

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Animal Legal Defense Fund; and
Lockwood Animal Rescue Center

Case No. 17-cv-4496

Plaintiffs,

COMPLAINT

v.

Fur-Ever Wild; Wolves, Woods &
Wildlife; and Teresa Lynn Petter,

Defendants.

INTRODUCTION

1. This is a case under the Endangered Species Act (“ESA”), 16 U.S.C. sections 1531-1544, against Minnesota-based Fur-Ever Wild, Wolves Woods & Wildlife, and Teresa Lynn Petter (collectively “Fur-Ever Wild”) to enjoin the killing and failure to provide proper care to threatened gray wolves in Minnesota. These unlawful takes have occurred and are likely to continue occurring as a result of Fur-Ever Wild’s illegal pelting of gray wolves, selling of gray wolf parts, and failure to provide adequate care to the wolves while they are alive.

2. Fur-Ever Wild operates an animal exhibition and fur-harvesting business out of its facility located in Lakeville, Minnesota. It advertises itself as a pro-hunting and trapping agricultural farm where visitors can interact with and learn about wildlife. Visitors pay to feed, visit, and socialize more than a hundred fur-bearing animals including gray wolves, foxes, bobcats, and cougars at the property.

3. Fur-Ever Wild's main attractions are the gray wolves. Every spring, Fur-Ever Wild welcomes multiple litters of wolf puppies born at the facility. The facility offers \$20 "pet-n-plays" with the wolf puppies while they are young. It integrates the puppies with the adult packs in the fall when the wolves are no longer young enough for visitor interactions.

4. Unbeknownst to most visitors, Fur-Ever Wild kills the gray wolves in the winter after the puppies grow too old for the pet-n-play visitor interactions. Fur-Ever Wild pelts the gray wolves and other animals to profit from their skin, skulls, teeth, bones, and other parts sold on-site at the facility's gift shop and off-site events. As Ms. Petter admitted in a deposition related to another lawsuit: "I pelted two wolves last night. . . . And there is another two going tonight . . . There will be 25 within the next three weeks – two weeks."

5. In addition to killing wolves for their furs and other parts, Fur-Ever Wild provides inadequate care to the wolves while they are alive. Fur-Ever Wild provides inadequate veterinary care, inadequate shelter, inadequate exercise area, inadequate food and water, and unsanitary conditions according to recent witness reports and United States Department of Agriculture ("USDA") inspection reports. Fur-Ever Wild regularly provides inadequate veterinary care, inadequate shelter, inadequate exercise area, inadequate food and water, and unsanitary conditions to its gray wolves.

6. By killing threatened gray wolves in Minnesota and failing to provide proper care without obtaining an Incidental Take Permit pursuant to 16 U.S.C. section 1539(a)(1)(B), Fur-Ever Wild has unlawfully taken threatened gray wolves by killing members of the species, as those terms are defined by the ESA. 16 U.S.C. § 1532(19); 50

C.F.R. § 40.17(d). Without judicial relief for ALDF and Lockwood, Fur-Ever Wild will continue to kill and provide inadequate care to its threatened gray wolves.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this case pursuant to 16 U.S.C. section 1540(g) and 28 U.S.C. section 1331.

8. As required by the ESA, 16 U.S.C. § 1540(g), Defendants and the Secretary of the Interior were provided with a sixty-day notice of violations of the ESA before this suit was filed, sent on December 2, 2015. A true and correct copy of this notice letter is attached hereto as Exhibit A.

9. This Court has personal jurisdiction over Defendants because they are domiciled in, served with process in, or maintain their principal place of business in Minnesota.

10. Venue is properly vested in this Court pursuant to 28 U.S.C. section 1391(b)(1) and 28 U.S.C. section 1391(c) because all Defendants reside in this district and all Defendants are subject to personal jurisdiction in this district.

PARTIES

11. Plaintiff Animal Legal Defense Fund (“ALDF”) is a national nonprofit animal protection organization founded in 1979 that uses education, public outreach, investigations, legislation, and litigation to protect the lives and advance the interests of animals, including those raised in captivity. ALDF’s work is supported by more than 200,000 members and supporters across the country, including in Minnesota. ALDF

expends significant resources protecting the lives of endangered species including gray wolves.

12. Plaintiff Lockwood Animal Rescue Center (“Lockwood”) is a nonprofit animal sanctuary in Frazier Park, California. It provides lifetime care to its resident animals, including ongoing enrichment, huge outdoor enclosures, and animal-to-animal interaction. Lockwood rescues many types of animals but focuses on wolves, wolf-dogs, and some other canids. In addition to its sanctuary work, Lockwood also engages in advocacy for wolves in the wild and in captivity.

13. On information and belief, Defendant Fur-Ever Wild is a for-profit entity certified by the Minnesota Secretary of State as an assumed name for Ms. Petter’s business activities. Its other principal is Daniel Storlie. Fur-Ever Wild’s registered address is 10132 235th Street W, Lakeville, Minnesota 55044. Fur-Ever Wild’s website claims that it is a “working agricultural farm, that celebrates our traditional connections to the land and mother nature [] from the pioneering trappers and hunters that traveled through and settled in Minnesota, to our ranchers and farmers.” (<http://www.fureverwild.org>). Fur-Ever Wild is licensed by the Minnesota Department of Natural Resources as a game farm. Previously, Fur-Ever Wild operated as a registered corporation that dissolved on March 14, 2016.

14. Defendant Wolves Woods & Wildlife is a corporation registered with the Secretary of State of Minnesota. Its president is Ms. Petter and its registered address is the same as Fur-Ever Wild’s address at 10132 235th Street W, Lakeville, Minnesota 55044. Its other principal is Daniel Storlie. Wolves Woods & Wildlife is licensed by the Minnesota

Department of Natural Resources as a game farm. USDA licenses Wolves Woods & Wildlife as an animal exhibitor regulated under the federal Animal Welfare Act.

15. Defendant Teresa Petter is a resident of the District of Minnesota. Ms. Petter operates Fur-Ever Wild and Wolves Woods & Wildlife, which she claims is an agricultural farm, located at 10132 235th Street W, Lakeville, Minnesota 55044.

STATUTORY AND REGULATORY FRAMEWORK

16. In enacting the ESA, Congress declared that “the United States has pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of . . . wildlife . . . facing extinction.” 16 U.S.C. § 1531(a)(4). One of the stated purposes of the Act is “to provide a program for the conservation of . . . endangered species and threatened species.” 16 U.S.C. § 1531(b).

17. The ESA defines an “endangered species” as “any species which is in danger of extinction.” *Id.* § 1532(6). A “threatened species” is one that is likely to become endangered within the foreseeable future. 16 U.S.C. § 1532(20).

18. The ESA prohibits the “taking” of any endangered species. 16 U.S.C. § 1538(a). The ESA defines the term “take” broadly to include “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” *Id.* § 1532(19).

19. “Harass” is defined as “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to,

breeding, feeding, or sheltering.” 50 C.F.R. § 17.3. “Harm” is defined as “an act which actually kills or injures wildlife.” *Id.*

20. Once a species is designated as endangered or threatened, the ESA’s protections and regulations are triggered.

21. The gray wolf, *Canis lupus*, has been a listed species under the ESA since 1978. Gray wolves in Minnesota were listed as threatened from 1978 until January 2012. The U.S. Fish & Wildlife Service (“FWS”) again listed Minnesota gray wolves as a threatened species on December 19, 2014, and continues to classify them as threatened today. 50 C.F.R. § 17.40(d).

22. As a threatened species, no one may: (1) take a gray wolf in Minnesota; (2) sell, offer to sell, transport, ship, carry, deliver, or receive any Minnesota gray wolf in interstate commerce; or (3) possess, sell, deliver, carry, transport, or ship a gray wolf or her parts. 50 C.F.R. § 17.40(d)(2)(i)-(iii).

23. The FWS may make exceptions to certain prohibitions listed in the ESA. For instance, while a “taking” of an endangered species is generally prohibited, the ESA allows discrete instances of takings through a permitting program. An FWS “incidental take permit” allows a take that “is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity” (16 U.S.C. § 1539(a)(1)(B)) or “for scientific purposes or to enhance the propagation or survival of the affected species.” 16 U.S.C. § 1539(a)(1)(A).

24. The FWS has promulgated regulations governing an incidental take permit aimed at “enhanc[ing] the propagation or survival” of captive-bred wildlife. 50 C.F.R. § 17.21(g). If FWS grants an individual permit, a person may “take; export or re-import;

deliver, receive, carry, transport or ship in interstate or foreign commerce, in the course of a commercial activity . . . any endangered wildlife that is bred in captivity in the United States provided that[,]” among other things, “[t]he purpose of such activity is to enhance the propagation or survival of the affected species.” *Id.*

25. To enforce the ESA’s mandates, Congress enables private parties to bring suit under the ESA to enjoin any person in violation of its provisions as long as sixty days’ notice is provided to the violator and to the Secretary of the Interior. 16 U.S.C. § 1540(g).

FACTS

26. Gray wolves are highly intelligent, sensitive, and social individuals. They on average live between 6 and 8 years, and as long as 13 years, in the uncertain conditions of the wild. In captivity, wolves can live up to 17 years. Ecologically, the FWS describes the wolf as “an integral component of the ecosystems to which it typically belongs.” *See Gray wolf (Canis lupus)*, U.S. Fish & Wildlife Service, <https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=A00D> (last accessed Sept. 29, 2017).

27. Defendants Fur-Ever Wild, Wolves Woods & Wildlife, and Ms. Petter operate an animal exhibition and fur-harvesting operation in Lakeville, Minnesota. This operation began with one wolf in 2005, and began to expand in 2007 to include more animals such as lynx, red foxes, arctic foxes, cougars, and raccoons.

28. Starting in 2007, both Fur-Ever Wild and Wolves Woods & Wildlife obtained commercial game farm licenses for the Lakeville operation from the Minnesota Department of Natural Resources. State law requires the entities to submit an annual game

farm application and activity report to the Department of Natural Resources in order to possess and butcher certain species of fur-bearing wildlife, including gray wolves. The state game farm reports include annual population data about the number of animals at the beginning of the year, births, acquisitions, sales, deaths, and number of animals at the end of the year.

29. Around the same time, Wolves Woods & Wildlife obtained an exhibitor license from the USDA pursuant to the Animal Welfare Act. USDA periodically inspects the facility to ensure that it complies with minimum federal welfare requirements. The USDA inspections sometimes include population data about all federally-regulated animals observed at the facility.

30. As part of its business model, Fur-Ever Wild breeds animals to attract visitors with gray wolf puppies and other animals. Fur-Ever Wild offers “Pet-n-play” time with the gray wolf puppies for an additional cost.

31. When the wolf puppies and other animals become adults, Fur-Ever Wild kills them to sell their body parts for profit. It is commercially impractical for Fur-Ever Wild to breed dozens of wolf pups every year for the petting zoo without somehow disposing of the surplus animals. Body parts sold for profit include wolf pelts, tails, skull, bones, and teeth.

32. Fur-Ever Wild began killing its wolves no later than December 2012. In a December 19, 2012 deposition taken on behalf of the town of Eureka, Ms. Petter acknowledged she selectively determines when to skin her animals depending on the fur

market. Ms. Petter discussed skinning two wolves the previous night. She also predicted another 25 wolves would be skinned within a span of three weeks.

33. Fur-Ever Wild's annual game farm reports to the Department of Natural Resources substantiate that the operation intentionally kills gray wolves. Its game farm applications to the Department depict a calculated breeding program of protected wolves that could generate consistent replacements for those animals to be killed and skinned for fur. For the period covering March 1, 2013 to February 28, 2014, the operation notes 19 wolves born and 19 deaths.

34. That these deaths are not attributable to natural causes is clear when considering the normal lifespan of captive gray wolves. Gray wolves on average live between 6 and 8 years, and as long as 13 years, in the uncertain conditions of the *wild*. In captivity, such as at Fur-Ever Wild's fur farm, wolves can live up to 17 years. Fur-Ever Wild stated to the Minnesota government that 19 wolves died between 2013 and 2014, a scenario that renders incredulous the prospect of massive wolf fatalities all from natural causes. Even if natural causes contributed to these wolves' deaths, Fur-Ever Wild's gross failure to care for these animals is evident in the otherwise inexplicable loss of 19 animals, an event that would not occur in a facility adhering to ESA standards.

35. Fur-Ever Wild's established practice of killing wolves and selling their pelts has continued through the present. For the two years spanning March 1, 2015 to February 28, 2017, the operation's game farm reports noted 17 wolves born and 17 deaths between both of its corporations. This unnaturally high death rate coupled with the parity between births and deaths demonstrates a continued breeding and killing practice. Associates of

Lockwood visited Fur-Ever Wild in 2016 during this period and observed several wolf pelts for sale in the gift shop, among the pelts and body parts of lynx, coyotes, and foxes.

36. Furthermore, USDA inspectors counted significantly less wolves at Fur-Ever Wild than reported on the game farm applications during the same time period. This strongly suggests that the operation underreported the number of wolves who died during this period. Fur-Ever Wild's game farm applications to the Department of Natural Resources indicate that there were *at least* 49 wolves – and as many as 71 wolves – at the 10132 235th Street West address at all times between March 1, 2015 and February 28, 2017. However, the USDA inspection reports counted only 38 gray wolves at the June 3, 2015 inspection, 34 gray wolves at the November 4, 2015 inspection, and 42 gray wolves at the June 21, 2016 inspection. All of these wolf deaths are taken under the ESA.

37. Fur-Ever Wild provided unlawfully inadequate care to the gray wolves while they were alive and awaiting imminent demise. USDA inspectors and other witnesses regularly document squalid conditions at Fur-Ever Wild. On June 21, 2016, a USDA inspector cited Fur-Ever Wild for several instances of unsanitary conditions including a “watering tub [that] was green in color,” clutter around animal enclosures, and an “overabundance of flies” in the food prep area with bugs and spider webs found in an animal feed additive.

38. On August 29, 2017, a USDA inspector discovered a gray wolf named Tatonka with an open wound over her right triceps with a scabbed wound nearby. The inspector cited Fur-Ever Wild for using expired medicine on the wolf, and failing to provide evidence that a veterinarian ever saw Tatonka for the ailment. The inspector also

cited Fur-Ever Wild for providing inadequate shelter to a wolf that it segregated. The solitary wolf's enclosure's only shade from the summer sun was a shade cloth over half the enclosure. The only shade available in that enclosure was a "completely muddy area" under the cloth.

39. At other times in 2015 to the present, witnesses have reported seeing wolves pacing in small enclosures due to inadequate exercise area, excessive feces in enclosures, strong odor, green drinking water, and empty water receptacles.

40. On information and belief the inadequate veterinary care, inadequate shelter, inadequate exercise area, inadequate food and water, and unsanitary conditions cause mental and physical suffering to the gray wolves. On information and belief, these conditions are regular and continuing.

41. Plaintiff Lockwood first heard about Fur-Ever Wild in 2015 while trying to protect gray wolves during a wolf hunt taking place in Montana and Idaho. Lockwood discovered an online discussion on a wolf-hunting message board that people opposed to Lockwood obtained gray wolves from Ms. Petter to pose with their dead bodies and antagonize Lockwood. Subsequently, Lockwood began investigating Fur-Ever Wild. Lockwood heard that Ms. Petter disposed of surplus gray wolves by giving them horse tranquilizer, anally electrocuting them, and selling their pelts, bones, skulls, and teeth. Lockwood flew members from California to Minnesota for several days in the fall of 2016 to visit the facility as paying members of the public, and to speak to local officials to request law enforcement. After that visit, Lockwood continued to investigate Fur-Ever Wild while

requesting law enforcement. Additionally, Lockwood anticipated the possibility of a massive rescue operation and expended money to prepare a rescue operation of the animals.

42. Fur-Ever Wild's illegal treatment of gray wolves and other animals caused Lockwood to divert its resources to counteract Fur-Ever Wild's unlawful activity. Lockwood spent time investigating and attempting to counteract Fur-Ever Wild's unlawful activity that it would have otherwise spent caring for the animals at its sanctuary, expanding the sanctuary, and advocating for wolves.

43. Plaintiff ALDF first heard about Fur-Ever Wild's animal exhibition and pelting business in 2015, and became concerned about the facility's business model that included killing threatened gray wolves and providing improper care for its animals. Subsequently, ALDF diverted organizational resources from other projects to investigate Fur-Ever Wild, research the legality of its operation, discuss the matter internally, and request law enforcement. ALDF sent three letters to USDA detailing its concerns about Fur-Ever Wild, notified federal officials about the illegal taking of threatened gray wolves, and communicated with officials to request law enforcement.

44. Fur-Ever Wild's illegal treatment of gray wolves and other animals caused ALDF to divert its resources to counteract Fur-Ever Wild's unlawful activity.

CLAIM FOR RELIEF

VIOLATION OF THE ENDANGERED SPECIES ACT

(ALL DEFENDANTS)

45. Lockwood and ALDF re-allege by reference the allegations contained in the preceding paragraphs of the Complaint as if fully set forth herein.

46. Lockwood and ALDF have a right under the ESA's citizen suit provision to enjoin Fur-Ever Wild's illegal treatment of wolves. The Secretary of the Interior and all Defendants have received the requisite 60-day notice. 16 U.S.C. § 1540(g).

47. Fur-Ever Wild's killing and pelting has caused and will continue to cause takes of gray wolves in violation of the ESA. 16 U.S.C. § 1538(a)(1)(G); 50 C.F.R. § 17.40(d).

48. Fur-Ever Wild's sale of gray wolves, wolf pelts, and other wolf body parts constitutes a violation of the ESA. 16 U.S.C. § 1532(19); 1538(a)(1)(g); 50 C.F.R. § 17.21(f); 50 C.F.R. § 17.31(a); 50 C.F.R. § 17.40(d)(2)(ii)-(iii).

49. Fur-Ever Wild's failure to provide adequate veterinary care, adequate shelter, adequate exercise area, adequate food and water, and sanitary conditions for its wolves constitutes a take in the form of harassment and harm in violation of the ESA. 16 U.S.C. § 1532(8); 50 C.F.R. § 17.21(f); 50 C.F.R. § 17.31(a); 50 C.F.R. § 17.40(d)(2)(i).

50. Fur-Ever Wild's illegal treatment of gray wolves caused and continues to cause Lockwood and ALDF to divert organizational resources to counteract Fur-Ever Wild's unlawful activity.

51. Fur-Ever Wild's taking of gray wolves without obtaining an incidental take permit deprives Lockwood and ALDF of information about gray wolves to which they are statutorily entitled under the ESA. 16 U.S.C. § 1539(a).

52. Injunctive relief is necessary to prevent future violations of the ESA, stop Lockwood and ALDF's related drain of organizational resources, and make additional information available to Lockwood and ALDF about gray wolves at Fur-Ever Wild.

PRAYER FOR RELIEF

Accordingly, Plaintiffs respectfully request that the Court enter an order:

- A. Enjoining Defendants from killing gray wolves;
- B. Enjoining Defendants from selling, importing, exporting, shipping, carrying, delivering, or receiving any gray wolf or other endangered animal;
- C. Enjoining Defendants from possessing, selling, delivering, carrying, transporting, or shipping, by any means whatsoever, any gray wolf, gray wolf part, or other endangered animal;
- D. Enjoining Defendants from failing to provide adequate veterinary care, adequate shelter, adequate exercise area, adequate food and water, and sanitary conditions;
- E. Enjoining Defendants from possessing gray wolves or other endangered animals;
- F. Declaring that Defendants have violated the ESA by killing threatened gray wolves, selling their body parts, and providing inadequate care;
- C. Awarding Plaintiffs their reasonable attorneys' fees and costs for this action pursuant to the ESA, 16 U.S.C. section 1540; and
- D. Granting Plaintiffs such other and further relief as may be just and proper.

Respectfully submitted,

DATED: September 29, 2017

s/Anthony T. Eliseuson

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