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**Pro hac vice applications pending*

Attorneys for Plaintiff Lorna Smith

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

WASHINGTON WILDLIFE FIRST, LORNA
SMITH, and CLAIRE LOEB'S DAVIS,

Plaintiffs,

v.

KELLY SUSEWIND, individually and in his
official capacity as director of the Washington
Department of Fish and Wildlife and AMY
WINDROPE, individually and in her official
capacity as deputy director of the Washington
Department of Fish and Wildlife,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
DECLARATORY AND INJUNCTIVE
RELIEF**

Violations of 42 U.S.C. § 1983
(First Amendment Viewpoint Discrimination
and Retaliation)

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Few principles are more fundamental to our constitutional system than our right to speak freely on issues of public importance without fear of government reprisal. The First Amendment forbids state officials from using their authority to chill public speech, punish individuals for the viewpoints they express, or to prevent them from associating with others who share their views.

2. This case challenges conduct of Washington Department of Fish and Wildlife (“WDFW”) Director Kelly Susewind and Deputy Director Amy Windrope that violates this fundamental right.

3. Defendants Susewind and Windrope abused their positions by using state resources to fabricate and circulate false, misleading, defamatory, and inflammatory allegations to discredit, silence, and retaliate against individuals who publicly criticized them, disagreed with their policy recommendations, expressed views and conveyed information that they sought to silence, and advocated changes to their approach to fish and wildlife policy.

4. Defendant Susewind boasts that all his decisions as director are framed by his perspective as a hunter, and he clings to the days when the state wildlife agency was operated by and for the benefit of hunters, anglers, and commercial consumptive-use stakeholders. In his view, those are the primary interests and values the agency should consider, and the main constituents with whom it should consult. To serve this agenda, Defendant Susewind has twisted facts, ignored science, and suppressed expert dissenting viewpoints. From his perspective, the state Fish and Wildlife Commission (“Commission”) appointed to set state fish and wildlife policy and supervise his administration has no place questioning his recommendations or challenging his authority.

5. Commissioner Lorna Smith, attorney and wildlife advocate Claire Loeb Davis, and nonprofit Washington Wildlife First have criticized Susewind, challenged his policies, and questioned his approach to fish and wildlife management. They have advocated that WDFW's primary duty is not to serve particular user groups, but to fulfill its mandate to protect, preserve, and perpetuate state fish and wildlife as a trustee for *all* current and future Washingtonians—not just the 2% of the population that hunts. They have plagued Susewind by speaking up on behalf of science, ethics, and transparency, and by calling attention to serious failures in agency leadership, such as the willful failure to meet state safety standards that has recently cost the lives of two agency employees.

6. When Governor Jay Inslee left office last year, Defendant Susewind saw an opportunity to eliminate his opposition. He enlisted Windrope to direct agency and commission staff to search commissioners' computers and emails to compile documents and construct allegations he could use to convince new Governor Bob Ferguson to investigate and remove Smith from the Commission. Specifically, Defendants Susewind and Windrope directed staff to look for evidence that Smith had communicated with Davis and Washington Wildlife First and worked with them to advance shared goals, labeling this protected association as wrongful "collusion" because it deviated from his close relationship with the proponents of consumptive use activities.

7. This case is about more than the direction of Washington's fish and wildlife management, or the perennial tension between wildlife protection and exploitation. Smith, Davis, and Washington Wildlife First bring this action to challenge the creep of authoritarianism into Washington government, prevent the chill on free speech from seeping into other state wildlife

agencies, and protect their First Amendment freedoms to speak on matters of concern and associate freely with others who share their views, without fear of state-sponsored reprisal.

PARTIES

8. Plaintiff Washington Wildlife First (“WW1”) is a 501(c)(3) nonprofit organization incorporated in the State of Washington with its principal place of business in King County, Washington. WW1 is dedicated to using the power of the law, informed advocacy, and strategic partnerships to transform Washington’s relationship with its fish and wildlife from an approach centered around consumptive use to a more democratic paradigm that values science, recognizes the intrinsic value of individual animals, and prioritizes protecting, preserving, and perpetuating wild lives.

9. Plaintiff Claire Loeb Davis is a resident of King County, Washington. Davis is a founder of WW1, has served as the president of its board of directors since its inception, and is currently its executive director. She is also an attorney and the managing partner of Animal & Earth Advocates, PLLC (“AEA”).

10. Plaintiff Lorna Smith (“Smith”) is a resident of Jefferson County, Washington. Smith is a commissioner on the Washington Fish and Wildlife Commission (“Commission”).

11. Defendant Kelly Susewind (“Susewind”) is the director of WDFW. Defendant Susewind is sued both individually and in his official capacity.

12. Defendant Amy Windrope (“Windrope”) is the deputy director of WDFW. Defendant Windrope is sued both individually and in her official capacity.

13. Susewind, Windrope and unnamed co-conspirators acting in concert with them are referred to collectively as “Defendants.”

JURISDICTION AND VENUE

14. This is an action for injunctive and declaratory relief and damages pursuant to 42 U.S.C. § 1983, based upon Defendants’ ongoing violations of the rights secured to Plaintiffs by the First Amendment of the U. S. Constitution.

15. The Court has jurisdiction under 42 U.S.C. §§ 1983 and 28 U.S.C. §§ 1331 and 1343.

16. This Court has venue pursuant to 28 U.S.C. § 1391, because the events or omissions giving rise to the claims herein occurred in this district.

LEGAL BACKGROUND

17. Under 42 U.S.C. § 1983, a party may seek injunctive relief and damages against a party who, under color of law of any state, deprives a person within the jurisdiction of the United States of any rights, privileges, or immunities secured by the U.S. Constitution and other applicable laws.

18. In relevant part, the First Amendment to the U.S. Constitution provides that “Congress shall make no law...prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. CONST. AMEND. I, § 1.

19. The Supreme Court has ruled that the First Amendment also protects the “freedom to associate with others for the common advancement of political beliefs and ideas[.]” *Kusper v. Pontikes*, 414 U.S. 51, 56-57 (1973).

20. Speech on matters of public concern “occupies the ‘highest rung of the hierarchy of [F]irst [A]mendment values.’” *Dodge v. Evergreen Sch. Dist. #114*, 56 F.4th 767, 782 (9th Cir. 2022). The central commitment of the First Amendment is that “debate on public issues

should be uninhibited, robust, and wide-open.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). This applies with particular force to people functioning in a legislative or quasi-legislative capacity who “have an obligation to take positions on controversial political questions[.]” *Bond v. Floyd*, 385 U.S. 116, 136 (1966).

21. The First Amendment generally prohibits the government from retaliating or discriminating against individuals for engaging in protected speech. *Hartman v. Moore*, 547 U.S. 250, 256 (2006). Any governmental actions that “have a chilling effect on, and therefore infringe, the exercise of fundamental rights” must “survive exacting scrutiny.” *Perry v. Schwarzenegger*, 591 F.3d 1126, 1139 (9th Cir. 2010) (internal citation omitted).

FACTUAL BACKGROUND

A. WDFW is Led by a Nine-Member Volunteer Commission

22. The Commission is composed of nine volunteers who are appointed by the governor and subject to Senate confirmation to serve staggered six-year terms. There are few statutory qualifications for commissioners:

- The Commission must consist of three commissioners from the east side of the Cascades, three commissioners from the west side of the Cascades, and three at-large commissioners. RCW 77.04.030
- No two commissioners may be from the same county. RCW 77.04.030.
- Commissioners must be registered voters. RCW 77.04.030.
- Commissioners shall have “general knowledge of the habits and distribution of fish and wildlife.” RCW 77.04.040.
- Commissioners may not hold any other state, county, or municipal elective or appointive office. RCW 77.04.040.
- The Governor shall “seek to maintain a balance reflecting all aspects of fish and wildlife,” including appointing commissioners who are recommended by organized groups representing commercial and recreational fishers, hunters, landowners, and environmentalists. RCW 77.04.040.

23. Although commissioners are appointed from different geographic regions and may be recommended by various interest groups, they are obligated to serve the public at large – not the residents of a specific geographic area or the members of any special interest group.

24. The Commission has broad authority under RCW 77.04.055. It is charged with establishing state fish and wildlife policies to “preserve, protect, and perpetuate wildlife, fish, and wildlife and fish habitat.” It is also directed to “maximize fishing, hunting, and outdoor recreational opportunities compatible with healthy and diverse fish and wildlife populations,” including by establishing hunting, trapping, and fishing seasons. It also has the authority to regulate food fish and shellfish; exercise final approval authority for tribal, interstate, international, and any other department agreements relating to fish and wildlife; adopt rules to implement state fish and wildlife laws; and exercise final approval authority over department budget proposals.

25. The Commission is also charged with appointing the director of WDFW, who serves at the pleasure of the Commission.

26. The Commission employs one staff member, an executive assistant who serves all nine commissioners.

27. Commissioners do not receive a salary, but the state provides a stipend of \$100 for each day worked, which includes days on which Commissioners attend official meetings as well as any other days in which they log hours in service of the Commission. Under this system, Commissioners get paid for a full day whether that day consists of one hour or 12 hours of work. If a commissioner worked all 365 days a year, the most they could receive is \$36,500.

28. At the end of 2024, the Commission consisted of:

- **Chair Barbara Baker**, Thurston County (western WA position). Baker is an attorney who served as the chief clerk of the Washington State House of Representatives before retirement. She is the longest-serving commissioner, having been on the commission since 2017. Her term expires at the end of 2028.
- **Vice-Chair Tim Ragen**, Skagit County (western WA position). Until his retirement in 2013, Ragen was the executive director of the U.S. Marine Mammal Commission, before which he served as the commission's scientific program director. His career focused on the recovery of marine mammals including Steller sea lions and Hawaiian monk seals. He has a Ph.D in oceanography and has served as an adjunct professor at five universities, most recently at Western Washington University. Ragen's term expired at the end of 2024. He was initially reappointed by Inslee, before Ferguson took office and dismissed him from the Commission in February 2025. In March 2025, Ferguson replaced Ragen with retired high school biology teacher and avid hunter Victor Garcia, whose term expires at the end of 2030.
- **Jim Anderson**, Pierce County (at-large position). Anderson was the executive director of the Northwest Indian Fisheries Commission for 20 years before retirement. He has a master's degree in environmental science and is an avid hunter and fisher. His term expired at the end of 2024, but he was reappointed by Governor Ferguson in March 2025. He was elected commission chair on August 15, 2025. His new term expires at the end of 2030.
- **Molly Linville**, Douglas County (eastern WA position). Linville operates a cattle ranch near Wenatchee, WA. She has a B.S. in wildlife biology and worked as a wildlife biologist for the U.S. Fish and Wildlife Service before leaving to run the cattle ranch. Her term expired at the end of 2024. She was replaced by former Governor Inslee in January 2025, but Governor Ferguson brought her back to the Commission two months later. Her new term expires at the end of 2030.
- **Lorna Smith**, Jefferson County (western WA position). Smith was the lead environmental supervisor for Snohomish County and the director of Western Wildlife Outreach, a nonprofit that emphasizes education and co-existence with large carnivores. Her term expires at the end of 2026.
- **John Lehmkuhl**, Chelan County (eastern WA position). Lehmkuhl is a retired research biologist with the U.S. Forest Service. He has a Ph.D. in wildlife biology and was a wildlife research scientist for 30 years, authoring over 100 research papers. His term expires at the end of 2026. He was elected commission vice-chair on August 15, 2025.
- **Melanie Rowland**, Okanogan County (at-large position). Rowland is a retired environmental attorney who worked with the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service, specializing in the Endangered Species Act. Her term expires at the end of 2026.
- **Woody Myers**, Spokane County (at-large position). Myers holds an at-large position. He retired from his job as a WDFW wildlife biologist in 2017 after 40 years of wildlife research work, focused largely on ungulates. He has a B.S. in wildlife biology and has done some graduate work. His term expires at the end of 2028.

- **Steve Parker, Yakima County** (eastern WA position). Parker is a retired fisheries biologist with the Yakama Nation. He has an M.S. in fisheries science. His term expires at the end of 2028.

B. Director Leads Large and Complex Department

29. The Commission is the only authority with the power to hire and fire WDFW's director.

30. There are few statutory requirements to serve as WDFW director. RCW 77.04.080. Like commissioners, he must have "practical knowledge of the habits and distribution of fish and wildlife." He must also have "general knowledge of the fisheries and wildlife resources and of the commercial and recreational fishing industry in this state," but he may not have a financial interest in the fishing industry or a directly related industry.

31. The director "shall supervise the administration and operation of the department and perform the duties prescribed by law and delegated by the commission," including assisting the Commission in fulfilling its mandate.

32. The Commission hired Director Susewind on June 16, 2018, and he began as director on August 1, 2018.

33. Susewind oversees a staff of more than 2,000 employees, including managers, scientists, field staff, and enforcement officers, and an operating budget of over \$1 billion per biennium.

34. Susewind operates WDFW with the help of the executive management team ("EMT"), which consists of Susewind, Deputy Director Windrope, the director of conservation policy, director of external affairs, chief financial officer, and legislative affairs director; the law enforcement chief; the directors of the habitat, wildlife, fish, capital asset management, and communications and public engagement programs; and the six regional directors.

35. As a director and deputy director, Defendants Susewind and Windrope exercise supervisory authority over WDFW employees and the policies and practices challenged in this action.

C. Defendant Susewind Has Close Ties to Hunting Rights Organizations

36. Susewind's qualifications to serve as WDFW director pale in comparison to the qualifications of most members of the Commission. He grew up in Aberdeen, WA, and received an associate degree at Grays Harbor Community College and a B.S. in environmental engineering at Washington State University. After 10 years in the private sector, he was hired by the state Department of Ecology, where he worked for 28 years in the water quality division before the Commission hired him to head WDFW in 2018.

37. Susewind has indicated that being a hunter and angler is a key part of his identity, reporting that the first animal he killed was a bear during a spring hunt roughly 55 years ago. He has said that "hunting shapes everything I do in this job."

38. Early in his tenure, Susewind made clear that he supported increased predator hunting, including increases in cougar hunting limits and the delisting and hunting of gray wolves. Susewind was lauded for these positions by his friends in the hunting community, who were thrilled to have a director who "viewed our issues from behind the trigger." For example, the Winter 2019 edition of the magazine for the Northwest Chapter of Safari Club International featured a column by Hunter Heritage Council President Mark Pidgeon, a longtime friend of Susewind's and a fixture around WDFW headquarters in Olympia. Pidgeon issued a call for members to rally around Susewind:

If you haven't already heard, he went public and said he wanted wolf hunting in the post-delisting wolf plan. He said hunting is a legitimate activity and it is being done in other states. Kelly has also said he wanted increases in the cougar quotas. He went before the Fish and Wildlife Commission to state this. He has challenged the

Center for Biological Diversity lawsuits in court. Every time he has had to make a command decision, he has made it in favor of the hunting community. If we lose Kelly Susewind, we will be in deep trouble....The Department is asking for a \$26 million increase in general funds from the legislature. This will be the Hunters Heritage Council's # 1 goal to get it for him. Kelly needs a win badly. WDFW has faced budget cuts and desperately needs these funds. If Kelly can't get a win, he will be in deep trouble. Remember Director Susewind is an avid hunter. Ask yourself, when was the last time we had a Director who pulled the trigger? When was the last time we had a Director who viewed our issues from behind the trigger? The Hunters Heritage Council supports Kelly 100% and so do I.

39. Susewind has also received high praise from commercial fishing entities and advocates of fish hatchery expansion. On October 5, 2021, representatives of commercial fishing associations, seafood processors, boat charter and supply entities, and the Puget Sound Anglers joined Pidgeon in a letter thanking Susewind for representing their interests: "Kelly has our full support; he has done a great job, and we believe that under Kelly's leadership, there are more good things to come for all of us and for Washington's natural resources."

D. Commission and Director Are Mandated to Protect, Preserve, Perpetuate, and Manage Wildlife in the Public Trust, but Often Prioritize Consumptive Interests

40. The primary mandate of the Commission and the director is to "preserve, protect, perpetuate, and manage" the state's fish and wildlife. RCW 77.04.012. The mandate also requires the Commission and the director to:

- "conserve. . fish and wildlife...in a manner that does not impair the resource";
- "seek to maintain the economic well-being and stability of the fishing industry in the state";
- "authorize the taking of wildlife, food fish, game fish, and shellfish only at times or places, or in manners or quantities, as in the judgment of the commission does not impair the supply of these resources"; and
- "attempt to maximize the public recreational game fishing and hunting opportunities of all citizens, including juvenile, disabled, and senior citizens."

41. The Commission and the Director perform this function as public trustees acting for the benefit of all current and future Washingtonians. *See Ctr. for Biological Diversity v. Dep't of Fish & Wildlife*, 14 Wn. App. 2d 945, 986 (2020).

42. Although charged with representing the interests of all Washingtonians, WDFW and the Commission frequently view hunters, anglers, and commercial interests as their primary stakeholders, and give them outsized influence in the development of rules and policy.

43. Washington's wildlife governance structure developed during an era in which state fish and game agencies were designed primarily to regulate and promote recreational and commercial hunting and fishing. The state first had a fish commissioner in the late nineteenth century, followed by separate departments of fisheries and game. Those agencies were expressly oriented toward managing fish and "game" species for recreational and commercial "harvest." Although by 1987 both departments were reorganized into the modern Department of Fish and Wildlife, the institutional framework retained this consumptive-use foundation, embedding hunting, fishing, and commercial interests into the WDFW's structure and culture.

44. Over the past several decades, however, the scientific and ecological context in which wildlife agencies operate has fundamentally changed. Wildlife populations across North America have experienced dramatic declines due to climate change, population and economic growth, habitat loss, fragmentation, and industrial exploitation, contributing to what many scientists describe as a sixth mass extinction event.

45. In response to these mounting pressures, the public has increasingly recognized that the primary obligation of agencies such as WDFW is to preserve, protect, and perpetuate wildlife populations and ecosystems before facilitating consumptive use. Yet despite this shift in scientific understanding and public values, agency culture and decision-making structures

continue to prioritize consumptive opportunity in ways that do not align with contemporary ecological realities or the protective emphasis embedded in WDFW's mandate.

46. In 2018, multiple agencies and universities collaborated on the America's Wildlife Values Project ("AWV Project"), which assessed changing values toward wildlife in all 50 states and compared them to the values embedded in state wildlife agencies. In Washington, the study found a significant gap between the values held by WDFW employees and those held by the broader public. While 48% of WDFW staff held the "traditionalist" view that wildlife should primarily be used and managed to benefit humans, only 28% of the public held that view. By contrast, 38% of the Washington public held the "mutualist" view that we should try to live in harmony with wildlife as part of our social network, compared to only 17% of WDFW employees.

47. A 2022 state poll by Public Policy Polling underscored these results, finding that:

- 69% of Washingtonians agree that wild animal lives matter in and of themselves, not just because of what they provide to humans, and are worthy of protection in their own right;
- 59% believe the state's primary goal in managing fish and wildlife should be to preserve and protect fish and wildlife; and
- 67% believe all Washingtonians should have an equal say in the management of fish and wildlife.

48. The 2018 AWV Project revealed that 66% of WDFW employees had participated in recreational hunting, with 39% reporting that they had hunted in the prior year, while 97% had participated in fishing, and 65% had fished within the prior year.

49. By contrast, in 2025, about 2% of the Washington population held hunting licenses, while about 8% held fishing licenses. According to a 2022 survey conducted by WDFW, 4% of Washingtonians hunt and 8% of Washingtonians fish, with both numbers falling

below the national average. By contrast, 71% of Washingtonians engage in wildlife watching—14% higher than the national rate.

50. WDFW’s 25-Year Strategic Plan recognizes that Washington’s “human density has taken a toll on fish and wildlife and the habitat they depend on,” while its 2026 Game Management Plan acknowledges that “[h]uman recreation and encroachment onto, across, or near wildlife habitat can often have negative impacts that are not easily mitigated.” Nevertheless, WDFW has invested substantial resources into an “R3” strategy to recruit, retain, and reactivate more hunters and anglers. It has no such similar effort to engage other outdoor recreationalists, including hikers, campers, and wildlife watchers.

51. WDFW’s most influential citizen advisory groups are dominated by hunting, fishing, and industry interests that exert significant influence over WDFW policies.

52. The Budget Policy Advisory Group (“BPAG”) advises WDFW on a wide variety of issues, including budget planning, policy proposals, and strategic planning. Of the 26 seats on the BPAG, at least 16 (or 62%) are held by hunters, anglers, and business representatives, most of whom represent hunting rights organizations, including the Hunters Heritage Council, First Hunt Foundation, Congressional Sportsmen Foundation, Boone & Crockett Club, American Sportfishing Association, and Washington Farm Bureau.

53. The Game Management Advisory Council (“GMAC”) advises WDFW and the Commission on the management of all wildlife classified as “game” species. It is composed entirely, or almost entirely, of hunters, with 70% of its members affiliated with formal hunting and trapping organizations, including the Boone and Crockett Club, Backcountry Hunters and Anglers, the Washington Trappers Association, the Rocky Mountain Elk Foundation, the

National Wild Turkey Federation, HOWL for Wildlife, the Conservation Coalition of Washington, and the Washington State Archery Association.

54. The GMAC is accustomed to having WDFW and the Commission follow its advice on the adoption of new hunting rules, and bristles when its recommendations are not implemented. For example, on April 29, 2021, GMAC member Mark Pidgeon, the president of the Hunters' Heritage Council, objected that the Commission failed to vote on proposed rule changes recommended by the GMAC, writing that the "GMAC review is the most important process when it comes to bringing proposed rule changes to the Commission[.]"

55. WDFW's Game Management Plan ("GMP") outlines management strategies for all state wildlife classified as "game species." The members of the GMAC were given the opportunity to review and comment on chapters of the new GMP beginning in spring 2024—more than a year before the draft was released to the public, or even provided to all members of the Commission. No similar opportunity was given to any representatives of environmental or wildlife advocacy organizations. While the GMAC members and their associates had more than a year to consider sections of the draft plan as it was under development, the rest of the public received only 60 days to review and provide comments on the entire 200-page document.

E. Davis Represents Clients Suing WDFW and Begins Personal Advocacy

56. Beginning in 2017, Davis has filed multiple actions challenging Defendant Susewind's orders to kill state endangered wolves. These actions have fundamentally changed how WDFW makes such decisions and repeatedly exposed management's lack of transparency and failure to follow its own protocols in making these decisions.

57. Davis began her engagement with WDFW in 2017, when she was a partner at Lane Powell PC, the chair of its pro bono committee, and the head of its Animal and Earth

practice group. While at Lane Powell, Davis brought several lawsuits against WDFW, challenging multiple actions to kill state-endangered wolves, an illegal program that allowed hunters to use hounds to pursue black bears, WDFW's failure to adequately protect fish and marine ecosystems from commercial aquaculture operations, and its violations of the Public Records Act ("PRA").

58. On May 31, 2018, Davis filed suit to challenge WDFW's secretive program that allowed hunters to pursue bears with hounds every spring, in defiance of the 1996 citizen initiative that banned hunting bears or cougars using hounds or bait. Despite public exposure and protests from staff that this program was illegal, Defendant Susewind continued to operate the program until October 2020, when the state appeals court ruled that it was illegal and forced WDFW to shut it down.

59. In 2019, Davis and senior attorney Ann Prezyna left Lane Powell to form AEA, a small firm which brings public interest legal actions in state and federal court on behalf of wildlife and the environment. Through AEA, Davis has continued to litigate against WDFW, including bringing challenges for violations of the State Environmental Policy Act ("SEPA") and the Administrative Procedure Act ("APA") related to its hatchery policies, carnivore hunting rules, actions to kill endangered wolves, and, most recently, the adoption of the Game Management Plan.

60. In 2021, 2023, and 2025, Davis filed three actions challenging WDFW's failure to comply with SEPA when it adopted new hatchery policies, approved a massive expansion of hatchery production, and approved the construction of a new hatchery facility. One of these cases is still before the trial court, while two others are before the Washington Court of Appeals.

61. Most recently, on October 14, 2025, Davis filed an action on behalf of Washington Wildlife First, Predator Defense, and Kettle Range Conservation Group challenging Windrope's order to kill another member of the Sherman wolf pack, an action that would likely have led to the death of the pack's remaining pups and destroyed the pack. Davis gained a temporary restraining order in King County Court that prevented WDFW from killing any wolves in accordance with Windrope's kill order. Plaintiffs voluntarily dismissed the case after the kill order expired and WDFW claimed the case was moot.

62. If Windrope's order had been carried out, it would have been the 37th wolf WDFW has killed on behalf of the family that owns Diamond M Ranch. WDFW routinely kills wolves on behalf of this powerful ranching organization despite the evidence that it regularly puts its cattle in harms' way, consistently ignores agency protocols, and routinely fails to take commonsense actions to protect its cattle. In fact, 70% of all the wolves WDFW has killed have been on behalf of Diamond M.

63. Most recently, Davis filed an action on behalf of Washington Wildlife First to challenge WDFW's February 13, 2026 adoption of a new Game Management Plan, due to WDFW's failure to complete the Environmental Impact Statement required by SEPA and its violation of the public trust in the development and drafting of the plan.

F. Inslee Appointments Prioritize Expertise and People Who Represent a Broader Range of Washington Values

64. At the beginning of 2020, seven of the nine commissioners (or 78%) were hunters, anglers, and/or representatives of commercial interests. The exceptions were Barbara Baker, an Olympia attorney and former chief clerk of the state House of Representatives, and former doctor Kim Thorburn, who was the most strident and outspoken advocate against hunting

restrictions. At that time, Larry Carpenter served as the chair of the Commission, while Baker was vice-chair.

65. On December 30, 2020, former Governor Inslee appointed longtime conservationists and wildlife advocates Lorna Smith and Fred Koontz to the Commission. A resident of King County, Koontz was appointed to fill the at-large position held by Bob Kehoe, the president of the Seattle-based Purse Seine Vessel Owners Association, and one of only two commissioners (along with Thorburn) who voted against ending coyote hunting contests in 2020. Lorna Smith filled the Western Washington position vacated by long-time commissioner Brad Smith of Bellingham, a dean emeritus at Western Washington University who referred to himself as “Hunter Smith.” Inslee left vacant the Eastern Washington seat vacated by Leavenworth resident Dave Graybill, who operates a website, produces YouTube videos, and appears on the radio as the “Fishing Magician.”

66. Inslee appointed Smith and Koontz because of their specialized expertise and decades of experience as environmentalists and wildlife advocates.

67. Smith is a fifth-generation Washingtonian, who comes from a long line of lighthouse keepers, hunters, fishers and boaters. Since 1980, Smith has been appointed by five different Governors to serve on various environmental commissions and boards. She was Snohomish County’s supervisor for environmental compliance and public outreach from 1986-2007, overseeing a staff of 25 biologists, geologists, planners, and outreach staff, serving as the county’s point person for compliance with the ESA, NEPA, SEPA, and other environmental laws, and leading efforts to protect the Snohomish River estuary. Following her retirement, she spent four years in Costa Rica working on habitat projects and establishment of a new national park. After her return in 2012, Smith served three terms on the Jefferson County Planning

Commission and the Jefferson County Conservation Futures Oversight Committee. From 2012-2021 she was Executive Director for Western Wildlife Outreach, working under contract for WDFW, the U.S. Fish and Wildlife Service, and the Woodland Park Zoo to develop educational materials and conduct outreach on coexistence with bears, cougars and wolves.

68. Koontz holds a Ph.D. in zoology and was the Vice President of Field Conservation at the Woodland Park Zoo until his retirement in 2017. Prior to that position, Koontz worked at the Wildlife Conservation Society and the Wildlife Trust (now called “EcoHealth Alliance”). Through these positions, Koontz consulted on conservation projects in Latin America, Africa and Asia. Koontz taught as an adjunct professor at Columbia University for ten years, and served on the executive management committee for Columbia’s Center for Environmental Research and Conservation. He has published more than 50 articles for scientific and lay audiences, given hundreds of public lectures on conservation and animal behavior, and served on professional committees for the World Conservation Union (IUCN), NASA, New York State, Washington State, and others. Prior to being appointed to the Commission, he was a member of WDFW’s Wildlife Diversity Advisory Group and Budget and Policy Advisory Group.

69. The appointment of Koontz and Smith resulted in immediate backlash from hunting groups such as the Hunters Heritage Council, which protested the new commissioners’ lack of connections to hunting, commercial and recreational fishing, and agriculture and ranching, claiming this threw the Commission “out of balance.” Commissioner Thorburn immediately took the opportunity to declare that “[h]unting is under attack in Washington,” drafting an Op-Ed characterizing disagreements over hunting methods and seasons as “culture wars.”

70. Davis responded to Thorburn’s Op-Ed, dismissing her “inflammatory rhetoric [as] an irresponsible attempt to ignite the very ‘culture wars’ she pretends to bemoan, and to distract from valid criticisms of [WDFW].” Davis took WDFW management to task for ignoring staff objections that its secretive bear hounding program was illegal and for recommending an expansion of cougar hunting, despite the fact that its own science showed that it was unsustainable and could lead to more human-cougar conflicts. Previewing an upcoming vote on a “nonlethal” hound pursuit season for cougars, Davis asked: “Will commissioners listen to their experts, examine science and follow the law? Or will they take Thorburn’s lead, disregarding facts and demonizing informed citizens as anti-hunting ideologues?”

G. WW1 Forms in 2021 to Reform State Wildlife Governance

71. By 2021, Davis and her law partner Ann Prezyna recognized the need for a state-based organization to advocate on behalf of wildlife and wildlife governance reform, and they joined with longtime citizen wildlife advocates David Linn and Ron Reed to form Washington Wildlife First. Davis, Prezyna, and Linn continue to serve on the WW1 board.

72. WW1 launched in September 2021, propelled by its founders’ frustrations with WDFW’s dysfunction, disregard for science, and prioritization of consumptive interests at the expense of fish and wildlife, and in conflict with the values and viewpoints of the vast majority of Washingtonians. Davis served as WW1’s board president, while Linn was its interim executive director until WW1 hired Samantha Bruegger as executive director in December 2021.

73. WW1’s mission is to transform Washington’s approach to fish and wildlife policy into a more democratic paradigm that elevates science, recognizes the intrinsic value of individual animals, and prioritizes protecting, preserving, and perpetuating wild lives and ecosystems. WW1’s credibility, relationships, and reputation are key to the success of this

mission. It is the only Washington nonprofit focused on reforming statewide wildlife governance and addressing state management issues impacting both fish and wildlife.

74. During its first year, WW1 built a powerful coalition of dozens of local, state, and national fish and wildlife advocacy groups and individual advocates who support the need for reform (“WA Wildlife Coalition”). Although members of this coalition communicate regularly and sometimes choose to participate in joint actions, each group and individual advocate continues to operate independently in accordance with their own missions and objectives.

75. At its inception, WW1 committed to sending a representative to attend every in-person Commission meeting, and it has fulfilled that promise. It is the only organization that attends Commission meetings with regularity. Sometimes, the WW1 representative has been the only member of the public in the audience, although they have frequently been joined by other members of the WA Wildlife Coalition.

76. By contrast, hunting interest groups have attended Commission meetings sporadically over the last several years, usually when there are hot-button issues under discussion or a campaign urging them to provide public testimony. This attendance has become more regular since Defendant Susewind, Defendant Windrope, and hunting rights groups launched their campaigns to target WW1 and oust Smith and other Commissioners, such that hunting advocates now attack, abuse, and denigrate particular commissioners, WW1, and other wildlife advocates at virtually every meeting.

77. They have been advised to avoid using Commissioner names so now sometimes sidestep this by using “clever” references such as “Commissioner from Jefferson County” followed by insulting and disparaging personal comments to attack Commissioner Smith.

78. Often, representatives of hunting rights groups participate in testimony by Zoom, or leave the meetings as soon as their testimony is over, while WW1 usually stays for the entirety of the two-day Commission meetings, engaging with commissioners on a wide variety of fish and wildlife issues. Attendance at these meetings has offered WW1 a unique opportunity to develop relationships with members of the Commission and speak with them regularly about a wide-variety of pending issues.

79. WW1 engages with the matters under discussion at virtually every commission meeting, providing comments and testimony on a broad range of topics, including carnivore science and management; hatchery, fish, and marine mammal policy; disease management among ungulates; wildlife classifications; the protection of sensitive, threatened, and endangered species; hunting/trapping season frameworks; enforcement actions to kill wildlife; agency governance; the role of ethics in wildlife policy; and the consideration of guidance and policy documents such as the Conservation Policy, Best Available Science Policy, State Wildlife Action Plan, and Game Management Plan. WW1 also regularly submits comments on WDFW's SEPA determinations and has researched, drafted, and filed substantive petitions for rulemaking to change policies related to cougars, bears, and wolves.

80. WW1's goal is to provide relevant and reliable information to the commissioners to aid them in making decisions, helping them to overcome their resource limitations so they can consider issues independently, rather than being simply a rubber stamp for recommendations by Susewind and his management team. Toward this end, WW1 dedicates itself to developing a deep understanding of the issues on which it engages and to providing strong factual and scientific support for its positions.

81. WW1's Science and Advocacy Director, Dr. Francisco Santiago-Avila, is a leading national expert in large carnivore science and policy, human-wildlife coexistence, and conservation ethics. Under his guidance, WW1 follows scientific developments, analyzes new data, and carefully monitors WDFW's activities, consulting regularly with independent scientists and subject-matter experts across disciplines—including wildlife ecology, population modeling, conservation biology, genetics, animal behavior, animal well-being, ethics, disease ecology, and environmental law—to ensure that its analyses are ethically and scientifically grounded, and methodologically sound.

82. WW1 also assists its supporters and members of its Wildlife Coalition in advocating more effectively by expanding the information and resources available to both individual advocates and other nonprofits. Instead of taking the easy route of baiting its supporters with inflammatory rhetoric and misleading characterizations, WW1 engages them on a deeper level, explaining the issues and providing substantive talking points for its positions, so they can be thoughtful and effective advocates.

83. This approach has been successful at dramatically increasing public engagement on state fish and wildlife issues. Before WW1, the Commission made many of its decisions in empty rooms, with no publicity, and relatively little engagement from wildlife advocates or the public. WW1 has shifted that calculus by publicizing WDFW actions and Commission decisions and educating and empowering the public to engage with the Commission on behalf of wildlife, resulting in public commenting periods that are frequently oversubscribed with dozens of Washingtonians hoping for a chance to weigh in on current wildlife issues.

84. Thorburn immediately began working with hunting rights groups to oppose WW1. In late September/early October 2021, she told Dale Magart of the Northeast Washington

Wildlife Group that Davis was “a problem.” She falsely claimed that the Conservation Policy developed by Baker and Koontz was “from Washington Wildlife First,” and called it an “animals have rights” thing. She also warned Magart that the “make-up of the commission is heavily slanted and it could get worse” and urged hunters to demand the appointment of licensed pro-hunters to the Commission.

H. Smith Faces Intense Backlash After 2021 Vote to Ban Spring Bear Hunting

85. WDFW allows nearly all wildlife species a respite from hunting during the spring, so they can recover from winter and raise their young. Before 2021, the only exceptions were turkeys, a species that WDFW transplanted into Washington for the express purpose of hunting; cougars, who hunters could legally kill from September through April; and black bears.

86. Defendant Susewind and his EMT justified the spring hunting of black bears by contending that it was necessary for “management” reasons, and specifically designed to decrease bear-human conflicts and alleviate damage to tree farms. But as Commissioners and advocates—including Smith, Davis, WW1, and many others—pressed for evidence, it became clear that these claims were not supported by the best available science. Management failed to substantiate any concrete management need, relied on uncertain and incomplete population data, and provided shifting or inconsistent rationales while withholding or obscuring key information from the Commission and the public. At the same time, credible concerns were raised that the hunt could harm bear populations, particularly given increased harvest pressure, unreliable monitoring tools, and the likelihood of orphaning dependent cubs during a vulnerable period. These issues became a central point of conflict, as Davis, WW1, Smith, and others challenged the Department’s representations, exposed gaps between its claims and the underlying science, and advocated for a more precautionary, transparent, and scientifically grounded approach.

87. Every fall prior to 2020, the Commission rubber stamped WDFW management's recommendation for a new spring bear hunt for the following year, making small adjustments as to how many bears could be killed in different regions of the state. In November 2019, for example, the Commission unanimously voted to approve the spring bear hunt, after only one member of the public testified in opposition to the hunt.

88. The attitudes toward the hunt began to change in December 2020, thanks to work by citizen advocate Martha Hall, who gathered evidence that showed that the hunt had long been disconnected from any purported "management" need, and that WDFW could not demonstrate any compelling reasons to treat bears differently from other species by allowing spring hunting.

89. In December 2020, more than a dozen people testified against the spring bear hunt, including Hall and her sister Sharon Stroble, Davis, future WW1 board member David Linn, and future WW1 Executive Director Samantha Bruegger. During their testimony, Davis, Linn, and Bruegger challenged statements by WDFW management and its legal consultant Assistant Attorney General Joe Panesko, who had inaccurately claimed that the upcoming vote merely concerned technical details about the hunt, and would not have an impact on whether a hunt would take place the following year. In reality, if the proposed rule changes were not approved, there would have been no spring bear hunt in 2021.

90. Later that month, the Commission voted to approve the 2021 spring bear hunt, while continuing to express confusion about the implications of the vote. Only Baker dissented.

91. A few days later, Davis filed suit against WDFW on behalf of Hall and Stroble, challenging WDFW's failure to notify the public that the vote would determine whether the hunt would continue and alleging that the decision was arbitrary and capricious because the Commission did not understand the implications of its vote.

92. On April 2, 2021, a Thurston County judge upheld the Commission's decision to proceed with the 2021 hunt, holding that the notice WDFW provided barely passed muster under the APA. In her ruling, the judge gave the agency "no better than a C grade," finding that the rulemaking notice was vague and imprecise and that the record showed the Commission was confused about what it was deciding and the basis for its decision.

93. Nonetheless, WDFW management repeated the same mistake later in 2021, once again issuing a rulemaking notice suggesting that the upcoming vote would merely impact details about the hunt, and concealing that the Commission's authorization was necessary for the hunt to go forward in 2022.

94. This time, the newly formed Washington Wildlife First organized opposition to the spring bear hunt, helping turn out nearly 100 people to speak against the hunt at the Commission's public hearing on October 22, 2021. WDFW management was shocked and angered by this turnout, contacting hunting groups as soon as the hearing ended to scold them for failing to appear: "Regardless of the semantics hunters knew that this hunt was in jeopardy and should have shown up to the hearing."

95. After being alerted to the issue by WDFW management, hunting groups were immediately up in arms that WDFW did not provide them with a special opportunity to comment. Although they received the same hearing notice as the rest of the public, they expressed outrage that WDFW did not warn them that the vote on the spring bear hunt would be controversial and allow them a special opportunity to provide their input, given the "heavy input from the animal rights community." Pidgeon wrote to management to object that the "ball was dropped" because "we as GMAC members were not given an opportunity to give the

Commission our input.” He concluded: “Shame on [the Commission] for not allowing a GMAC vote! Our voice deserved to be heard.”

96. The speakers testifying against the hunt included several students, including law students at the University of Washington. Following the hearing, one law student interviewed commissioners to attempt to write a freelance story about the spring bear issue and other issues before the Commission, including a recent audit of workplace culture by the state auditor. In response to a question by Commissioner Thorburn, the law student told her that he hoped WW1 would publish his finished article. After learning of this connection and consulting with WDFW management, Thorburn and Linville filed a complaint with the University of Washington law school, alleging that the student acted unethically and demanding possession of the tapes of the conversations, which he made with their permission. As a result of the complaint, the law student could have faced expulsion, disciplinary action, or interference with his ability to be admitted to the bar. He was immediately cleared of any wrongdoing after the university investigated the matter, but the incident rattled him and scared him away from finishing his article.

97. The Commission originally planned to hold a vote on the spring bear hunt a week after the hearing. However, WDFW management pushed off that vote, in part to give hunters a special opportunity to voice their viewpoints after the formal window for comment had closed. During the interim, the Commission held a special hearing on the spring bear hunt on November 15, 2021, during which staff answered questions posed by Commissioners, conceding that the hunt was a “recreational hunting opportunity” and that that they were unable to show that it achieved management goals.

98. The Commission took a final vote on the 2022 spring bear hunt on November 19, 2021. During the debate, Smith raised ethical concerns about hunting bears during such a

vulnerable time of year, right after they had emerged from hibernation. She also referenced recent WDFW science raising doubts about WDFW's estimate of the black bear population, and pointed to a recent spike in bear mortality due to the Commission's 2019 decision to double "bag" limits in parts of the state. She noted the warning in WDFW's Game Management Plan that it would be difficult to detect a population decline until numbers had already dropped significantly, and urged caution in approving additional hunts until staff scientists had finished their assessment of the population.

99. In response to statements by commissioners, Susewind suggested that commissioners had "tweak[ed]" the facts, but declined to address their statements, saying that "I don't think that I have time to go through everything I heard that I disagree with." He recommended that the Commission approve the hunt because it was a "good opportunity option."

100. With one Commission seat still vacant, the Commission's vote on the hunt was tied at 4-4, with Commissioners Smith, Koontz, Baker, and Carpenter voting against the hunt. Because the hunt needed the Commission's approval to proceed, this meant the 2022 spring bear hunting season would not go forward.

101. The backlash from bear hunters was immediate and fierce, through letters to the Commission, blogs, social media, petitions, and podcasts. They demanded that the commissioners who opposed the hunt be removed from office, lashed out at the "antis," and proclaimed that the vote showed the Commission's determination to end hunting in the state.

102. Each of the Commissioners who voted against the hunt was singled out for abuse and ridicule, but Smith received the brunt of the criticism: she was called "emotional," "unfit to serve," "envirowacko," a "PETA grass eater," and a "cancer that will not go away." Comments on social media showed that people were looking for her address, amid calls for her and the other

opponents of the hunt to be “hung publicly to make an example of corruption.” Although none of the threats against Smith were specific enough to be actionable, WDFW Enforcement Chief Steve Bear urged her to take them seriously and “operate with a heightened level of awareness.”

103. Angry bear hunters were egged on by Defendant Susewind and other members of management who worked to stoke the flames. Some staff members eagerly joined in on the abuse, signing onto a petition to have Smith recalled. At a virtual open house on December 7, 2021, Susewind bemoaned the Commission’s decision, but said that he was confident that the suspension of the spring hunt was “just a pause,” promising that he and his staff would be “working our butts off...to keep it a pause.” During another virtual open house on December 17, 2021, Susewind referred to the “dysfunction” among the commission and entertained questions about whether all commissioners should be required to be hunters or anglers—opining that this was not necessary because “some of our strongest proponents for hunting and fishing on the commission don’t hunt or fish themselves and they are incredible advocates for those consumptive activities.”

104. The constant abuse from the public and efforts by management to undermine the Commission led Koontz to resign his seat on December 13, 2021, explaining in his resignation letter that the “Commission is currently stuck in a politicized quagmire,” and had “largely lost the ability to have civil public conversations.”

I. Spring Bear Issue Drags On Through 2022

105. Bear hunters seized on the opportunity created by Koontz’s resignation to petition the now 7-member commission to reinstitute the spring 2022 hunt, claiming this reversal was necessary to correct an “egregious crime perpetuated upon the sporting community and the fine citizens of Washington State.” Susewind’s friend Mark Pidgeon added to the hyperbole, claiming

the vote was a “travesty of humungous proportions [that] was perpetuated upon the citizens of Washington State.”

106. On January 21, 2022, following a contentious debate, the Commission approved the petition to restart rulemaking on the 2022 spring bear hunt by a margin of 4-3. Smith, Baker, and Carpenter opposed the attempt to reverse the decision made just two months before, pointing out that new appointments to the Commission were imminent, that the reversal undermined Commission credibility, and the decision could well be reversed again when the Commission was back at full strength.

107. On January 26, 2022, former Governor Inslee appointed three new members to the Commission. He selected Ragen to fill the seat vacated by Carpenter, who had decided to step down after overstaying a term that expired October 31, 2020; tapped Lehmkuhl to fill the Eastern Washington seat that had remained open since Graybill left the Commission at the end of 2020; and selected Rowland to fill the at-large position Koontz had occupied.

108. The new commissioners were immediately faced with decisions about spring bear hunting. On March 11, 2022, the Commission held a special web conference to hear briefing and public comment on the new rule management had proposed to revive the hunt, hearing testimony from more than 50 people, including Davis, Bruegger, Linn, Prezyna, and Reed.

109. On March 19, 2022, the Commission voted to reject the new rule WDFW management proposed to revive the 2022 spring bear hunt, with Smith, Baker, and all three new commissioners opposing the rule.

110. Susewind was undeterred. On May 4, 2022, management filed notice that it planned to initiate rulemaking for a 2023 spring bear hunt. However, this proposal was short-lived, as the Commission voted by a margin of 5-4 on July 15, 2022, to direct management not to

prepare the rule proposal, indicating its intent to develop a spring bear hunt policy prior to entertaining any future proposals to restart the hunt.

111. After several more discussions on the issue, the Commission held a facilitated workshop on November 18, 2022, to discuss approval of a spring bear hunt possibility. Susewind inserted himself into the discussion to deliver an emotional plea for the Commission to keep the hunt and describing its personal significance to him, revealing that the first animal he killed was a bear during a spring hunt roughly five decades earlier. He explained that it was a special experience to kill bears during the springtime when the snow was melting and the surroundings were green, which could not be matched by waiting roughly 2-3 months for the “fall” season to begin in August: “Don’t tell me that [if] I kill a bear in the fall it’s the same as killing a bear in the spring, it’s just not.”

112. Smith voiced her discomfort with Susewind’s outburst: “I respect your opinion, but this is supposed to be a discussion among the commission, working with our facilitators and we realize this is a passionate issue to you personally, but I don’t think we want to bring that into our discussion right now.” Defendant Susewind snapped back angrily: “Well, I mean, so you want to respect opinions and values but you don’t want someone to speak up who is sitting here at the table who is the lead of the group who has brought these hunts to you for years....To say you don’t want to hear from the agency you’ve heard enough, to me is probably more offensive than what you felt from me.”

113. Ultimately, the Commission voted to approve a policy statement banning recreational spring bear hunting, with Smith, Ragen, Lehmkuhl, Rowland and Baker voting in favor.

J. Smith, Davis, and WW1 Stand in Opposition to Defendants Susewind and Windrope on Numerous Fish and Wildlife Issue

114. While the spring bear decision was a flashpoint for Susewind, it was just one of the many topics during the past four years over which Smith, Davis, and/or WW1 have clashed with him and Windrope. At several public meetings Smith has challenged him directly for making mis-statements or for over-stepping his authority. Recently he attempted to get the Commission to endorse his behind the scenes semi-commitment to Colorado to allow endangered Washington wolves to be tranlocated there, a policy decision beyond his authority.

115. Since she started as a commissioner in 2021, Smith has disputed recommendations made by Susewind and Windrope, disagreed with their views, endorsed policies that they opposed, resisted their attempts to bury inconvenient science, and demanded that Susewind and Windrope be held accountable for the problems in the agency that they lead, including its dismal safety record. From the beginning, Smith has resisted Defendant Susewind's and Defendant Windrope's attempts to bully, silence, and control her.

116. In Smith's very first meeting on January 28-30, 2021, she joined Commissioners Baker and Koontz in speaking and voting against the "cougar pursuit season" proposed by management, which authorized hound hunters to use their dogs for the "nonlethal" pursuit of cougars in what many characterized as an attempt to make an end run around the voters' 1996 ban on hound hunting. At the following meeting, on February 12, 2021, Smith was the sole voice in opposition to management's recommendation to allow cattle grazing on the public lands WDFW had acquired for the purposes of maintaining wildlife habitat.

117. Both in the courtroom and in public forums, Davis has been challenging Susewind's leadership since he began as director in 2019. From the time that WW1 began in 2021, Davis and other WW1 representatives have regularly criticized Susewind's and

Windrope’s policies; rallied members of the WA Wildlife Coalition and the public against their recommendations; highlighted science and facts that they sought to obscure or distort; and sought to hold them accountable for the failings of their administration, including the chronic safety violations that have led to the tragic deaths of two WDFW employees. Davis and WW1 have exposed agency dishonesty and dysfunction and called for reforms, including Susewind’s dismissal.

118. Other issues on which Smith, Davis, and/or WW1 have expressed viewpoints disfavored by Susewind and Windrope include the following.

1. Management of Chronic Wasting Disease

119. On February 25, 2022, Smith joined with Ragen and Rowland in arguing in favor of a rulemaking petition brought by citizen Rocky Ross, asking the Commission to consider rules to outlaw the baiting of deer and elk, to help delay the onset and reduce the spread of Chronic Wasting Disease (“CWD”). Management acknowledged that these changes would benefit state ungulates and help protect against CWD but said that they were “premature.” They insisted that because many hunters used baiting, they needed time to do “human dimensions work” with the hunting community before proposing a ban. Susewind did not take action on this issue until *after* CWD was first confirmed in Washington in August 2024 and had begun to spread, at which time he approved emergency rules to ban baiting to reduce the spread of the disease.

2. Susewind’s Push to Downlist Endangered Wolves

120. Susewind has been clear from the beginning of his tenure that he supports removing protections for gray wolves. Susewind initiated the process to downlist wolves from “endangered” to “sensitive” on the state endangered species list in 2022, even though the species had not met the benchmarks for downlisting in the state’s Wolf Management and Recovery Plan,

while Smith, Davis, and WW1 led the opposition to Susewind's effort to prematurely downlist wolves. Smith, Davis, and WW1 raised concerns that WDFW's analysis departed from the best available science by downplaying ongoing threats to recovery, including recent significant increases in human-caused mortality, persistent poaching, geographic underrepresentation, and the fragility of the small, recovering population. They emphasized that the statutory criteria for downlisting in the wolf management plan had not been met and that WDFW's conclusions relied on selective interpretation of data while failing to adequately account for uncertainty, risk, and long-term viability. These concerns highlighted a broader pattern in which Susewind and his administration advanced policy conclusions that were not well or fully supported by the underlying science. The Commission voted to maintain wolves' endangered status on July 19, 2024.

3. Rulemaking to Set Standards for Lethal Removal of Wolves

121. Smith supported changes to the rules governing the lethal removal of wolves in response to livestock predations, which were proposed in rulemaking petitions brought in 2020 by the Center for Biological Diversity ("CBD") and in 2023 by WW1, CBD, and a coalition of eight other wildlife advocacy organizations. The petitions raised concerns that the Department's conflict protocol, and specifically its lethal removal framework, was not grounded in the best available science and instead relied on a narrow and contested body of evidence while disregarding more extensive scientific literature supporting non-lethal measures and questioning the effectiveness of lethal control. In both cases, the Commission denied the petitions, and in both cases, former Governor Inslee granted petitioners' appeals and ordered the Commission to engage in rulemaking. Smith voiced concern over management's efforts to sabotage the rulemaking process in response to the 2020 petition, but the Commission voted 5-4 not to adopt a

rule in 2022. After Inslee granted the appeal on the second rulemaking petition in January 2024, Smith attempted to advance the rule in the wildlife committee that she chaired, but management has nevertheless avoided taking action in response to Inslee’s order for the past two years.

4. Expansion of Hatchery Production Without Scientific Standards to Protect Wild Fish

122. Since 2019, Davis and her law firm have represented multiple organizations in their efforts to force Susewind to comply with SEPA’s requirement that WDFW assess the potential adverse impacts of major actions that could significantly impact the environment. In particular, she has represented WW1, Wild Fish Conservancy (“WFC”), and The Conservation Angler in successive actions WDFW has taken to expand salmon hatchery production without complying with SEPA. At the same time, WW1, WFC, and other organizations in the WA Wildlife Coalition have opposed WDFW’s proposals for new hatchery policies and projects that fail to prioritize the protection and recovery of endangered and threatened wild salmon and ignore the well-established science that shows the potentially devastating impacts that unrestricted hatchery production can have on wild fish genetics, health, predation, and survival. Smith, Ragen, and Rowland were the only commissioners who consistently engaged with these concerns, asking WDFW management and scientists tough questions about their plans for hatchery expansion, grilling them about their compliance with SEPA, and elevating the science about the negative impacts of hatchery production that Susewind and his management team often ignored or sought to suppress. Smith, Ragen, and Rowland were the only commissioners to speak out against the new hatchery policy WDFW management asked the Commission to adopt in 2023, and the only votes against approval of that policy on October 27, 2023.

5. Changes to Bear and Cougar Hunting Seasons

123. In 2023, Davis submitted a rulemaking petition on behalf of WW1 and seven coalition organizations asking for the reversal of rules approved in 2019 and 2020 that increased bear and cougar hunting beyond the levels that WDFW's own scientists said was sustainable. WDFW's scientists were unable to dispute the facts and science in the meticulously researched 48-page petition, but Susewind still urged the Commission to deny it. Smith helped champion the petition, and it was approved by the Commission by a vote of 7-2 in December 2023. Smith resisted Susewind's attempts to delay rulemaking under the petition for several months, until the Commission adopted new cougar hunting rules over his objection by a margin of 8-1 on July 19, 2024. The Commission unanimously adopted new bear hunting rules on April 4, 2025.

6. Killing More Cougars to Purportedly Benefit Blue Mountain Elk

124. Smith, Davis, and WW1 advocated for a science-based approach in resisting a misguided management proposal to allow more cougars to be killed in the Blue Mountains, purportedly to boost elk survival. Susewind recommended the proposal after the preliminary results from the first year of its Predator-Prey Project showed high fawn mortality due to cougar predation, although the study failed to show cougars were a limiting factor for the population. Smith championed the work done by retired WDFW scientists and promoted by Davis and WW1, which demonstrated that management's recommendation ignored the best available science about the impact of habitat and weather on the Blue Mountain elk and the lack of effectiveness of killing predators to boost ungulate populations. Nevertheless, the Commission approved the proposal by a vote of 4-5 on July 15, 2022. After more data was analyzed and the Predator-Prey Project was completed in 2025, researchers confirmed that predation was not a limiting factor for Washington's ungulate herds.

7. Development of the 2026 Game Management Plan

125. Smith was an early and consistent voice raising concerns about WDFW's development of the Game Management Plan ("GMP"), which governs the management of all wildlife species classified as "game." She began expressing these concerns soon after taking office and continued raising them throughout the GMP's development process. She emphasized the need for transparency, scientific integrity, and a coherent, publicly accountable framework, including questioning the legal status of the prior GMP, pushing for a structured approach grounded in best available science, and urging the Commission to address broader public values and concerns beyond traditional hunting interests, particularly ecosystem function and health. Davis and WWI reinforced and expanded these concerns through detailed public comments and advocacy during the GMP's 60-day public comment process in July-September 2025, explicitly challenging the adequacy of WDFW's environmental review under SEPA, and highlighting the GMP's failure to meaningfully incorporate scientific evidence, assess environmental impacts, or provide clear decision-making standards. These concerns culminated in WWI filing litigation in March 2026 to challenge WDFW's inadequate environmental review under SEPA and its failure to develop and draft the GMP in accordance with its mandate and its responsibility as a public trustee.

8. Employee Safety and Workplace Culture

126. Soon after Smith's appointment to the Commission, employee complaints alerted her to issues with WDFW's workplace culture, including bullying and fear of management retaliation against people who dissent or report misconduct. An anonymous employee wrote the Commission on January 21, 2021:

I am a long-time employee with over 20 years at WDFW. For reasons which will become obvious, it is necessary that I submit my concerns to you anonymously. I have never contacted the Commission before, but I can no longer stand by and watch this agency treat its employees with such disrespect and disregard. I want to tell you, first-hand, what it is like to work for this agency.

Fear. WDFW's employees are living in fear. A state of fear created and perpetuated by the Executive Management Team (EMT). EMT talks a good talk – developing the A-S-P-I-R-E values, for example - but they are not demonstrating the values themselves. Employees are encouraged to be “active bystanders” and “see something, say something”, but guess what, those who speak up are treated like the troublemaker and retaliated against by all levels of management. Other employees see this and say “No way am I going to put myself out there! Look what happened to so-and-so when they reported.”

127. The issues described by the anonymous employee were confirmed later that year in a September 13, 2021, report by the Washington State Auditor, Assessing the Workplace Culture at the Department of Fish and Wildlife (“2021 Auditor’s Report”). The auditor found that 11% of WDFW employees reported experiencing retaliatory behavior as a result of reporting unethical or illegal behavior, challenging a supervisor, or even talking to the auditors. Meanwhile, more than two dozen employees interviewed by the auditors describe decisions that WDFW had made on hot-button issues based on purely political considerations, ignoring WDFW’s own research and expert recommendations, while less than half believed that managers are held accountable when they behave inappropriately. Alarming, one in ten WDFW employees reported directly witnessing a WDFW employee or supervisor commit a legal or ethical violation in the past year.

128. The auditor quoted employees who described the agency as a “good ole’ boys” club, where only 7% of the employees were people of color and only 33% were women, and the atmosphere was aggressive and discriminatory. More than 20% of WDFW employees have been the victim of workplace bullying, including yelling, demeaning comments or intimidation in the last year, while 30% had witnessed it happening to someone else. Meanwhile, 25% of the

employees interviewed reported gender discrimination at the Department. Of the 172 survey respondents who said they experienced aggressive behavior, 20 percent said they believed gender was a factor.

129. This auditor’s report was released just a day after the launch of Washington Wildlife First, and Davis discussed it at length in the organization’s first blog. Smith immediately expressed concerns about the report, saying during a public meeting that the agency should view it as a “wake up call,” and that she would be monitoring the progress that Susewind and Windrope made in addressing the serious issues the auditor raised.

130. Since that time, anonymous employees have regularly contacted Davis and others at WW1, describing circumstances in which they experienced retaliation for standing up against unethical orders or challenging their supervisors, and instances where employee science was suppressed because it did not align with management’s agenda. Davis spoke about some of these reports in public testimony on June 25, 2022, commenting on the hypocrisy of Susewind’s and Windrope’s claims that Commissioners were disrespecting employees by asking them difficult questions when they gave Commission presentations.

131. Over the past decade, the Washington Association of Fish and Wildlife Professionals (“WAFWP”), which represents nearly 1,000 professional employees at WDFW, has been urging WDFW to correct hazardous workplace conditions and provide its employees with adequate safety training. Susewind and Windrope refused to address these concerns, leading to hazardous workplace conditions that have disproportionately impacted women. This failure led to the tragic deaths of two female employees in 2023 and 2024, the hospitalization of several employees, multiple citations from the state Department of Labor and Industries for “willful,

serious” violations of workplace safety laws, hundreds of thousands of dollars in fines, and two wrongful death lawsuits.

132. On September 13, 2023, 31-year-old fisheries biologist Erin Peterson became entrapped in Class IV rapids while doing a snorkel survey for WDFW on a remote stretch of river. Peterson fought to keep her head above water for an hour and a half before drowning. She was working alone, without a life jacket, and without the benefit of any agency training on whitewater hazards or swift/cold water survival.

133. Less than four months later, on January 23, 2024, 51-year-old scientific technician Mary Valentine drowned while working alone on a fish trap in another remote section of river. Valentine was also working alone, without a life jacket, and without the benefit of safety training. Her body was not discovered until the following day.

134. The next month, on February 23, 2024, a boat carrying two WDFW employees capsized while they were attempting to move through fast, dangerous waters in the Nisqually River without any training in how to do so safely. One of these employees was hospitalized with a head injury.

135. Following these incidents, Washington’s Department of Labor and Industry (“L&I”) cited WDFW for two “willful serious” and 10 “serious” violations of state safety regulations and levied fines of more than \$230,000. According to L&I: “A violation is classified as willful when an employer knew or should have known the safety requirements, but did not follow them.”

136. In investigating these incidents, L&I noted that “safety was [not] a focus of the agency” and “the agency as a whole appears to be nonchalant to hazards their field staff face on a

daily basis.” WDFW’s human resources director told L&I investigators that WDFW usually does not bother to have staff training “until someone dies.”

137. On March 20, 2025, WAFWP wrote to Governor Bob Ferguson begging him to retain and appoint commissioners who would exercise supervision over Susewind and force him to take safety seriously. Wrote the union: “Management is failing its employees at the most fundamental level, and our members are literally paying for that failure with their lives.”

138. On July 28, 2025, L&I fined the agency \$47,300 and issued 11 citations for “serious” violations after it found that WDFW failed to protect employees in the marine mammal unit from zoonotic diseases, risking “serious injuries involving permanent disability, death, or chronic irreversible illness.”

139. Most recently, on March 17, 2026, another WDFW employee had to be rescued from the Nisqually River, after the boat the employee was piloting lost power and began to sink, and the employee was swept downstream. L&I is currently investigating this incident.

140. Commissioner Smith has taken the lead on the Commission in advocating on behalf of employee welfare and safety, engaging with WAFWP and concerned employees, expressing deep concern over WDFW’s failure to provide safe working conditions, and insisting Susewind and Windrope should be held responsible for the deaths that resulted from their failure to respond to the safety concerns raised by the union. She repeatedly voiced these concerns behind closed doors, but in front of Susewind and Windrope, as they downplayed their responsibility for the incidents and continued to assure the Commission that they had addressed the safety concerns, despite ongoing union complaints, subsequent incidents, and additional L&I citations.

141. Ultimately, the majority of the Commission was unwilling to engage on the issue of employee safety and hold Susewind accountable. Commissioner Linville reflected this attitude during her testimony before the Senate Agriculture Committee during her April 23, 2025, confirmation hearing, when she boasted about the dangers she has braved as a rancher and a biologist with the U.S. Fish and Wildlife Service, laughingly dismissed dangerous work as “really, really fun,” and praised Susewind and Windrope for their actions to address the safety concerns that they knew about at least as early as 2019, saying the deaths had occurred because “the ship hadn’t fully turned yet, but the intent was there.” Linville’s testimony reflected the Commission’s majority view that its role in addressing safety concerns was simply to support, without question, the actions taken by WDFW management.

K. Susewind and Windrope Display Animus Toward Smith, Davis, and WW1 Based on their Dissenting Viewpoints

142. Susewind and Windrope did not hide their animosity toward Smith. To the contrary, they and other members of their EMT frequently denigrated Smith, Rowland, and, to a lesser extent, Ragen, in front of WDFW staff—including at weekly program meetings, Windrope’s weekly “coffee chats,” and even during employee recognition events. They used these occasions to belittle these commissioners, ridicule them, and echo the myths about them that hunting groups were circulating on social media and among their members—such as that they were “anti-hunting” or “animal-rights” advocates, or that they ignored science and disrespected agency staff. Frequently, Susewind, Windrope, and other members of the EMT would just refer to these commissioners in shorthand, as “anti-hunting commissioners,” “special interest commissioners,” or just the “problem commissioners.”

143. Meanwhile, Defendants Susewind, Windrope, and other members of the EMT deliberately isolated Smith, Rowland, and Ragen from staff, banning employees from speaking

directly with them without prior authorization, and threatening retaliation against any who did so. By this means Defendants Susewind and Windrope sought to prevent staff from sharing complaints about their management, disclosing details about operations and programs that Susewind and Windrope wished to hide from the Commission, and discussing facts or science that conflicted with their political agendas. This isolation also allowed Defendants Susewind and Windrope to control the narrative about the “problem commissioners.” Because few employees attended or watched commission meetings, and the EMT had banned them from communicating directly with commissioners, the only information that many of them had about Smith, Rowland and Ragen was the EMT’s description of them as people who ignored science, disrespected staff, and caused the commission to be “dysfunctional.”

144. Defendants Susewind and Windrope also made their animosity toward Smith clear in their communications with other commissioners and staff and their direct interactions with her, snapping at her and berating her during meetings and denigrating her in emails.

145. On information and belief, Defendants Susewind and Windrope enlisted other commissioners and members of staff to keep them “looped in” about Smith’s activities, including Baker and the commission’s administrative assistant. The public records reviewed for this complaint are replete with examples of such reports, and of Susewind’s and Windrope’s attempt to control Smith and other members of the commission, and expressing anger and frustration when they were unable to do so.

146. For example, on May 16, 2022, Wildlife Director Eric Gardner emailed Winthrope about efforts by Smith and Baker to obtain a WDFW poll that showed a decrease in public support for hunting and an increase in support for healthy predator populations. He expressed anger that commissioners are “going outside WDFW to get information because they

do not trust me or the department to provide them the information.” Disregarding the fact that the Commission supervises WDFW management, and not vice versa, Gardner told Windrope that “I’m not sure we can allow this behavior and outwardly facing lack of trust [to] go unchecked.”

147. Baker often appears to have supported the efforts to monitor and control Smith’s activities. But sometimes Susewind and Windrope went too far for her. Following a “pre-meeting” on May 8, 2023, in advance of the Commission’s executive session to discuss the wolf downlisting proposal, Baker texted Windrope, Susewind, and Linville:

In the future, please do not invite me to meetings like the one that happened today. I really don’t want to be any part of “managing” the commission. We collectively had an opportunity to give real meaning to all the work we’ve been doing at least since I’ve been on the commission— the strategic plan, the draft conservation plan, the work of the WAG and all of the biodiversity hopes and funding. All the pieces were in place. We all worked hard for them. But the agency chose to take a different path. I’m OK with that because it is completely your prerogative. But don’t like being part of an effort that is antithetical to the outcome I so believe in and thought we all did, especially when there were other completely viable, legal options. I do believe it takes real vision and real courage to look at a larger picture as we negotiate these issues. But that’s not what we talked about today. We should spend the rest of the year identifying the barriers to recovery and addressing them rather than fighting over a [Periodic Status Review]. The strategic lines can be blended, but apparently not yet. Okay, but hard to know. On a positive note, we will get through this and I’ll do my best to do my part to reduce the conflict and smooth the path. Please don’t minimize this on Thursday. I will make some calls between now and then to calm folks down, but at this point it’s just going through the paces with as little damage as possible.

148. Defendants Susewind, Windrope, and other members of the EMT also demonstrated animus toward Davis and WW1, tracking their activities, warning commissioners not to associate with them too closely, and treating with suspicion any whom they claimed had Davis on “speed dial.” Staff observed Susewind visibly enraged by Davis and WW1 and their challenges to his authority.

L. Sportsmen’s Alliance and its Allies Pursue Campaigns to Expel Commissioners Who Voted to Ban Spring Bear Hunting

149. Hunting rights organizations have launched a series of attacks on Smith and other commissioners who voted to ban spring bear hunting in an attempt to remove them from the Commission.

150. On March 6, 2023, the U.S. Sportsmen’s Alliance Foundation (“SAF”) sued Smith because she was concurrently serving on the Jefferson County Planning Commission. The SAF sought to have her removed from the Commission for violation of RCW 77.04.040, although it did not allege that Smith suffered from any conflict of interest due to the service. The SAF ignored the fact that Linville, one of its favored commissioners, also concurrently served on a county planning commission, and continued to serve on a local school board. Smith challenged SAF’s interpretation of the statute at the urging of the Governor’s office, but ultimately resolved the issue by resigning from the planning commission. The Sportsmen promoted this action by selling its members “I sued Lorna” t-shirts, and hosting a live auction in which people bid with “I sued Lorna” paddles.

151. On June 24, 2023, Washingtonians for Wildlife Conservation (“WWC”), a state-based hunting rights organization, sued Governor Inslee for his Commission appointments. WWC sought to have Smith, Baker, Lehmkuhl, Ragen and Rowland removed from the Commission, alleging that they threw the commission out of balance and failed to prioritize maximizing hunting opportunities. The court dismissed that case on September 15, 2023.

152. On September 11, 2023, the SAF submitted a lengthy and complex PRA request to WDFW, seeking extensive records of communications from each of the commissioners who opposed the spring bear hunt. On January 27, 2025, SAF sued WDFW for delaying the production of substantive records in response to its public disclosure request. Although the court

ruled against SAF in that action, the lawsuit had the effect of speeding up WDFW's response to its request. On May 2, 2025, WDFW produced 16,484 records to SAF, and it made a final production of 25,952 records on May 30, 2025.

153. Meanwhile, hunting groups and hatcheries advocates combined forces to pressure Governor Ferguson to make dramatic changes to Commission composition as soon as he was sworn in on January 15, 2025.

154. The Commission seats held by Ragen, Anderson, and Linville all expired at the end of 2024. By agreement with Ferguson, Inslee made appointments to fill two of these seats before leaving office, reappointing Ragen and replacing Linville with Ferry County rancher and environmentalist Lynn O'Connor.

155. However, on February 6, 2025, in response to pressure from consumptive special interest groups, Ferguson rescinded those appointments and summarily dismissed Ragen, effective immediately. On April 7, 2025, Ferguson announced that he had reappointed Anderson and Linville, and replaced Ragen with Garcia.

M. Susewind and Windrope Seize Opportunity to Manufacture Allegations Against Smith and Demand an Investigation

156. After Ferguson demonstrated that he was unwilling to stand behind Inslee's Commission appointments, Defendants Susewind and Windrope seized the opportunity to try to discredit and unseat Smith and Rowland, the two remaining commissioners who regularly voiced dissenting viewpoints and challenged their hold over the agency. This effort was further aided by WDF's work to rapidly comply with SAF's public records request, and by the fact that Ragen quickly turned in his computer following his dismissal by Inslee.

157. Defendants Susewind and Windrope immediately directed staff to begin searching Smith's and Ragen's laptops for anything they could use to try to discredit and unseat Smith and

Rowland. At the same time, they commandeered the Commission’s administrative assistant—and only supporting staff—to perform email searches to look for evidence they could use against Smith and Rowland. They did not direct any similar search of the records or emails of other members of the commission, including even the other commissioners that SAF had targeted due to their involvement in the decision to ban spring bear hunting.

158. On or about March 19, 2025, Defendants Susewind and Windrope prepared, or directed staff to prepare, a memorandum “For Review by AGO,” outlining potential allegations against Smith, Rowland, and Ragen, along with a few notes about Lehmkuhl and Myers (“AG Brief”). The memo focuses on what they call the “unprecedented” connections between these commissioners and WW1.

159. Although Susewind and Windrope had not disclosed any of these actions to Commissioners or the general public, hunters who had sought the removal of these commissioners begin discussing the investigation on social media in late March, reporting that the commissioners are “going down.” On information and belief, Defendants Susewind, Windrope, and/or other members of the EMT shared their “investigation” with their friends in the hunting community, who posted (and then deleted) some of the details long before they were publicly known.

160. On May 6, 2025, Defendant Susewind provided Thomas Knoll, an attorney working in WDFW’s enforcement division, with two partially filled boxes of documents that had been carefully curated at his direction to suggest that Smith, Rowland, and Davis have participated in misconduct (“Knoll Documents”). On May 8, 2025, Susewind sent Knoll a formal memo asking him to perform a “records review”:

Per our discussion...I would like your independent assessment of the materials provided including a written opinion on whether the records indicate inappropriate conduct. For this review inappropriate conduct would include violating applicable laws and/or rules, violating policies (including the Commission's Rules of Procedure), creating a conflict of interest or the appearance of conflict of interest, other behavior that hinders or risks the agency's ability to complete its mission.

161. Knoll took a little more than a week to finish this task, producing a memo on May 16, 2025 that is rife with false, misleading, inflammatory, and defamatory allegations about Smith, Rowland, and Davis ("Knoll Memo").

162. On the same date, SAF filed a 25-page petition ("SAF Petition") with Governor Ferguson's office targeting all the remaining commissioners who voted to ban the spring bear hunt (Smith, Rowland, Lehmkuhl, and Baker) and asking the governor to remove them from office under RCW 43.06.070, which allows the governor to remove appointed state officers who are not liable to impeachment for "incompetency, misconduct, or malfeasance in office."

163. The SAF Petition drew from the 16,484 records WDFW produced to SAF on May 2, 2025, to manufacture a series of inflammatory claims, most of which seem primarily designed to embarrass commissioners while inflaming SAF members with sensationalistic language. SAF later separated these claims into small video installments with titles such as "FELONIES!?! Watch!," "'The Fanatical Four' Culture of Corruption," and "DEI in Washington."

164. Concerned by her conversations with Susewind and Panesko regarding the SAF allegations, Smith met with Chief Deputy Attorney General Laura Watson and Deputy Attorney General Kristen Mitchell on June 12, 2025, informing them of the hostility that Susewind and Panesko had demonstrated toward her, expressing concern about Panesko's ability to represent the interests of both Susewind and the targeted commissioners, and asking Watson to assign her

separate counsel. Watson responded that she could not provide Smith with an independent lawyer because it was not a legal matter.

165. On Friday, June 13, 2025, Susewind and Baker exchanged emails which indicated that Susewind had already shared the Knoll Memo and the Knoll Documents with Governor Ferguson's office. Susewind suggested sending an email to all the commissioners disclosing that "Barbara and I have reviewed a subset of the records that are concerning and shared them with the Governor's office," and offering to make them available to the Commissioners for review. Baker responded the same day, asking Susewind to reframe the email so that it did not suggest that she was part of the decision to send the documents to Ferguson:

I believe the more accurate message is that our PDR staff and the AG's office had some concerns and flagged them to your office. You and Amy looked at them and felt that the concerns were valid and were high enough that you needed to alert the governor's office. Subsequent to that, you brought me in just so that the chair wouldn't be surprised. That is way too much to put in the short note, but I don't want any commissioners to think that I would, as chair, turn them into the governor's office. I see my role differently than that.

Baker also asked Susewind to allow her to think about the message over the weekend. On Monday, she emailed Susewind that she had concluded that email was unnecessary and she "can't see any value in fueling internal dissension at this point." She wrote that she spoke with Parker, Anderson, and Myers, who said they were not interested in reviewing the documents, and that "Lorna, Melanie, and John all understand the situation and can ask to review if they'd like."

166. Neither Susewind, Windrope, Panesko, nor Baker ever informed Smith of the existence of the Knoll Memo or the Knoll Documents, and she was not provided with a chance to review them until she learned about them through other means nearly a year later.

167. On June 20, 2025, the Office of Financial Management (“OFM”) signed a contract hiring Chiedza Nziramasanga of Transformative Workplace Investigations to conduct the investigation into Smith, Rowland, Baker, and Lehmkuhl.

168. At that point, all Smith knew was that SAF had petitioned for such an investigation; she did not know that Susewind had endorsed it, or that Ferguson had ordered it, until nearly two months later, when *Columbia Insight* reported those events on August 14, 2025.

169. On June 27, 2025, SAF sent Ferguson a five-page supplemental petition containing additional allegations against Baker, Lehmkuhl, and Rowland, that it had pulled from WDFW’s final production of documents in response to SAF’s public disclosure request.

170. On June 27-28, 2025, the Commission met in front of a packed room in Olympia. During open public comment, representatives of hunting interest groups, including SAF, and their members directed particularly virulent comments toward Smith, Rowland, Baker, Lehmkuhl, and WW1, telling commissioners that they were “beyond redemption,” warning them that they had “wakened a beast,” threatening them with the “eye of the tiger,” and telling them that they should never even speak to WW1 because “if you lie down with dogs, you get fleas.” Returning late from the break following public testimony, Baker reported that she had spoken directly to SAF representatives, including SAF attorney Todd Adkins. She said that although the conversation had been “civil” and the parties had agreed to talk at a later time, SAF was not going to withdraw either its lawsuit against WDFW or its petition seeking removal of the commissioners.

171. On August 14, 2025, Columbia Insight reported that Susewind had sent Governor Ferguson a formal letter requesting investigation into the four commissioners who voted to ban the spring bear hunt on August 9, 2025, and that the Governor’s office had confirmed that it

received this letter and authorized an investigation because “the governor takes concerns from an agency director very seriously.” It was not revealed that Susewind had actually requested the investigation in May, and that the Governor had signed a contract with an investigator in June.

172. On August 14, 2025, Franklin Plaistowe from Governor Ferguson’s office reached out to Chiedza Nziramasanga to discuss Defendant Susewind’s “formal request” and schedule an “initial intake meeting.” This intake meeting took place on August 19, 2025, during which Plaistowe referred Nziramasanga to the Knoll memo as the “starting point” for her investigation, although noting that it was “maybe a little conclusory.” Plaistowe forwarded the Knoll Memo and other materials to Nziramasanga two days later, noting again that “it can be a good starting point to understand the issues that DFW had flagged.”

173. Smith was interviewed by Nziramasanga on December 18-19, 2025, at which time she was still unaware of the Knoll Memo, the Knoll Documents, or the fact that Defendants Susewind and Windrope initiated the investigation several months earlier than they had publicly acknowledged.

174. On January 28, 2026, OFM sent the Knoll Memo to Smith, told her that it had received a public disclosure request from a reporter that encompassed the memo, and told her that she had until February 11, 2026 to protest the release of the memo. OFM also shared the memo with Ragen and Rowland, but not with Davis. Smith, Rowland, and Davis sent letters to OFM raising concerns about the content of the memo before the deadline, but OFM notified them that it was unable to find any grounds to withhold the memo and sent it to the *Washington State Standard* on February 11, 2026.

175. The Standard published a story about the Knoll Memo on February 13, 2026, but did not make the memo available to the public. SAF later obtained the memo through a subsequent public disclosure request, and posted it publicly on March 31, 2026.

176. After receiving the Knoll Memo and learning about the two boxes of document on which it is based, Smith filed a public disclosure request for those documents, first with OFM and then with WDFW. On or about February 20, she travelled to Windrope's office in Olympia to pick up a box that Windrope indicated likely contained the same documents that were provided to Knoll, although she acknowledged that during the time the box has sat in her office over the past year, it is possible that some documents may have been added or removed. Windrope denied that WDFW had collected these documents electronic form, and provided Smith with photocopies that contained no metatdata to help determine who may have authored, altered, sent or received the documents.

177. After Windrope provided the Knoll Documents to Smith, she asked her to close her public disclosure request. Smith refused, however, given Windrope's lack of certainty that the documents she gave to Smith represent the universe of documents that she requested, and her still pending request to receive copies of the same documents in electronic form.

178. Roughly two weeks after Windrope provided Smith with the Knoll Documents, Smith received an email from a WDFW public records officer informing her that the documents contain "unredacted confidential information" and attempting to convince Smith that WDFW provided them to her in her role as a commissioner and that as a result they "must not be disclosed, distributed, or shared with anyone." Although Windrope made a copy of the documents before Smith took them, the email also informed Smith that if WDFW were to

receive another request for these documents, she would need to “return a complete copy of everything in your possession back to us so that we can process the request appropriately.”

179. In response, Smith reminded the WDFW officer that these documents were provided to her in response to a public disclosure request, meaning that WDFW has waived its privilege and that she is under no obligation to return them.

N. Knoll Memo Consists of Reckless Speculation Aimed at Inflicting Reputational Harm on Smith, Davis, and Washington Wildlife First

180. Based on the questions Nziramasanga asked Smith during her interview, the Knoll Memo served not only as the “starting point” for her investigation, but also as the template that she followed in conducting the inquiry.

181. However, the memo’s conclusions are tainted from the beginning, because they are informed by “evidence” collected to support a predetermined outcome. Defendants Susewind and Windrope did not use an impartial process to assemble the documents in the Knoll Box, fairly weighing the conduct of all commissioners regardless of their viewpoints or positions. To the contrary, all the evidence in the Knoll Box had already been screened through several filters to ensure that it focused on the desired targets.

182. First, as the Knoll memo acknowledges, the records in the Knoll Box were “gathered or developed” pursuant to SAF’s public records request (“SAF Documents”), which has focused *solely* on the commissioners who voted to ban spring bear hunting. Commissioners Anderson, Linville, Myers and Parker, and former Commissioners Thorburn and McIsaac were thus exempt from scrutiny, either based on the litmus test of their spring bear vote or the time they had served on the commission.

183. Defendants Susewind and Windrope narrowed the focus of the Knoll Documents even further. While SAF took aim at all the commissioners who opposed the hunt, Susewind and

Windrope decided to spare Lehmkuhl, who had carefully moderated his positions following the vicious backlash over his spring bear vote; and Baker, who, by her own account in a frustrated text sent to Windrope on May 10, 2023, “spend(s) much of [her] political capital protecting Kelly and the agency.” Indeed, the SAF Documents suggest that Baker shared Defendants Susewind’s and Windrope’s hostility toward Davis and WW1 and frequently helped them to control Smith.

184. Susewind and Windrope realized what SAF was unable to grasp given its limited experience with, and knowledge of, the Commission—that although they might dissent on a few discrete issues like spring bear, Lehmkuhl and Baker did not pose the same threat to Susewind’s ideology as the three commissioners that he had most difficulty controlling: Smith, Ragen, and Rowland. Since Ferguson had already dismissed Ragen from the Commission, this left Susewind and Windrope free to focus exclusively on Smith and Rowland. Against this backdrop, the documents provided to Knoll made his conclusion about where to focus his review “rather obvious.”

185. Knoll’s conclusions are further undermined by the vague nature of his mission: his memo reports that he was not only instructed to look for violations of the PRA and OPMA and actual conflicts of interests, but also the Commission’s Rules of Procedure, the “*appearance* of a conflict of interest,” and “other behavior that hinders or risks the agency’s ability to complete its mission.” Knoll’s citation to the Commission’s Rules of Procedure is curious—it would be remarkable to base a commissioner’s removal for “incompetency, misconduct, or malfeasance in office” on a breach of Robert’s Rules of Order. But his latter two categories are more insidious, because judgments about what constitutes the “appearance” of a conflict or

“other behavior that hinders or risks the agency’s ability to complete its mission” are particularly malleable as pretexts for viewpoint discrimination.

186. The Knoll Memo is practically devoid of specific references to facts or law, but replete with wild assertions that are both unsupported and unsupportable. Knoll begins with a disclaimer about his lack of knowledge about the Commission, the issues that it deals with, or the laws he has been asked to analyze, promising that for that reason, he will focus on “documents that demonstrate inappropriate behavior on their face” and base his opinions “primarily on indisputable evidence.” Knoll quickly forgets that promise. In the pages that follow, he repeatedly speculates about improper, unethical, or even illegal conduct that “seems to,” “appears,” or “may” have taken place, based on evidence that does not exist, is “not entirely clear,” “cannot be determined” or “cannot be entirely proven,”—before wrapping by “wonder[ing]” about what “other” illegal actions Smith may have taken.

187. The Knoll Memo also criticizes Smith for occasionally using her personal email account to communicate about Commission matters. The memo speculates that “it is not entirely clear” whether Smith has produced all responsive records and characterizes her conduct as “inexcusable,” faulting her for failing to “follow direction” to cease using her personal email account.

188. These accusations are particularly striking given Knoll’s admission that he knew “very little” about the Commission or how it operates. The memo ignores the circumstances that led many commissioners to rely on personal email accounts in the first place and ignores the fact that such use was widespread among the commission. At the time, WDFW had not promptly provided commissioners with functional state-issued equipment or reliable access to agency email systems. In Smith’s case, WDFW took nearly a year to provide the necessary equipment,

and the computers that were eventually issued were frequently glitchy, cumbersome, and often nonfunctional—problems Smith repeatedly reported to agency staff. The memo likewise ignores the practical reality that commissioners have no control over which email address members of the public use to contact them regarding Commission business. Nor does it acknowledge that clear instructions requiring commissioners to use only WDFW email accounts were issued only recently by WDFW and the Attorney General’s Office.

189. A cursory review of the same SAF Documents on which the Knoll Memo relies demonstrates that Smith’s use of personal email was neither unusual nor improper. All commissioners sometimes communicated through personal email accounts, and some current and former commissioners relied on those accounts almost exclusively. The documents further reveal the hypocrisy and the pretextual nature of the allegation: WDFW staff and leadership regularly sent messages to commissioners’ personal email addresses themselves.

190. For example, Assistant Attorney General Joe Panesko—legal advisor to Director Susewind and the Commission—frequently transmitted privileged and confidential communications to commissioners’ personal email accounts, even after those commissioners had been assigned official WDFW addresses and equipment. Some of those messages contained advice concerning ethics obligations and public-records retention requirements. Others addressed the controversial spring bear vote and the very public-records issues that Knoll now invokes as a basis for speculation about Smith’s conduct.

191. Defendant Windrope similarly communicated with commissioners through their personal email and text accounts, including frequent exchanges with Commission Chair Baker. Yet Windrope applied a double standard. For instance, just four days before sending Smith an email on September 11, 2023, chastising her for using a personal email account, Windrope

herself had been corresponding with Baker through Baker's private account regarding Smith and her activities.

192. Knoll's speculation that it is "not entirely clear" whether Smith produced all responsive records is equally revealing. As Knoll would have known, the commissioners who voted to end the spring bear hunt were inundated with massive and unrelenting public-records requests. Commissioners with varying levels of technical proficiency were attempting to comply with those requests as best they could. At the same time, the SAF Documents—and other records in WDFW's possession—show that commissioners whom Susewind chose not to target deleted public texts, messages, and emails. On information and belief, one commissioner who departed before former Commissioner Ragen reportedly wiped his entire hard drive before returning his computer.

193. The Knoll Memo also accuses Commissioner Smith of disregarding the Open Public Meetings Act ("OPMA") in connection with a webinar concerning carnivore-livestock conflict. The memo asserts that Smith refused to abide by the OPMA when she invited fellow commissioners to attend the event and opines that "to Smith, the end justified the means." Knoll then speculates: "I wonder in what other ways she has bent procedure and/or laws to fit her perception of justifiable conduct," suggesting that Smith may also have been untruthful about her responses to public records requests. On the following page, Knoll repeats the accusation, asserting that Smith believes she may engage in potentially unlawful conduct "so long as that activity is not observed."

194. The circumstances surrounding this webinar tell a very different story and instead illustrate Defendants efforts to suppress viewpoints and scientific information that conflicted with their policy agenda.

195. Before Smith assumed the role of chair of the Commission’s wildlife committee, it was longstanding Commission practice—endorsed by both Windrope and Chair Baker—to allow committee chairs broad discretion to determine their agendas, including whether to invite outside speakers, host panels, or receive presentations from members of the public. For example, on October 19, 2021, Windrope and Baker deferred to then-chair Kim Thorburn regarding whether the wildlife committee would hear a presentation from a Klickitat County group concerned about cougar management. Baker explained at the time: “I have staunchly defended the chairs’ ultimate authority to set committee agendas.”

196. That approach changed after Smith became chair of the wildlife committee in April 2023. In September 2023, Smith planned to host a panel discussion during a public committee meeting concerning carnivore-livestock conflicts. She invited several scientists and experts to participate, including Washington cougar expert Dr. Mark Elbroch and Dr. Adrian Treves, director of the Carnivore Coexistence Lab at the University of Wisconsin–Madison and a nationally recognized expert on wolf-livestock conflict. Dr. Treves has published peer-reviewed research indicating that policies relying on lethal wolf removal following livestock conflicts—such as those implemented by WDFW under Susewind—do not reduce future predations and may in fact exacerbate them.

197. Chair Baker initially approved Smith’s plan to host the panel. After learning of the proposed speakers, however, Defendant Susewind reacted angrily and characterized the proposed panel as an improper effort by Davis and WW1 to influence Commission policy. In an email to Baker, Susewind wrote: “This thing is a major stinker from the start... This is plainly an attempt to influence the petition for wolf rule making right in-line with her ambush on you with

these same players.” At Defendant Susewind’s insistence, Baker intervened and banned Smith from hosting the panel.

198. Because Smith had already arranged for several experts to participate, she worked with Dr. Treves to hold the discussion instead as a webinar hosted by the Carnivore Coexistence Lab. Smith ensured the event would comply with the OPMA: it was publicly advertised, open to the general public, and structured so that audience members—including commissioners—could not communicate with one another during the presentation. In doing so, Smith followed guidance set forth in a formal opinion of the Washington Attorney General explaining that members of a governing body may attend a third-party event as long as they do not take “action” during the gathering.

199. Nevertheless, on the eve of the webinar, Assistant Attorney General Panesko contacted commissioners and warned that if more than four commissioners attended the webinar it could constitute an OPMA violation. This warning effectively discouraged commissioners from attending the event. As a result, Defendants succeeded in preventing the Commission from hearing from Dr. Treves, Dr. Elbroch, and other scientists whose research challenged WDFW’s policies—first by blocking Smith from presenting the information through a properly noticed committee meeting, and then by discouraging commissioners from attending the same presentation in a carefully structured public webinar. Through the Knoll Memo, Defendant Susewind now attempts to use this episode as another pretext to target Smith.

200. Plaintiffs do not name Knoll as a defendant because they lack information at this time about his motive for authoring such a reckless, slanderous, and potentially damaging document, especially given the intent he expresses in the conclusion that it be used as the basis

for a recommendation to the governor that he remove Smith and Rowland from office for “incompetency, misconduct, or malfeasance” under RCW 43.06.70.

201. On the other hand, Susewind’s and Windrope’s motives are easy to discern. They directed Knoll to produce this document as a vehicle to convey their retaliatory allegations to the governor. When Knoll presented them with such an irresponsible, substandard, and potentially damaging work product (which instantly became a public document), their most responsible move would have been to put it in a drawer and hope it was never unearthed by a public disclosure request. Instead, they proceeded undeterred to present the Knoll Memo to the governor in the hope that it would convince him to launch an investigation certain to cause Plaintiffs reputation, financial, and emotional harm, and with the knowledge that at some point, it was almost certain to become public.

O. The Nature of Defendants’ Allegations Expose Their Retaliatory Motive

202. The Knoll Memo contains little substance that would lend itself to analysis. However, Plaintiffs have cobbled the Knoll Memo together with the AGO Brief, the numbered documents accompanying the AGO Brief, and the documents in the “blue folder” included at the top of the box of Knoll Documents, to reconstruct the allegations Defendants used to prompt the current investigation.

203. These allegations speak volumes—not about Smith, Davis, or WW1—but about the motivations of Defendants Susewind and Windrope in accusing them. The content of the accusations, or lack thereof, lays Defendants’ motivations bare, exposing the extent to which Susewind and Windrope targeted Smith, Davis, and WW1 solely based on the views they expressed and attempted to stretch the meagre facts at their disposal to manufacture allegations against them.

1. Susewind and Windrope Have Targeted Smith Because of Her Association with Davis and WW1

204. Defendants Susewind and Windrope have unabashedly targeted Smith because of her association with Davis, WW1 and other animal advocacy organizations that it carelessly and inaccurately labels “animal rights interest groups.”

205. The Knoll Memo awkwardly uses the Commission’s Rules of Procedure to reference its much broader commitment under its mandate and the public trust doctrine to “[r]epresent all citizens of the state (who own the resource), not constituents from a particular area or special interest group.” We can attribute it to Knoll’s professed ignorance of issues impacting the Commission that he seems unaware that WDFW and its Commission have a historic and continuing bias toward prioritizing the interests, values, and demands of the 2% of the state population that hunts, and the “special interest group(s)” who represent them. He also seems unaware that multiple polls over many years show that the overwhelming majority of Washingtonians are more in line with the approach to wildlife policy espoused by WW1, which emphasizes the intrinsic value of wild animals and prioritizes the protection of wildlife over its exploitation. Knoll may even be excused for failing to realize that commissioners meet regularly with WW1, in part, because WW1 is the only advocacy organization that attends every Commission meeting and engages in a broad spectrum of issues before the Commission impacting fish, wildlife, and habitat.

206. What is inexcusable is Knoll’s broad assertion that meeting with Davis and WW1 is somehow improper or that “it appears that the Commissioners may have been colluding with the special interest groups for the purpose of propagating an ‘agenda’ consistent with the private interest groups’ desires.” This is barely veiled unconstitutional discrimination and retaliation against commissioners, Davis, and WW1 based on their viewpoints and associations. The

“agenda” that is “consistent with the private interest groups’ desires” is WDFW’s adherence to its mandate to “protect, preserve, perpetuate, and manage” Washington’s wildlife on behalf of current and future Washingtonians. It is entirely proper that commissioners should grant meetings requested by Davis, WW1, and a broad range of other local, state, and national advocacy groups who are committed to this mission—along with meeting with other citizens and organizations who request time with them.

207. Knoll’s accusation that the three commissioners’ schedule of meetings (which he fails to specifically cite to), creates the “appearance of favoritism” toward “these groups” conveys his sloppiness and utter failure to put his conclusions into any broader context. Defendants Susewind and Windrope did not provide Knoll with the calendars of any commissioners other than Commissioner Ragen, so he was unable to consider how often these other commissioners met with particular individual advocates or advocacy groups. Nor did they tell him that other commissioners have had close personal *and financial* ties with specific special interest groups, or that some, like Commissioner Linville, proudly proclaim that they are on the Commission to “represent the 2%.” However, Knoll could at least have taken the time to look carefully at Commissioner Ragen’s calendar, which shows anything but favoritism.

208. The unattributed notes on the document provided to Knoll labeled as “Attachment 6” indicates that it is a “list of Zoom meetings organized by WA Wildlife First to meet weekly on Commission topics with a subset of Commissioners.” This is a preposterous mischaracterization. The chart that follows shows a list of meetings scheduled on Ragen’s calendar over a roughly three-year period, from January 26, 2022 through January 10, 2025. Of those meetings, some appear to be duplicates, and there are documents elsewhere in the SAF Documents indicating that others did not take place. Taken at face value, however, roughly 33 of

the meetings on the calendar (or over one-third) are meetings Commissioner Ragen had with members of the public that had no relationship or connection to Davis or WW1, including meetings with prominent hunters and hunting rights groups, other wildlife advocacy organization, and general members of the public. Another 27 of the meetings on the calendar are meetings between commissioners only, with no involvement of either Davis or WW1. The remaining 27 (including duplicates and canceled meetings) involve Davis or WW1 in some way, of which 14 include Smith and 10 include Rowland. In sum, the evidence that Susewind and Windrope supply of supposed “weekly” meetings with WW1 and/or Davis equates to an average of 6.25-6.75 potential meetings per year involving Ragen; 3.5 potential meetings per year involving Smith, and 2.5 potential meetings per year involving Rowland.

209. The same “Attachment 6” also refers to “Serial meetings with Commissioners organized by WA Wildlife First,” which appears to be an allusion to a violation of the Open Public Meetings Act (“OPMA”) that can occur when commissioners use chain meetings to effectively meet with more than a quorum—e.g., when one commissioner meets with different groups of other commissioners to try to reach a consensus outside of a public meeting. The document referenced by this note is a meeting invitation from Davis to Ragen and Lehmkuhl, asking them to meet with her and representatives of CBD to discuss WW1’s forthcoming rulemaking petition, and informing them that CBD and WW1 are also attempting to meet with each of the other commissioners to discuss their petition. Outrageous as such an accusation would be, Susewind and Windrope appear to be insinuating that it was a violation of the OPMA for CBD and WW1, two private nonprofits, to meet with each member of the Commission regarding the rulemaking petition they were bringing to the body.

210. Long before they launched their retaliatory investigation against Smith and Rowland, Susewind, Windrope, and the EMT had been directly or indirectly signaling to commissioners that any association with WW1 was frowned upon, with commissioners periodically telling representatives of WW1 who approached them that “I shouldn’t be talking to you,” or “I shouldn’t be seen with you.” The Knoll Documents reveal Susewind’s level of obsession: As a starting point for his “investigation,” he instructed commission staff to comb through Ragen’s calendar to count the number of times that he, Smith, and Rowland met with Davis and/or Washington Wildlife First, and to search commissioners’ emails for any communications from those sources. And the notes indicate that when staff encountered any links in those emails, they followed them and attempted to download and open them. The result was that Defendant Susewind’s investigation focused not so much on the commissioners, but on a private citizen and a nonprofit advocacy group.

211. Kroll does not indicate what number of meetings with WW1 he would have deemed acceptable, but Susewind’s answer would clearly be: None. The chilling impact of launching an “investigation” into certain commissioners centered around the number of meetings they took with a private nonprofit WW1 speaks for itself. It shows how little distance there is to separate Susewind from the hunter who warned commissioners last June to avoid all contact with WW1 because, “if you lay down with dogs, you get fleas.”

2. “Collusion” is in the Eye of the Beholder

212. The scope of Susewind’s double standard is breathtaking. A meeting or collaboration with a disfavored group is “collusion,” while working with a favored organization is a “partnership.”

213. For example, two of WDFW's most powerful advisory organizations, the GMAC and the BPAG, are dominated by representatives from hunting rights' organizations, and thus have a direct path to influencing agency policy. Meanwhile, WW1's Science and Advocacy Director, Dr. Francisco Santiago-Ávila, a leading national expert in carnivore science and wildlife ethics, was denied a spot on WDFW's Wildlife Diversity Advisory Council even though open seats remain.

214. Susewind's friend Mark Pidgeon, head of the Hunters' Heritage Council, used to be a regular feature at WDFW headquarters. Pidgeon long held a standing seat on both the GMAC and the BPAG—even as he promoted a petition for Smith to be removed, calling her an “incompetent buffoon,” labeled former Commission Chair Carpenter a “Judas,” telling him he was “full of dung” and pathetic.” This behavior was not only allowed but encouraged. Former Commissioner Kim Thorburn worked openly with hunting rights groups to solicit their support on pending issues, attack Davis and WW1, and denigrate and attempt to unseat her colleagues. When a proposed conservation policy was pending before the Commission, for example, she wrote an open letter to Pidgeon that was posted on a hunting forum, urging hunters to write and testify before the commission, because the “commission needs to hear from constituents other than radical anti-consumptive animal rightests who present the bulk of the public testimony in our meetings these days.”

215. Nor is such “collusion” limited to commissioners. After the hunting rights groups failed to show up to the 2021 hearing on the spring bear hunt, Game Division Manager Anis Aoude individually texted and called the leaders of hunting rights organizations to plead with them to get involved. And on June 4, 2022, in the midst of the spring bear controversy, Defendant Susewind made a special visit to the GMAC to urge them to get involved with the

commission because, according to the notes, WDFW needs “hunter advocacy more than ever,” “[h]unters need to talk to WDFW Commissioners about what hunting means to them,” and “we” need to “work together, be inclusive, focus on policy, not be as fragmented.”

216. Meanwhile, the public disclosure documents reviewed by Plaintiffs and their counsel reveal dozens of letters and private messages between commissioners, staff, and Ron Garner, the president of the Puget Sound Anglers State Board. Garner had a particularly close relationship with former Commissioner Don McIssac, whom Garner claims to have gotten appointed as a commissioner so he could remove scientific safeguards on hatchery production to protect wild fish, pass a new hatchery policy, and “get 50 million additional hatchery Chinook approved for Washington state.” On July 1, 2023, Garner emailed the commission to complain about the (imagined) involvement of wildlife advocacy organizations in writing the proposed conservation policy, insisting that the policy should be rewritten by “stakeholders,” e.g. hunters and anglers.

217. In other communications, Garner claimed to have hand-picked several members of the Commission, and documents produced by Ferguson’s office show that he was key to getting former Commissioner Ragen removed. In fact, he was invited to a meeting with Ferguson’s staff to let him know about the decision the day before they had even told Ragen himself.

218. On the other hand, the AGO Brief asserts that Smith, Ragen, Lehmkuhl, and Rowland have “strong ties to Washington Wildlife First that are unlike any we have seen with NGOs in the past.” The evidence for such “strong ties”? A reference to an interaction with Wild Fish Conservancy in which WW1 had no involvement; a list of questions WW1 sent Smith, Ragen, and Rowland (and, in fact, the entire Commission) to ask during a public briefing; the

fact that Smith, Ragen, Lehmkuhl, and Rowland used to occasionally caucus together *without* WW1's presence or involvement; and so-called "evidence" that WW1 used to meet with that group of commissioners "before most meetings," which actually shows nothing of the kind. On this basis, Susewind proclaims that the level of "coordination and secrecy" between commissioners, WW1 and WW1's "partner organizations" is somehow evidence of improper influence.

P. Defendants' Unconstitutional Misconduct Has Damaged and Continues to Damage Plaintiffs and Others

219. Defendant Susewind's campaign of retaliation has already taken a substantial toll. Over the past year, his actions have effectively paralyzed the Commission, as the investigation into commissioners has been repeatedly delayed, with a report now expected only days after the filing of this complaint. Commission meetings have been cancelled, and commissioners have deliberately avoided controversial issues that might place them in Susewind's crosshairs. This chilling effect has spread beyond Washington, as wildlife commissioners in other states have observed these events and pulled back from taking controversial positions for fear of facing similar retaliation.

220. The pretextual investigation has also taken a significant toll on Smith personally. For several months she has been the target of an unwarranted investigation that has impugned her character, damaged her reputation, and harmed her standing in the environmental community.

221. Susewind's targeting of Smith, and his endorsement of the SAF campaign against her, has inflamed elements of the hunting community. As a result, the abuse, threats, and ridicule directed at Smith have intensified at Commission meetings, in press coverage, and across social

media platforms—often appearing to rely on information that could only have come from inside WDFW.

222. Smith has endured a constant barrage of hostility and harassment, accompanied by heightened concerns for her personal safety and uncertainty about her future. This campaign has caused substantial emotional distress and physical symptoms, including sleeplessness, headaches, and other health problems.

223. Just days before the filing of this complaint, the Sportsmen’s Alliance obtained the Knoll Memo and published it on its website, triggering a renewed wave of abuse directed at Smith, Washington Wildlife First, and Davis.

224. Social media reports indicate that hostile commenters have encouraged disciplinary complaints against Davis and her law practice. Individuals claiming to be hunters have reportedly filed a barrage of complaints with the Washington State Bar Association in an attempt to damage Davis’s reputation and threaten her livelihood.

225. Public comments directed at Davis on social media illustrate the hostility Defendants’ actions have fueled. Examples include the following statements:

- “Run her out of the state.”
- "Sickem! Go after them like a dog with a bone and they’re all wearing bone underwear.
- “Lock them up and throw away the key.”
- “more libtard BS Kalifornication at it core.”
- “You don't get to take your extremist views and run fisheries into the ground like you've done with everything else in the state.”
- “Davis should be disbarred and Commissioner Smith and Commissioner Roland, you need to step down.”

- “Fire them. Confiscate their retirement, file charges and incarcerate! No more CORRUPTION in our game department.”
- ”And what that’ll be the worst thing that happens they lose their job. They should get jailed for it and find [sic] for it.”

226. Unless this Court intervenes and prevents Defendants Susewind and Windrope from continuing their retaliatory conduct, Plaintiffs will continue to suffer irreparable harm and the chilling effect on protected speech and association will intensify.

FIRST CLAIM FOR RELIEF

42 U.S.C. § 1983: First Amendment Viewpoint Discrimination and Retaliation
Plaintiff Lorna Smith Against Defendants Susewind and Windrope,
Individually and in Their Official Capacities

227. Smith realleges and incorporates the preceding paragraphs as if fully set forth herein.

228. Under 42 U.S.C. § 1983, a party may seek injunctive relief and damages against a party who, under color of law of any state, deprives a person within the jurisdiction of the United States of any rights, privileges, or immunities secured by the U.S. Constitution and other applicable laws.

229. The First Amendment to the U.S. Constitution guarantees the freedom of speech, association, and assembly. U.S. CONST. AMEND. I, § 1.

230. Smith engaged in activity protected by the First Amendment, including speech on matters of public concern relating to WDFW governance, wildlife policy, and agency accountability expressed during Commission policy debates, public statements in other forums, and in communications with members of the public and agency stakeholders.

231. Acting under color of state law, Defendants Susewind and Windrope engaged in viewpoint discrimination against Smith and took adverse actions against her in retaliation for her exercise of rights protected under the First Amendment, including but not limited to: (1) her

expression of viewpoints, statements and positions with which Susewind and Windrope disagree, including on matters both central to and outside her role as a commissioner; (2) her past and present association with wildlife advocates including Davis, Washington Wildlife First, Wild Fish Conservancy, and other wildlife advocates and groups whom Defendants have broadly classified as “affiliates” of Washington Wildlife First; (3) her communications with experts both within and outside the agency to obtain and discuss science and information that Susewind sought to block from the Commission; and (4) her communication with and advocacy on behalf of WDFW employees, including her calls for Susewind and Windrope to be held accountable for repeated “willful, serious” safety violations that have led to employee deaths.

232. Smith openly resisted Defendants’ efforts to chill her speech, challenging the preferential treatment and access that Defendants Susewind, Windrope, and the EMT gave to organized hunting groups, and expressing her disagreement with Susewind and Windrope on numerous issues, both as part of her service as commissioner and separate and apart from that service, including but not limited to the: need for wildlife governance to evolve to address existential threats to wildlife, the requirement that state wildlife agencies fairly represent all state residents, downlisting and de-listing of wolves at both the state and federal level, role of carnivores in healthy ecosystems, development of the Game Management Plan, management of cougar and bear hunting, spring bear hunting, accuracy of WDFW’s annual wolf report, threat that hatchery expansion poses to wild fish and Southern Resident killer whales, importance of SEPA compliance, and protection of sensitive, threatened, and endangered species.

233. Smith called for Susewind and Windrope to be held responsible for WDFW’s poor workplace culture and its willful” violation of state safety regulations, which led directly to the deaths of two WDFW employees.

234. Defendants Susewind and Windrope improperly used their power as state officers to affirmatively and selectively retaliate against Smith based on her protected First Amendment activities and to attempt to chill her further exercise of First Amendment freedoms, including but not limited to: (a) berating her and disparaging her to others, including WDFW employees and members of the public; (b) both directly and through Panesko, pressuring Smith to stop voicing her views and to end her associations with people and organizations who expressed viewpoints that they disfavored; (c) on information and belief, cooperating with state and national hunting rights groups to publicly malign, denigrate, threaten and bully Smith; (d) exceeding the authority of their roles by diverting WDFW and commission staff from other duties to comb through Ragen's, Rowland's, and/or Smith's emails and/or computers, without any equivalent review of similarly-situated commissioners; (e) directing WDFW and commission staff to curate a collection of documents specifically designed to malign and discredit Smith and Rowland, without any similar effort against similarly situated commissioners; (f) directing Knoll, a lawyer with WDFW's enforcement division, to draft a memo to Governor Ferguson based on this curated set of documents; (g) drafting or directing the drafting of a memo to the attorney general's office fabricating allegations against Smith and containing false, misleading, defamatory, and inflammatory statements about her; and (h) using the Knoll Memo, which they knew contained false, misleading, defamatory, and inflammatory statements, to persuade Governor Ferguson to open an investigation into Smith with the intent of seeing her sanctioned and removed as a Commissioner.

235. Defendant Susewind publicly sided with the Sportsmen's Alliance, a national trophy hunting organization that has routinely attacked, defamed, and denigrated Smith. Susewind publicly endorsed the SAF petition seeking to remove Smith and four other

commissioners based explicitly on their viewpoints and association with wildlife advocates, including Davis and WW1.

236. Defendants' adverse actions as alleged herein have caused substantial harm to Smith and would chill a person of ordinary firmness from continuing to engage in protected First Amendment activity.

237. Smith's protected activity was a substantial or motivating factor for Defendants' adverse actions against her, including their manufacture of false, misleading and/or defamatory allegations, improper use of WDFW resources to further those false, misleading and/or defamatory allegations, and efforts to persuade Governor Ferguson to open an investigation aimed at Smith's sanction and removal. This motive is evidenced by their written and oral statements, the direct connection between the nature and language of the allegations against Smith and her exercise of protected activity, and the disparate treatment of current and former commissioners who engaged in conduct that was similar to, or more serious than, the behavior that purportedly formed the basis for the investigation into Smith.

238. But for Smith's participation in the protected activity alleged herein, Defendants would not have selectively targeted Smith using escalating retaliatory and discriminatory tactics, attempted to bully and intimidate her to chill her future speech and association, or fabricated allegations against her with the intent of having her investigated, sanctioned, publicly shamed, and removed as a commissioner.

239. Defendants' conduct constitutes viewpoint discrimination and retaliation prohibited by the First Amendment.

240. As a direct and proximate cause of Defendants' conduct, Smith has suffered and will continue to suffer injury, including chilling of her speech and association, reputational

damage, emotional distress, impairment of health, and imminent irreparable harm from the selectively targeted “investigation” facilitated by Defendants, including interference with her ability to effectively carry out her responsibilities as a commissioner.

241. Absent judicial intervention, Defendants will continue their ongoing campaign of viewpoint discrimination and retaliation against Smith and others who share her views, and the chilling effect of Defendants’ conduct will impact not only Smith, but other wildlife commissioners, both in Washington and other states.

242. In doing the acts of which Smith complains, Defendants’ conduct was intentional, reckless, or callously indifferent to Smith’s federally protected right to be free from retaliation and discrimination for her engagement in activities protected under the First Amendment, and accordingly, Smith is entitled to punitive damages against Defendants Susewind and Windrope in their individual capacities. *Smith v. Wade*, 461, U.S. 30, 56 (1983).

243. Smith seeks declaratory and prospective injunctive relief to halt ongoing constitutional violations committed by Defendants in their official capacities, as well as damages against Defendants in their individual capacities.

244. This Court has authority to issue declarations of rights having the force of final judgments in accordance with Federal Rules of Civil Procedure, Rule 57.

245. This Court has authority to remedy Defendants’ violations of the First Amendment of the Constitution, and without this Court’s intervention, Smith cannot be made whole.

SECOND CLAIM FOR RELIEF

42 U.S.C. § 1983: First Amendment Viewpoint Discrimination and Retaliation
Plaintiffs Washington Wildlife First and Davis Against Defendants Susewind and Windrope,
Individually and in Their Official Capacities

246. WW1 and Davis reallege and incorporate the preceding paragraphs as if fully set forth herein.

247. Under 42 U.S.C. § 1983, a party may seek injunctive relief and damages against a party who, under color of law of any state, deprives a person within the jurisdiction of the United States of any rights, privileges, or immunities secured by the U.S. Constitution and other applicable laws.

248. The First Amendment to the U.S. Constitution guarantees the freedom of speech, association, and assembly. U.S. CONST. AMEND. I, § 1.

249. Davis is a Washington-licensed attorney and prominent state wildlife advocate who regularly speaks on matters of public concern involving Washington wildlife governance, wildlife policy, and agency accountability, including communications with commissioners and before the Commission. Davis is a founder of WW1, has served as the president of its board since its inception, and currently acts as its executive director. Davis is also the managing partner of AEA, a law firm that pursues public interest litigation on behalf of wildlife and the environment, and which has frequently represented various individuals and nonprofit organizations in legal actions against WDFW.

250. WW1 is a nonprofit whose mission is to transform Washington's approach to fish and wildlife policy into a more democratic paradigm that elevates science, recognizes the intrinsic value of individual animals, and prioritizes protecting, preserving, and perpetuating wild lives and ecosystems. WW1 also serves as an agency watchdog, routinely monitoring and

participating in Commission proceedings, including by attending meetings, providing testimony, submitting comments, and communicating with commissioners on issues before the Commission and related matters of public concern.

251. Davis and Washington Wildlife First have frequently and publicly criticized Susewind, Windrope and the actions WDFW has taken at their direction, including but not limited to their: abrogation of duties as a public trustee of state wildlife; disregard for the agency mandate to “preserve, protect, [and] perpetuate” state fish and wildlife; contempt for the law that is supposed to constrain agency activities; elevation of the demands of hunting and commercial special interests over the interests of wildlife and the vast majority of Washingtonians; suppression and misrepresentation of science and data that conflicts with their agenda; quashing of dissenting opinions within the agency; negligent and/or reckless policies that have led to two employee deaths and multiple other serious incidents; unscientific and unethical war on Washington’s native carnivores; reckless expansion of salmon hatchery production without regard to the impacts on ESA-listed wild salmon and Southern Resident killer whales; attempts to remove state and federal protections for wolves; and failure to protect sensitive, threatened, or endangered state wildlife.

252. Acting under color of state law, Defendants Susewind and Windrope used agency resources, staff, counsel, and official channels to retaliate against Davis and WW1 for the viewpoints they expressed, including by: denigrating and stigmatizing Davis and WW1 in front of agency staff and members of the public; collaborating with outside individuals and interest groups that have routinely defamed and retaliated against Davis and WW1; attempting to block Davis and WW1 from speaking to the Commission on matters of public importance; and

attempting to deter individual commissioners, WDFW representatives, and other public advocates from speaking to, or associating with, Davis and other representatives of WW1.

253. Defendants Susewind and Windrope launched an improper internal “investigation” into Smith that was based, in significant part, on her alleged association with Davis and other representatives of WW1 and her purported alignment with their aims and beliefs. This investigation leveled accusations that Smith and other commissioners had “colluded” with Davis and WW1 in an attempt to portray the exercise of their First Amendment rights as sinister, unethical, and perhaps, illegal, and to chill others from listening to or associating with them. Meanwhile, Susewind and Windrope have closely affiliated themselves with, and supported, the groups that oppose WW1, treating such relationships as routine, expected—and, even, obligatory.

254. Defendants Susewind and Windrope, through the Knoll Memo and numerous other communications, have broadly and inaccurately labeled Davis, WW1, and any individual or organization who associates with them as “animal rights” and “anti-hunting” activists, for the purpose of discrediting them and portraying them as extremists.

255. The Knoll Memo, which Defendants commissioned, curated, facilitated, and distributed, accuses Davis, expressly and by clear implication, of improper and unethical conduct. The Knoll Memo implies that as an attorney, Davis has given up her First Amendment right to petition the government for a redress of grievances, and that it was improper for her to speak to the Commission or commissioners while she was actively litigating cases against WDFW. Although it concedes that it has no evidence for this allegation, it also accuses Davis of unethically inducing commissioners to “collude with an opposing party to the detriment of WDFW” by disclosing sensitive and/or privileged information on matters under active litigation.

256. Defendants Susewind and Windrope intended, knew, or should have known that their allegations against Davis and WW1, and their “investigation” into commissioners alleged to have associated with them, would be broadly known, including by the Commission, the Governor, the legislature, and the public.

257. Defendants’ adverse actions against Davis and WW1 would chill a person of ordinary firmness from continuing to engage in protected First Amendment activity. Their actions against Smith and Rowland based on their purported association with Davis and WW1 would chill a person of ordinary firmness from speaking to or associating with Davis and WW1, for fear of stigma, suspicion, and even investigation.

258. The protected activity in which WW1 and Davis engaged was a substantial or motivating factor for Defendants’ adverse actions against them, including Defendants’ manufacture and distribution of false, misleading, defamatory and inflammatory allegations against Davis and WW1; Defendants’ improper use of WDFW resources to further those false, misleading and/or defamatory allegations against Davis and WW1; and Defendants’ attempts to deter both public officials and private citizens from associating with Davis and WW1. This motive is evidenced by Susewind’s and Windrope’s written and oral statements, the direct connection between their allegations against Smith and her association with Davis and WW1, and the disparate treatment of similarly situated citizens and interest groups who expressed viewpoints with which Susewind and Windrope agreed, to whom they gave favored treatment at the same time they denigrated and attacked Davis and WW1.

259. But for the participation of WW1 and Davis in the protected activity alleged herein, Defendants would not have selectively targeted them using escalating retaliatory and

discriminatory tactics, attempted to bully and intimidate them to chill their speech, or attempted to deter others from speaking to or associating with them.

260. Defendants' conduct constitutes viewpoint discrimination and retaliation prohibited by the First Amendment.

261. As a direct and proximate cause of Defendants' conduct, Davis has suffered and will continue to suffer injury, including chilling of her speech and association, reputational damage, emotional distress, interference with her ability to be an effective public advocate, and interference with the effectiveness of her law firm and its relationship with clients and potential clients.

262. As a direct and proximate cause of Defendants' conduct, Washington Wildlife First has had to redirect its scarce resources toward defending itself, and has suffered from reputational damage, a decline in donations, and obstacles to its effective operation as a government watchdog and wildlife advocacy organization.

263. Absent judicial intervention, Defendants will continue their ongoing campaign of viewpoint discrimination and retaliation against Davis, WW1, and those who associate with them, and the chilling effect of Defendants' conduct will impact not only Davis and WW1, but other private wildlife advocates and wildlife advocacy organizations, both in Washington and other states.

264. In doing the acts of which Davis and WW1 complain, Defendants' conduct was intentional, reckless, or callously indifferent to Davis's and WW1's federally protected right to be free from retaliation and discrimination for their engagement in activities protected under the First Amendment, and accordingly, Davis and WW1 are entitled to punitive damages against

Defendants Susewind and Windrope in their individual capacities. *Smith v. Wade*, 461, U.S. 30, 56 (1983).

265. Davis and WW1 seek declaratory and prospective injunctive relief to halt ongoing constitutional violations committed by Defendants in their official capacities, as well as damages against Defendants in their individual capacities.

266. This Court has authority to issue declarations of rights having the force of final judgments in accordance with Federal Rules of Civil Procedure, Rule 57.

267. This Court has authority to remedy Defendants' violations of the First Amendment of the Constitution, and without this Court's intervention, Davis and WW1 cannot be made whole.

PRAYER FOR RELIEF

268. Plaintiffs respectfully request that this Court enter judgment in their favor on every claim for relief set forth above, and award them relief, including but not limited to, the following:

1. Declaring that Defendants Kelly Susewind and Amy Windrope, acting under color of state law, violated the First Amendment rights of Plaintiff Lorna Smith by retaliating and discriminating against her based on viewpoint and association, including through the improper use of WDFW resources to manufacture allegations against her to prompt the Governor to launch an investigation against her that could lead to her removal as a Commissioner;
2. Declaring that Defendants Kelly Susewind and Amy Windrope violated the First Amendment rights of Plaintiff Claire Loeb Davis by retaliating against and chilling her protected speech, advocacy, and petitioning activity, including by making false,

- misleading and defamatory statements about her and manufacturing allegations against commissioners suspected of associating with her;
3. Declaring that Defendants Kelly Susewind and Amy Windrope violated the First Amendment rights of Plaintiff Washington Wildlife First by retaliating against and chilling WW1's protected speech, advocacy, and petitioning activity; stigmatizing its representatives and those who associate with it; and manufacturing allegations against commissioners suspected of associating with the organization, its representatives, and its "affiliates";
 4. Preliminarily and permanently enjoining Defendants Kelly Susewind and Amy Windrope in their official capacity, and their officers, agents, employees, attorneys, and all persons acting in concert with them, from continuing, directing, using, or deploying WDFW resources, personnel, counsel, or official processes to further any retaliatory investigation, discipline/removal pressure, or stigmatization campaign because of Plaintiffs' protected speech, association, or petitioning, including any pressure put on commissioners or members of the public to cease constitutionally protected communications with Davis and/or WW1;
 5. Preliminarily and permanently enjoining Defendants Kelly Susewind and Amy Windrope in their official capacities, from further disseminating, promoting, or publishing the Knoll Memo and/or any derivative investigative report to the extent such dissemination is being used as part of an ongoing retaliatory campaign that chills Plaintiffs' First Amendment rights, pending an expedited hearing and further order of the Court; or, in the alternative, ordering narrowly tailored corrective measures including (i) a meaningful opportunity for Plaintiffs' to respond and (ii) contemporaneous inclusion and distribution of Plaintiffs' responses with any public release of potentially false, defamatory, and stigmatizing allegations;

6. Awarding compensatory damages to Plaintiff Lorna Smith, against Defendants Kelly Susewind and Amy Windrope in their individual capacities, in an amount according to proof, including for emotional distress, reputational harm, impairment of Smith's ability to perform official duties free from unconstitutional retaliatory pressure, and all other damages proximately caused by Defendants' unlawful conduct;
7. Awarding compensatory damages to Plaintiff Claire Loeb Davis, against Defendants Kelly Susewind and Amy Windrope in their individual capacities, in an amount according to proof, including for reputational harm, loss of business and professional opportunities, emotional distress, and all other damages proximately caused by Defendants' unlawful conduct;
8. Awarding compensatory damages to Plaintiff Washington Wildlife First, against Defendants Kelly Susewind and Amy Windrope in their individual capacities, in an amount according to proof, including for reputational damage, loss of grants or fundraising dollars, diversion of organizational resources, impairment of effectiveness, and all other damages proximately caused by Defendants' unlawful conduct;
9. Awarding punitive damages against Defendants Kelly Susewind and Amy Windrope in their individual capacities, in an amount sufficient to punish and deter, to the extent Plaintiffs prove Defendants acted with reckless or callous indifference to Plaintiffs' federally protected rights;
10. Awarding Plaintiffs their reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable authority;
11. Awarding pre-judgment and post-judgment interest as allowed by law; and
12. Granting such other and further relief as the Court may deem just and proper.

Dated: April 2, 2026

Respectfully submitted,

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