state routinely sells far more hunting licenses than can possibly be filled, a reduced quota is unlikely to correlate to any significant decrease in revenue. Bradford Decl., Exh. F., pp. 18-19. In addition, it is not unusual for hunting and trapping to be limited by the ordinary constraints of scientific wildlife management. While this may inconvenience some individuals and outfitters, the preservation of a healthy and genetically connected wolf population ensures that the long-term interest in wolf hunting and trapping will be preserved. Moreover, maintaining the status quo does not impede livestock owners from seeking reimbursement or removal of problem wolves, where necessary to protect their interests in security and livelihood.

4. An injunction is in the public interest.

“In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Montanans Against Irresponsible Densification, LLC v. State*, 2024 MT 200, ¶ 21, 418 Mont. 78, 555 P.3d 759 (quoting *Winter*, 555 U.S. at 24). The public interest factor “is another way of inquiring whether there are policy considerations that bear on whether” to grant an injunction. *Cross*, ¶ 53.

There can be no doubt that upholding a constitutional right is in the public interest.

1 *Planned Parenthood of Montana v. State*, 2024 MT 227, ¶ 37, 418 Mont. 226, 557 P.3d 471 (“[I]t
2 is always in the public interest to prevent a violation of a party’s constitutional rights.”) As
3 discussed above, the Montana Supreme Court has held that the right to a clean and healthful
4 environment was intended to be interpreted broadly and proactively to preserve Montana’s natural
5 heritage and prevent degradation of natural resources. *See infra* §§ A.1., B.1. In contrast, allowing
6 Defendants to proceed with extreme quotas that deliberately push Montana’s unknown wolf
7 population to levels that risk eradication and loss of genetic viability, in violation of the right to a
8 clean and healthful environment secured by Article II, Section 3, and Article IX, Section 1, would
9 be contrary to public policy. Mont. Const., art. II, §3, and art. IX, § 1. Therefore, an injunction is
10 in the public interest, and this element is also met. Thus, because Petitioners have shown that (1)
11 they are likely to succeed on the merits, (2) they will suffer irreversible harm absent an injunction,
12 (3) the balance of equities tips in favor of upholding constitutional rights and preventing
13 environmental degradation, and (4) upholding constitutional rights are also in the public interest,
14 they have met the necessary burden to justify the issuance of a preliminary injunction.

15 **C. An injunction is necessary to preserve the status quo.**

16 “The purpose of a preliminary injunction is to preserve the status quo and minimize harm
17 to all parties pending full trial or resolution on the merits. *Stephenson*, ¶ 14. “The status quo is the
18 last actual, peaceable, noncontested condition [that] preceded the pending controversy.” *Id.* (citing
19 *Flying T Ranch, LLC*, ¶ 28). “Upon the requisite showing, a preliminary injunction is issued to
20 maintain the status quo pending trial, which has been defined as ‘the last actual, peaceable, non-
21 contested condition which preceded the pending controversy.’” *Flora*, ¶ 21. Courts considering
22 preliminary injunctions should in no manner anticipate the ultimate determination of the questions
23 of right involved. *See Sandrocks v. DeTienne*, 2010 MT 237, 358 Mont. 175, 243 P.3d 1123
24 (granting a preliminary injunction prohibiting a landlord from entering the tenant’s property
25 pending the outcome of litigation over the landlord’s eviction action). “Rather, findings and
26 conclusions directed toward the resolution of the ultimate issues are properly reserved for trial on
27 the merits.” *Id.*

28 Environmental injury, “by its nature, can seldom be adequately remedied by money

1 damages and is often permanent or at least of long duration, i.e., irreparable. If such injury is
2 sufficiently likely, therefore, the balance of harms will usually favor the issuance of an injunction
3 to protect the environment.” *Amoco Prod. Co.*, 480 U.S. at 545. The loss of wildlife, including
4 wolves, is an irreparable harm that “[m]oney damages would not compensate.” *See, e.g., Habitat*
5 *Educ. Center, Inc. v. Bosworth*, 363 F. Supp. 2d 1090, 1113 (E.D. Wis. 2005) (granting a
6 preliminary injunction where “[m]oney damages would not compensate for the loss of goshawk,
7 red-shouldered hawk, marten, and their habitat.”).

8 Petitioners have no remedy at law, as the 2025 wolf quotas and seasonal rules will cause
9 irreversible harm to Montana wolves, including risk of population collapse and loss of genetic
10 viability. Implementation of these rules will irreversibly injure Petitioners by violating their rights
11 to a clean and healthful environment and their aesthetic and recreational interests in wolf
12 recovery. Likewise, no bond should be required because an injunction is in the interest of justice.
13 § 29-19-306, MCA. The Court may grant a temporary restraining order and preliminary
14 injunction prohibiting the implementation of the 2025 seasonal regulations, or any such measures
15 that threaten to deplete the wolf population, until such time as Petitioners’ claims can be heard on
16 the merits. Absent such relief, Petitioners will be irrevocably and irreversibly injured.

17 **IV. CONCLUSION**

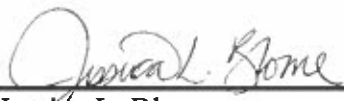
18 Petitioners respectfully request that the Court issue a temporary restraining order
19 prohibiting the hunting and trapping of wolves until the Court can fully consider the merits of
20 Petitioners’ Motion for a Preliminary Injunction. Petitioners further request that the Court issue a
21 preliminary injunction prohibiting the hunting and trapping of wolves until the Court can fully
22 consider the merits of Petitioners’ claims as set forth in their Second Amended Complaint.

23 Dated: October 15, 2025, MORRISON SHERWOOD WILSON DEOLA, PLLP

24
25 By: 
26 Rob Faris-Olsen

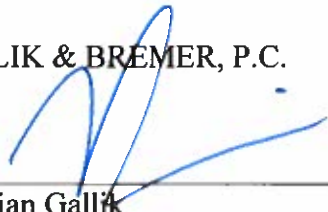
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1 **CERTIFICATE OF SERVICE**

2 I hereby certified that on the 15th day of October 2025, a true copy of the foregoing
3 document was served by electronic filing notification upon the following:

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