

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH _____

DANE COUNTY

WISCONSIN FEDERATED HUMANE
SOCIETIES, INC.
5132 Voges Road
Madison, WI 53718

DANE COUNTY HUMANE SOCIETY
5132 Voges Road
Madison, WI 5318

WISCONSIN HUMANE SOCIETY
4500 W. Wisconsin Avenue
Milwaukee, WI 53202

Case No. _____

Classification Code: 30701

FOX VALLEY HUMANE ASSOCIATION
N115 Two Mile Road
Appleton, WI 54914

NORTHWOOD ALLIANCE, INC.
6063 Baker Lake Road
Conover, WI 54519

NATIONAL WOLFWATCHER COALITION
P.O. Box 84
East Greenwich, RI 02818

JAYNE AND MICHAEL BELSKY
N10182 9th Avenue
Necedah, WI 54646

DONNA ONSTOTT
2389 113th Avenue
Dresser, WI 54009

Plaintiffs,

vs.

CATHY STEPP, SECRETARY,
WISCONSIN DEPARTMENT OF
NATURAL RESOURCES,
101 South Webster Street
Madison, WI 53707-7921,

}

WISCONSIN DEPARTMENT OF
NATURAL RESOURCES,
101 South Webster Street
Madison, WI 53707-7921
and

WISCONSIN NATURAL RESOURCES BOARD,
101 South Webster Street
Madison, WI 53707-7921,

Defendants.

SUMMONS

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

To each person named above as a Defendant:

You are hereby notified that the Petitioner named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this Summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 215 South Hamilton Street, Madison, Wisconsin 53703-3285, and to Plaintiff's attorneys whose addresses appear below. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A

judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 8th day of August, 2012.

HABUSH HABUSH & ROTTIER, S.C.



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CATHY STEPP, SECRETARY,
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NATURAL RESOURCES,
101 South Webster Street
Madison, WI 53707-7921,

WISCONSIN DEPARTMENT OF
NATURAL RESOURCES,
101 South Webster Street
Madison, WI 53707-7921
and

WISCONSIN NATURAL RESOURCES BOARD,
101 South Webster Street
Madison, WI 53707-7921,

Defendants.

COMPLAINT FOR DECLARATORY JUDGMENT

The above-named Plaintiffs, by and through their attorneys, Robert L. Habush and Habush Habush & Rottier, S.C., Jodi L. Habush Sinykin and HS Law, and Carl A. Sinderbrand and Axley Brynerson, LLP, hereby assert a complaint for declaratory judgment, pursuant to Wis. Stat. § 227.40(1), *et seq.*, challenging the validity of Wis. Admin. Code § NR 10.07(4), relating to the harvesting of wolves, and shows to the Court as follows:

PARTIES

1. Plaintiff Wisconsin Federated Humane Societies, Inc. is a not-for-profit Wisconsin corporation, incorporated in 1927, whose members include more than forty humane societies throughout Wisconsin, including Dane County and areas within Wisconsin wolf territory, designated as “wolf harvest zones” under recent statutory and administrative laws, and whose mission includes, *inter alia*, promoting and advancing the humane care and treatment of all animals, including wolves and other wild animals, and to prevent cruelty to animals. Its business address is at 5132 Voges Road, Madison, Dane County, Wisconsin.

2. Plaintiff Dane County Humane Society, is a not-for-profit Wisconsin corporation, incorporated in 1921, whose mission includes, *inter alia*, promoting and advancing the humane care and treatment of all animals, including wolves and other wild animals, and to prevent

cruelty to animals. Its principal place of business is at 5132 Voges Road, Madison, Dane County, Wisconsin.

3. Plaintiff Wisconsin Humane Society is a private nonprofit organization whose mission is to build a community where people value animals and treat them with respect and kindness. WHS has been a voice for animals in need for more than 130 years and boasts the state's largest Wildlife Rehabilitation Center, which cared for 4,453 wild animals of 147 different species in 2011. Its principal place of business is 4500 W. Wisconsin Avenue, Milwaukee, Wisconsin.

4. Plaintiff Fox Valley Humane Association is a private nonprofit organization that has been serving the community as an animal welfare advocate since 1891, providing care to injured, lost, and abused animals, and working with law enforcement to uphold animal cruelty protections and to advance the humane treatment of all animals. Its principal place of business is N115 Two Mile Road, Appleton, Wisconsin.

5. Plaintiff Northwood Alliance, Inc. is a nonprofit conservation organization, whose mission is the protection and conservation of Wisconsin land, water and habitat. Most Northwood Alliance board members and many members live within Wisconsin wolf territory, designated as "wolf harvest zones" under recent statutory and administrative laws. Northwood Alliance has a long history of supporting research, advocacy and education concerning Wisconsin wolves and the habitat necessary for their survival. Its business address is 6063 Baker Lake Road, Conover, Wisconsin.

6. Plaintiff National Wolfwatcher Coalition is a national nonprofit conservation organization, dedicated to supporting wolf recovery in its historic range, with a current membership of approximately 125,000 citizens nationwide, including over 400 Wisconsin

citizens. Wisconsin members support and participate in wolf tracking, howling surveys and other monitoring activities as part of the volunteer carnivore tracking program conducted in Wisconsin wolf territory, recently designated as “wolf harvest zones” under statutory and administrative law. Its business address is P.O. Box 84, East Greenwich, Rhode Island, 02818.

7. Plaintiffs Jayne Belsky and Michael Belsky are adult citizens of Wisconsin, who live in the midst of wolf territory and reside at N10182 9th Avenue, Necedah, WI 54646. Michael Belsky, a wildlife firefighter for the United States Fish and Wildlife Service at the Necedah National Wildlife Refuge, is a lifelong hunter, trapper and avid sportsman. Jayne Belsky, a Juneau County bailiff, is a hunter, trapper and longstanding wolf tracker for the Necedah National Wildlife Refuge and Wisconsin Department of Natural Resources. They both own and operate Central Wisconsin Wolf Dog Rescue, the only wolf dog sanctuary in Wisconsin, pursuant to a captive wildlife license issued by the Wisconsin Department of Natural Resources.

8. Plaintiff Donna Onstott is an adult citizen of Wisconsin who resides at 2389 113th Avenue, Dresser, WI 54009. Dr. Onstott is a veterinarian, sheep farmer and wolf tracker.

9. Defendant Cathy Stepp is the Secretary of the Wisconsin Department of Natural Resources (“DNR”), whose principal office is at 101 South Webster Avenue, Madison, Dane County, Wisconsin. Secretary Stepp is responsible for the management of DNR, including DNR’s activities as they relate to the promulgation of administrative rules.

10. Defendant DNR is an independent agency of the State of Wisconsin, as that term is defined in Wis. Stat. § 227.01(1), created under Wis. Stat. § 15.34, with its principal office located at 101 South Webster Avenue, Madison, Dane County, Wisconsin. DNR is responsible for the promulgation of administrative rules under Wis. Stat. § 227.10, *et seq.*

11. Defendant Natural Resources Board is an independent agency of the State of Wisconsin, as that term is defined in Wis. Stat. § 227.01(1), created under Wis. Stat. § 15.34, with its principal office located at 101 South Webster Avenue, Madison, Dane County, Wisconsin. The NRB is responsible for supervising, directing and setting policy for DNR, and is responsible for acting on and approving proposed rules under Wis. Stat. § 227.10, et seq.

JURISDICTION AND VENUE

12. Pursuant to Wis. Stat. § 227.40(1), Dane County Circuit Court has jurisdiction over the subject matter of this proceeding and is a proper venue for this action.

BACKGROUND FACTS

13. On or about April 2, 2012, the Legislature enacted 2011 Wisconsin Act 169 (“Act 169”), effective April 17, 2012. Act 169 created Wis. Stat. § 29.185, which authorizes DNR to issue licensing for the harvesting of wolves.

14. Wisconsin Stat. § 29.185(6)(a)2. and (c) authorizes the use of dogs to “track” or “trail” wolves in connection with hunting wolves.

15. Act 169, Section 21, requires DNR to promulgate final and emergency rules that are “necessary to implement or interpret sections 29.185 and 29.888 of the statutes, as created by this act”

16. On or about July 17, 2012, Defendants approved and promulgated emergency rules, under the authority of Act 169, Section 21(b), relating to the issuance of wolf harvesting licenses for the 2012-13 wolf hunting season. The emergency rules are designated as part of, *inter alia*, Wis. Admin. Code ch. NR 10.

17. During the course of promulgating regulations to implement Act 169, experts in the fields of both wolf and hunting dog management submitted information to Defendants

regarding the necessity of developing reasonable restrictions on the use of dogs to track and trail wolves. This information included undisputed evidence that wolves are territorial animals that reside and travel in packs, are protective of their territories, and are prone to attack dogs and other animals that enter their territories, particularly during summer months when their young are first venturing beyond their dens. This information also included undisputed evidence that encounters between wolves and hunting dogs commonly result in fierce fights in which both wolves and dogs are maimed and killed. For these reasons, these experts concluded that in order to reduce the risk and incidents of wolf-dog direct physical encounters and associated cruelty to both species, it is necessary for DNR's rules to include reasonable restrictions relating to requirements for dog training, the time periods during which in-field dog training may occur, and the restraint and management of dogs during hunting activities to ensure that dogs are used exclusively to "track" and "trail" wolves.

18. Notwithstanding the undisputed evidence that wolf-dog direct physical encounters will result in the maiming, killing and associated cruelty to both species, Defendants failed and refused to include reasonable restrictions in the regulations on the use of dogs in wolf hunting.

CLAIM FOR DECLARATORY RELIEF

19. Plaintiffs reallege each allegation in paragraphs 1 through 13 and incorporate the same by reference.

20. Defendants do not have the authority to promulgate rules that authorize or facilitate the violation of Wisconsin statutes, including but not limited to criminal statutes. Any such rule is in excess of Defendants' authority.

21. Wisconsin Stat. § 951.02 states that "[n]o person may treat any animal, whether belonging to the person or another, in a cruel manner." The only exception within that section

relates to “bona fide experiments carried on for scientific research or normal and accepted veterinary practices.” Wisconsin Stat. § 951.01(2) defines “cruel” as “causing unnecessary and excessive pain or suffering or unjustifiable injury or death.”

22. Wisconsin Stat. § 951.08(1) states that “[n]o person may intentionally instigate, promote, aid or abet ... or intentionally maintain or allow any place to be used for a cockfight, dog fight, bullfight or another fight between the same or different kinds of animals or between an animal and a person.” Wisconsin Stat. § 951.08(2) states that “[n]o person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.” Wisconsin Stat. § 951.08(3) states that “[n]o person may intentionally be a spectator at a ... fight between the same or different kinds of animals”

23. There is no exemption from chapter 951 for hunting. However, § 951.015(1) provides that chapter 951 “may not be interpreted as controverting any law regulating ... the taking of wild animals, as defined in s. 29.001(90)”

24. Defendants’ wolf hunting regulations, in particular Wisconsin Admin. Code § NR 10.07(4)(b), violate Wis. Stat. § 29.185(6)(a)2. and (c) by failing to include reasonable restrictions to ensure that dogs are used to “track” or “trail” wolves, and not used to confront wolves directly and physically.

25. Defendants’ wolf hunting regulations, in particular Wisconsin Admin. Code § NR 10.07(4)(b), authorize, allow and facilitate the mistreatment of and cruelty to animals, in violation of Wis. Stat. § 951.02, due to Defendants’ failure to include reasonable dog training requirements and reasonable restrictions on the use of dogs in connection with hunting wolves.

26. Defendants’ action in promulgating Wis. Admin. Code § NR 10.07(4) and related wolf hunting regulations without also including reasonable restrictions on the use of dogs to hunt

wolves, interferes with and impairs the legal rights and privileges of Plaintiffs, who are citizens and taxpayers in Wisconsin, or whose members include citizens and taxpayers in Wisconsin, in ensuring that DNR lawfully administers the wolf harvesting program in a manner that does not violate criminal statutes prohibiting the mistreatment of animals and animal fighting, and further interferes with and impairs the interests of Plaintiffs and members of plaintiff organizations in the protection and welfare of both wolves and dogs.

27. Unless enjoined by this Court, DNR intends to issue licenses for the harvesting of wolves that authorize the use of dogs, without reasonable restrictions.

28. Unless enjoined by this Court, DNR intends to administer rules that exceed its authority by authorizing and facilitating violations of state statutes.

REQUEST FOR RELIEF

Plaintiffs therefore request that the Court issue an Order:

1. For a stay and/or temporary injunction prohibiting DNR from issuing wolf harvesting licenses that authorize the use of dogs and prohibiting training dogs to hunt wolves until this action is finally decided;

2. For Judgment declaring that defendants' wolf hunting regulations, including amendments to Wis. Admin. Code ch. NR 10, to the extent they authorize the training and use of dogs to hunt wolves, violate state law for failure to include reasonable restrictions consistent with 2011 Act 169, which limits the use of dogs to track and trail wolves, and Wis. Stat. § 951.02, which prohibits mistreatment of animals;

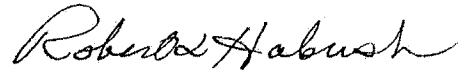
3. For a permanent injunction prohibiting DNR from issuing licenses or administering wolf hunting regulations that authorize the training or use of dogs to track or trail wolves until reasonable restrictions are promulgated to prevent or mitigate the risk of deadly

physical encounters between dogs and wolves, and to ensure that the use of dogs is limited to tracking and trailing that allow no direct confrontations between dogs and wolves; and

4. For such other relief as the Court deems just and appropriate.

Dated this 8th day of August, 2012.

HABUSH HABUSH & ROTTIER, S.C.

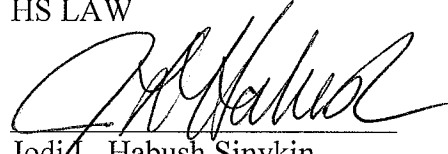


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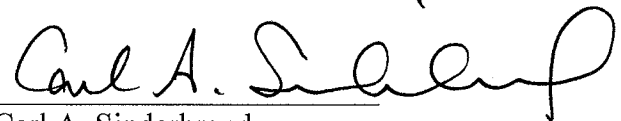


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