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Attorneys for Plaintiffs

**IN THE THIRD JUDICIAL DISTRICT COURT FOR
SALT LAKE COUNTY, STATE OF UTAH**

MOUNTAIN LION FOUNDATION, and
WESTERN WILDLIFE CONSERVANCY, each
non-profit corporations representing themselves
and their members and supporters,

Plaintiffs,

v.

STATE OF UTAH, by and through the UTAH
DEPARTMENT OF NATURAL RESOURCES;
JOEL FERRY, in his capacity as Executive
Director of the UTAH DEPARTMENT OF
NATURAL RESOURCES; the UTAH
DIVISION OF WILDLIFE RESOURCES and
the UTAH WILDLIFE BOARD,

Respondents,

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

(Tier 2)

Case No.

Judge:

INTRODUCTION

1. Mountain lions are known by many names, including cougar, puma, catamount, painter, panther, and many more. They are the most wide-ranging cat species in the world and are found as far north as Canada and as far south as Chile. Solitary cats, mountain lions are highly adaptable to situations and environments, and this adaptability has enabled them to survive across much of their original range in the Americas, despite severe habitat loss and active threats.

2. While their latitudinal range has remained, their longitudinal range has shrunk by more than half in North America. Mountain lions used to be found throughout the United States, but due to bounty hunts in the early 1900s and threats such as persecution, trophy hunting, poaching, retaliation in response to livestock depredation, kitten orphaning, poisoning and habitat loss and fragmentation, mountain lions are now only found in 15 western states, and the genetically isolated Florida panther remains in the East.

3. Earlier this year, Governor Spencer Cox signed Utah House Bill 469, Gen. Sess. (2022) into law. HB 469 took effect on May 3, 2023, and largely eliminated the State's authority to regulate the hunting and trapping of cougars. In the absence of science-based, reasonable regulation of cougars, Utah risks extirpating or significantly reducing its population of cougars, in violation of the Utah Constitution's Right to Hunt and Fish, which requires that the State "forever preserve" the right of the people to hunt and fish "for the public good." *See* Utah Const., art. I, sec. 30(1).

4. Absent the "reasonable regulation" of cougar populations required by the Utah Constitution, wildlife conservationists and experts predict that the overhunting of cougars intended by HB 469 could cause the extirpation or near-extirpation of cougars in the State of Utah in as little as three years, a clear violation of Article I, Section 30 of the Utah Constitution.

5. On behalf of themselves, their staff, and their supporters, Plaintiffs Mountain Lion Foundation and Western Wildlife Conservancy seek a declaration from this Court that HB 469 is facially unconstitutional because it impermissibly restricts Defendant wildlife management agencies' ability to regulate the killing of cougars within state borders "for the public good," as required by the Utah Constitution. Plaintiffs further seek a declaration that HB 469 is unconstitutional as applied because Defendant wildlife management agencies failed to exercise any remaining regulatory power to protect cougar populations in violation of the Utah

Constitution's preservation mandate. Finally, Plaintiffs ask this court to strike down HB 469 as unconstitutional on its face and as applied and enjoin Defendants from implementing or administering its provisions immediately upon issuance of the Court order.

PARTIES

A. Plaintiffs

6. Plaintiff Mountain Lion Foundation is a national non-profit corporation registered with the Secretary of State of California with its principal place of business in Sacramento, California. Its staff, members, and supporters work to create a world where mountain lions and people coexist, where sustainability include the persistence of the human ecosystem in harmony with viable wildlife communities, and where wildlands are nurtured and not subdued. With a special focus on eliminating the threat of extinction of America's native cougars in the face of climate stress, over-hunting, and habitat loss, the Mountain Lion Foundation's thousands of members and supporters in Utah have suffered and will continue to suffer unique constitutional injuries because of HB 469, which completely deregulates mountain lion sport hunting and strips the state agencies responsible for managing wildlife of authority to manage and thus prevent the local extinction of the mountain lion population in Utah. The further destruction of mountain lions in Utah due to the State's actions in adopting and administering HB 469 will adversely affect the substantial recreational, aesthetic, and conservation interests of the Mountain Lion Foundation and its staff, members, and supporters.

7. Plaintiff Western Wildlife Conservancy is a non-profit wildlife conservation organization founded in Salt Lake City, Utah in 1997. The Conservancy works to protect and conserve native wildlife species—especially large carnivores such as bears, cougars and wolves—and to protect the habitats they need to survive. The Western Wildlife Conservancy is registered with the Utah Secretary of State's Office and its principal place of business is in Salt Lake City, Utah. Its thousands of members and supporters have worked on cougar conservation and management issues in Utah or decades, including by educating and discussing cougar management whenever the issue has come up in the Utah Legislature. The Conservancy was blind-sided by HB 469, which lawmakers amended on the last day of the 2022 legislative session to remove cougar management from the Wildlife Resources Code of Utah, Title 23, and to strip the Utah Department of Natural Resources and Utah Wildlife Board of authority to regulate cougars with limited exceptions. The Conservancy is especially concerned that HB 469 permits

the use of snares, an unethical, cruel form of killing that not only destroys the target species but countless non-target species as well. The destruction of cougars in Utah because of HB 469 will adversely affect the substantial recreational, aesthetic, and conservation interests of Western Wildlife Conservancy and its staff, members, and supporters.

B. Plaintiffs' Interests

8. In addition to Plaintiffs' members' prudential standing interests and injuries, Plaintiffs are the "appropriate parties" to bring this challenge to the constitutionality of HB 469. *Gregory v. Shurtleff*, 299 P.3d 1098, 1104 (Utah 2013) (citing *Utah Chapter of Sierra Club v. Utah Air Quality Bd.* 148 P.3d 960, 972-73 (Utah 2006)). This dispute, moreover, raises an issue of significant public importance. *Id.*

9. Plaintiffs and their members, supporters and staff have long-standing interests in cougar protection and routinely advocate for cougar protection in Utah. They expended organizational resources to actively participate in the development of cougar policy in Utah, including in the legislature, by testifying at Utah Wildlife Board hearings related to cougar matters, submitting comments to Defendants regarding cougar issues whenever appropriate, and participating in the public process for developing the quotas for past cougar hunts. Plaintiffs also spend organizational resources to educate the public in Utah about their cougars, including how to leave peacefully in co-existence with them.

10. Many of Plaintiffs' members, supporters and staff live in or near areas occupied by cougars in Utah, including within driving distance of Salt Lake County, and all four cougar ecoregions where cougars are being trapped, snared, or killed at any time. Plaintiffs visit these areas for hiking, camping, photography, birdwatching, observing wildlife, and other recreational and professional pursuits. Plaintiffs' members, supporters and staff gain aesthetic enjoyment from observing, attempting to observe, hearing, seeing evidence of, and studying wild cougars, including observing signs of cougars in these areas, and observing ecosystems enhanced by these animals. The opportunity to possibly view cougars, or signs of cougars, in these areas is of significant interest and value to Plaintiffs' members, supporters and staff, and increases their use and enjoyment of Utah's public lands. Plaintiffs' members, supporters and staff have engaged in these activities in the past and have specific plans to continue to do so in the future.

11. Plaintiffs' members staff and supporters are adversely impacted by the threat cougar hunters and trappers pose to their companion animals and other companion animals in

Utah. Plaintiffs' members staff and supporters also have an interest in the health and humane treatment of animals. Plaintiffs' members, staff and supporters have engaged in these activities in the past and intend to do so again in the immediate future.

12. Plaintiffs', as well as their members, supporters, and staff, are dedicated to ensuring the long-term survival and recovery of the cougar throughout the contiguous United States, and specifically in Utah, and to ensuring that Defendants comply with all applicable state laws related to the survival and recovery of cougars. In furtherance of these interests, Plaintiffs' members, supporters, and staff have worked, and continue to work, to conserve cougars in Utah, the Northern Rocky Mountains, and the contiguous United States.

13. The interests of Plaintiffs' members, supporters and staff have been, and will continue to be, injured by Defendants' abdication of cougar management responsibility in violation of the Utah Constitution. The interests of Plaintiffs' members, supporters and staff have been, and will continue to be, injured by Defendants' failure to comply with their obligations under the Utah Constitution in continuing to authorize the limitless hunting and trapping of cougars in Utah at unsustainable levels.

14. The relief requested by Plaintiffs here, if granted, would redress, at least in part, the injuries of Plaintiffs' members, supporters, and staff. The relief requested by Plaintiffs, if granted, would require Defendants to comply with the requirements of the Utah Constitution to sustainability manage the cougar population of Utah for the "public good" through "reasonable regulation." The relief requested by Plaintiffs, if granted, would reduce the number of cougars killed by Utah hunters and ensure the long-term survival of the species in the State.

C. Defendants

15. Defendant State of Utah, by and through the Department of Natural Resources, is responsible for upholding the Utah Constitution. The State of Utah has enacted HB 469 and has authority through the Department of Natural Resources to administer and enforce it. Utah Code, § 201.

16. Defendant Joel Ferry, in his capacity as Executive Director of the Department of Natural Resources, administers and supervises the Department and provides for coordination and cooperation among the boards, divisions, councils, and committees of the Department, including

the Division of Wildlife Resources and the Wildlife Board. Utah Code, § 202. Mr. Ferry is sued in his official capacity.

17. Defendant Utah Division of Wildlife Resources is housed within Defendant Department of Natural Resources under the administration and general supervision of the executive director of the Department. Utah Code, § 23-14-1(1)(a). The Division of Wildlife Resources is the wildlife authority for Utah and is vested with the functions, powers, duties, rights, and responsibilities provided in the Utah Wildlife Resources Code and other law. *Id.* at § (1)(b). Subject to the broad policymaking authority of the Wildlife Board, the Division of Wildlife Resources shall protect, propagate, manage, conserve, and distribute protected wildlife throughout the state. *Id.* at § (2)(a). The Division of Wildlife Resources is appointed as the trustee and custodian of protected wildlife. *Id.* at § (2)(b).

18. Defendant Utah Wildlife Board is made up of seven members appointed by the governor with the advice and consent of the Senate. Utah Code, § 23-14-2(1). The Wildlife Board is the policymaking body and “shall establish the policies best designed to accomplish the purposes and fulfill the intent of all laws pertaining to wildlife and the preservation, protection, conservation, perpetuation, introduction, and management of wildlife” in the state of Utah. *Id.* at § (2)(a). In establishing wildlife policy, the Wildlife Board must “(i) recognize that wildlife and its habitat are an essential part of a healthy, productive environment; (ii) recognize the impact of wildlife on humans, human activities, private property rights, and local economies, (iii) seek to balance the habitat requirements of wildlife with the social and economic activities of man; (iv) recognize the social and economic values of wildlife, including fishing, hunting, and other uses; and (v) seek to maintain wildlife on a sustainable basis.” *Id.* at § (2)(b).

19. Together, Defendants exercise, possess, and administer the power of the Executive Branch of the Utah government to regulate, manage, protect, and conserve wildlife, including cougars, as a public resource, including as trustees of the State’s wildlife trust resources.

VENUE AND JURISDICTION

20. The Third Judicial District Court for Salt Lake County is the proper venue for this action because the H.B. 469 was adopted in this county, prohibits Defendants’ regulation of cougars in this county and across the State, and impinges on the constitutional rights of

Plaintiffs' supporters who reside in this county, and because one or more Defendants reside in this county. *See* Utah Code Ann. §§ 78B-3a-201(1),-203(3).

21. The Third Judicial District Court for Salt Lake County has jurisdiction over the matter of this Complaint under Utah Code sections 78A-5-101(2), -5-102(1)–(2), and 78B-6-401; Article VIII, Section 5, of the Utah Constitution; and Rules 57 and 65A of the Utah Rules of Civil Procedure.

22. This Court has power to grant declaratory and equitable relief pursuant to Utah's Declaratory Judgment Act, Utah Code Ann. § 78B-6-401, et seq., as well as through its general equitable powers to enforce the Utah Constitution.

FACTUAL ALLEGATIONS

D. Cougars Benefit Utah's Ecosystems

23. The cougar, sometimes referred to as a mountain lion or puma, has the largest geographic range of any native terrestrial mammal in the Western hemisphere, spanning 28 countries from southern Alaska down to the southern tip of Chile. Cougars inhabit every forest type across their range as well as montane deserts and open steppe grasslands. While cougars eat a wide range of prey, they primarily eat large and medium-sized hooved mammals, like deer, elk, and collared peccaries. Young cougars generally eat smaller prey, including North American beavers, porcupines, and raccoons, as they hone their skills and grow.

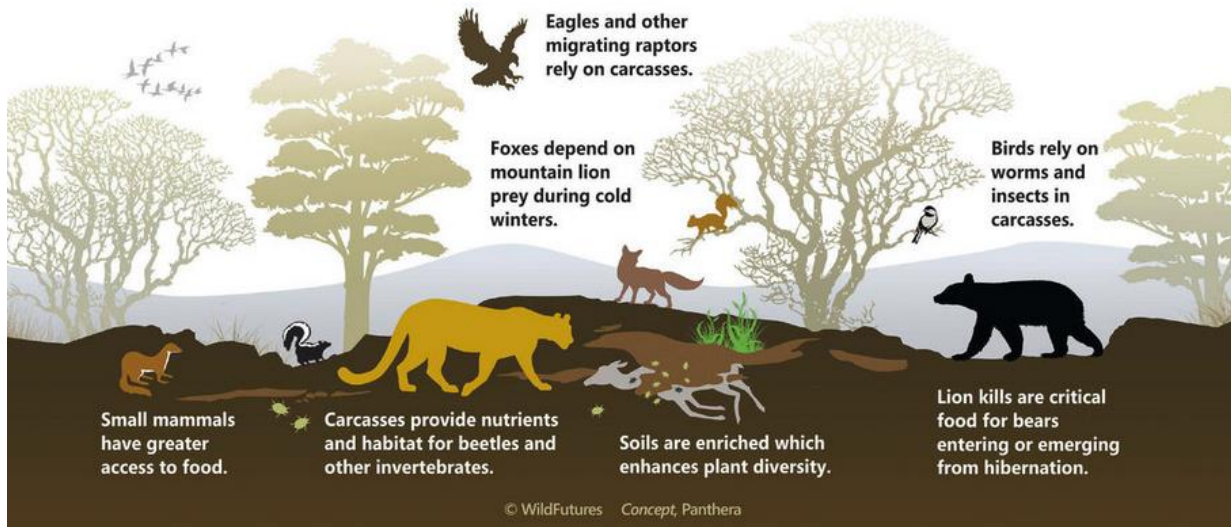
24. Research by Dr. Mark Elbroch, lead scientist for Panthera's Puma Program, and his colleagues shows that cougars benefit ecological communities by increasing local biodiversity and ecosystem health in areas they inhabit. In fact, cougars provide a disproportionately large amount of food to their ecological communities compared with other top carnivores. More species of birds and mammals feed on cougar kills than they do on any other carrion source recorded around the world, and many birds and mammals dine while the cougar

herself is still feeding.

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25. Cougars, by their presence at a carcass, facilitate access to carrion for smaller

Mountain Lions Increase an Ecosystem's Health and Biodiversity



carnivores, which would otherwise be blocked by bobcats and coyotes. This buffers competition among other carnivores and increases the potential for co-existence between gray and red foxes and coyotes, among others. Cougar kills also sustain foxes during the winter when they lose access to other food sources, as well as migratory birds, including eagles, flying historic migration corridors.

26. Cougar food sharing spreads nutrients through the ecosystem and strengthens entire communities, bolstering ecological health as well as an ecosystem's ability to recover following unexpected crises, like a disease outbreak or wildfire. Nutrients from carcasses enrich soils and plant communities, creating hotspots that become the places where animals such as elk and deer more frequently forage. Cougar prey also become temporary habitats where hundreds of different carrion-dependent invertebrates commune, mate and raise their young.

27. Cougar food sharing also bolsters cougar communities, facilitating social interactions among these solitary carnivores in ways researchers have yet to understand. What is becoming clear, however, is that food is a currency among cougars, and one that ties these far-wandering animals to each other in powerful ways.

28. Cougars are secretive animals who can live long lives in the wild. Therefore, conservative hunting practices result in relatively stable, older cougar populations that self-

regulate through immigration and emigration. That is, if available habitat cannot support more than one cougar, additional lions will disperse, and vice versa.

29. In addition, repeated wildlife studies show that older predator populations or packs with mature alpha members, cause fewer conflicts with humans.

E. Utah's Management of Cougars

30. Lethal removal of cougars is not necessary for population control or management. They are terrestrial mammals who live in solitude and maintain exclusionary territories that, in large part, do not overlap, though a male cougar's territory may overlap with a female's territory. The population will "self-manage" if left alone.

31. Because they are secretive and difficult to observe, cougar populations are famously difficult to model. The animals must be tracked using long-term, long-range field studies. Defendants have not conducted a population study in Utah since 2019 and largely guess when estimating Utah's cougar population size at 2,000 animals today.

32. For decades, Defendants managed cougars in Utah with a spatially organized system made up of four broad ecoregions subdivided into 30 different hunting units. Cougars were, therefore, managed at two different spatial scales. Each unit was managed independently to apply harvest pressure according to local priorities, which could have included density reductions aimed at increasing survival in mule deer or bighorn sheep populations. Locally, they were either managed conservatively as a trophy species or liberally as a limiting factor in the population dynamics of native ungulates.¹

33. Defendants ostensibly managed the statewide cougar population for sustainable hunting opportunities and persistence across the cougar's occupied range. Accordingly, before HB 469 took effect on May 3, 2022, the hunting season began in mid-December and ended in early June. Approximately 75% of the kills occurred from December to March, when snow cover facilitated tracking and pursuit.

34. Due to their elusive nature, hunting cougars is hard and requires the assistance of hounds, unless hunter-absent methods of killing and capturing cougars is allowed, such as the use of traps and snares. Until 2022, Defendants banned the trapping and snaring of cougars

¹ No strong scientific support exists for boosting prey populations through lethal predator management.

because of the inherent cruelty of this approach and because of the risks to other animals, including humans' companion animals.

35. Utah Governor Spencer Cox's signed Utah House Bill 469, Gen. Sess. (2022) (codified at various locations within titles 23, 58, and 63J of the Utah Code). HB 469 took effect on May 3, 2022, and largely eliminated the State's authority to regulate the hunting and trapping of cougars in Utah. A true and correct copy of HB 469 is attached hereto as **Exhibit A**.

36. Added on the last day of the 2022 legislative session with no discussion or explanation, HB 469 mandated a year-round hunting season for cougars and allowed the use of traps and snares with a goal of killing unlimited cougars. Utah Ann. Code, §§ 23-19-17(1)(c), 23-19-24(1)(b), 23-19-26(1), 23-19-26(1)(b).

37. HB 469 also removed cougars from the list of big game that required a separate application and hunting license and eliminated the requirement that hunters obtain a pursuit permit to hunt cougars using dogs, with limited exceptions. *See id.* §§ 23-19-24(1), 1(c); 23-19-26(1), (1)(c). Now, only a hunting or combination permit is required to hunt cougars, and every hunter can kill an unlimited number of cougars each year, compared to the two-animal bag limit that existed before HB 469 was passed.

38. In addition to these statutory mandates, HB 469 eliminated nearly all of Defendants' authority to regulate cougars. *See id.* § 23-23-3 (deleting "cougar" from the list of animals over which the Wildlife Board has rulemaking authority with respect to cooperative wildlife management units).

39. On June 8, 2023, Defendant Utah Wildlife Board met to consider possible policies and regulations that could mitigate the impacts of HB 469. The Board ultimately declined to act, however, completely abdicating its responsibility to regulate cougar populations for the public good with a goal of sustainability, as required by the Utah Constitution.

40. Nearly all Utah-based conservation organizations, like Plaintiffs, and several hunting groups, including the Utah Houndsmen Association have publicly condemned HB 469, since the totality of its purpose and effect were made public.

F. Effects of Over Hunting

41. The presence or absence of cougars, as a keystone species, can affect every aspect of a habitat and ecosystem. Without a management strategy in place, experts agree that over-

hunting of cougars will occur. Indeed, the Utah Legislature intended to increase cougar deaths and dramatically decrease the cougar population with HB 469.

42. According to numerous studies, cougar populations begin to decline once 14% of their population is killed, even with transient or immigrating cats repopulating the state via migration.

43. Utah has not measured its cougar population since 2020, and the last time it conducted a post-season survey was after the 2020-2021 season, so most wildlife ecologies do not know what the current population trends shows for Utah's cougars. In the face of such uncertainty, the State should act conservatively to protect the cougars it has rather than rush to extinguish them by state legislative mandate.

44. During the 2020-2021 hunting season, hunters killed 667 cougars—about 33% of the State's population estimate. Forty three percent, or 288 animals, were female. Only twelve of the animals who died during the 2020-2021 season were greater-than-or-equal-to 5 years old.

45. Most states, including Utah, legally protect adult female cougars seen with spotted kittens because kittens stay with their mothers until they're mature and capable of hunting larger prey. Spots begin to fade when cougar kittens are three months old, so some young kittens may look full-grown, but it takes at least 1 ½ years for cougar kittens to gain independence.

46. When a female adult cougar is killed, there is a 75% chance that she left behind her kittens. Young, spotted kittens will almost certainly die of starvation or other causes.

47. At a 50% survival rate, kittens at least one year old have a better chance of surviving when their mothers are killed, but these young have difficulty hunting large animals, like deer and elk, so they often rely on small prey, like rabbits, small pets, or raccoons.

48. Unfortunately, mother cougars don't usually hunt or travel with spotted kittens at their side, so both mothers and kittens are at risk where hunting of female cougars is allowed, as it is in Utah. Female mountain lions spend most of their adult lives pregnant or raising kittens. If hunters misidentify the sex of a cougar (which studies show that many do) or inadvertently kill a mother traveling without her kittens, the orphaned kittens will likely starve to death or die of exposure or depredation.

49. Meanwhile, male cougars travel great distances to find a home of their own—sometimes hundreds of kilometers. This period of dispersal is especially dangerous for young

cougars, whose wanderings lead them across highways and into other life-threatening situations with humans and other predators.

50. Hunters who participate in public hunts of cougars are generally hoping to kill the largest animal possible, resulting in the deaths of the strongest, most evolutionarily capable adult males and females first. Public hunts, therefore, shift population dynamics toward larger percentages of young lions. Young lions are less attractive mates to female lions, so breeding behavior declines. Female cougars immigrate out of areas in search of suitable mates, resulting in an overall decline in population.

51. Young cougars are also far less experienced hunters and tend to pursue livestock or pets and travel to human-inhabited areas more than adults, leading to increased human-cougar interactions.

52. Overhunting poses significant threats to population stability as well as increased safety risks for humans, though cougar attacks are rare. In the last century, there have been an estimated 126 attacks in North America, with 27 of those being fatal. The mortality risk of bee stings, lightning strikes and snake bites is much higher.

53. HB 469's legalization of snare traps will certainly increase the cruelty associated with cougar hunting in Utah. Snare traps are wire loops that are hidden along paths frequented by animals. When caught, the noose tightens as the creature pulls against it, preventing its escape. These traps can cause animals, including human companion animals that caught accidentally, to die of strangulation, an abhorrent practice and outcome.

54. Snare traps also increase mortality of the target species as well as non-target species in significant ways, largely due to low hunter effort. When snares are allowed alongside additional hunting liberalization efforts, as they were with HB 469, it's difficult to predict the degree of harm to cougar populations that will occur over the next few years, though all experts agree the injury to the cougar population will be great.

55. Indeed, experts who have analyzed Utah's cougar populations estimate that the liberalization of hunting methods, expanded hunting season, and limitless take will result in the near-to-certain extirpation of mountain lions in Utah within three years.

CLAIMS FOR RELIEF

First Cause of Action

Violation of Right to Hunt and Fish under Art. I, Sec. 30(1) of the Utah Constitution,

56. Plaintiffs restate and reincorporate the preceding paragraphs as though fully set forth herein.

57. Under the Utah Constitution, “the individual right of the people to hunt and to fish is a valued part of the State’s heritage and shall be forever preserved for the public good.” Utah Const. art. I, sec. 30(1). This constitutional right “includes the right to use traditional methods to hunt and to fish, subject only to statute, and rules and regulations adopted as provided by statute to: (a) promote wildlife conservation and management; (b) provide reasonable regulation of hunting and fishing activities; and (c) preserve the future of hunting and fishing.” Utah Const. art. I, sec. 30(2).

58. Together, Defendants exercise, possess, and administer the exclusive power of the Executive Branch of the Utah government to regulate, manage, protect, and conserve wildlife, including cougars, as a public resource pursuant to the Utah Wildlife Resources Code. *See* Utah Const. art. V, sec. 1; Utah Code, §§ 201, 202, tit. 23.

59. On its face, HB 469 impermissibly conflicts with the Utah Constitution because it eliminates Defendants’ authority to “forever preserve” cougars “for the public good.” *See* Utah Const. art. I, sec. 30(1).

60. On its face, HB 469 impermissibly interferes with Defendants’ ability to comply with the Utah Constitution’s right to hunt because it restricts the Executive Branch of authority—without limitation—of its delegated regulatory power to manage cougars, as set forth in the Utah Wildlife Resources Code, to ensure compliance with the Utah Constitution. *See* Utah Const. art. I, sec. 30(1).

61. This Court has authority to issue a declaratory judgment declaring that HB 469 is unconstitutional on its face because it impermissibly eliminates Defendants’ ability to regulate and manage cougar population as required by the Utah Constitution. *See* Declaratory Judgment Act, Utah Code Ann. § 78B-6-401, et seq., Utah Rules of Civil Procedure 57 and 65A.

62. This Court has authority to strike down HB 469 as facially unconstitutional and enjoin Defendants from its implementation. *Id.*

Second Cause of Action

*Violation of Right to Hunt and Fish under Art. I, Sec. 30(2)(a) of the Utah Constitution,
Wildlife Conservation and Management*

63. Plaintiffs restate and reincorporate the preceding paragraphs as though fully set forth herein.

64. According to the Utah Constitution, “the right to hunt and fish is subject to ‘rules and regulations’” to “(a) promote wildlife conservation and management.” *See* Utah Const. art. I, sec. 30(2)(a).

65. On June 8, 2023, Defendant Wildlife Board convened a regular meeting to consider whether it would adopt rules and regulations for cougar management pursuant to any remaining authority it retained after HB 469 went into effect.

66. Defendants refused to adopt any related to the promotion of wildlife conservation or management of cougars.

67. In failing to regulate, Defendants have violated the Utah Constitution as applied to the hunting of cougars within the State.

68. This court has authority to issue a declaratory judgment declaring that HB 469 is unconstitutional as applied because Defendants have refused to regulate or manage cougars as required by the Utah Constitution. *See* Declaratory Judgment Act, Utah Code Ann. § 78B-6-401, et seq., Utah Rules of Civil Procedure 57 and 65A.

69. This court has authority to strike down HB 469 as unconstitutional as applied and to enjoin Defendants from its implementation. *Id.*

Third Cause of Action

Violation of Right to Hunt and Fish under Art. I, Sec. 30(2)(b) of the Utah Constitution, Reasonable Regulation

70. Plaintiffs restate and reincorporate the preceding paragraphs as though fully set forth herein.

71. According to the Utah Constitution, “the right to hunt and fish is subject to ‘rules and regulations’” to “(b) provide reasonable regulation of hunting and fishing activities.” *See* Utah Const. art. I, sec. 30(2)(b).

72. On June 8, 2023, Defendant Wildlife Board convened a regular meeting to consider whether it would adopt rules and regulations for cougar management pursuant to any remaining authority it retained after HB 469 went into effect.

73. Defendants refused to adopt any regulations limiting or mitigating the impacts of HB 469.

74. In failing to regulate, Defendants have violated the Utah Constitution as applied to the hunting of cougars within the State.

75. This court has authority to issue a declaratory judgment declaring that HB 469 is unconstitutional as applied because Defendants have refused to regulate or manage cougars as required by the Utah Constitution. *See* Declaratory Judgment Act, Utah Code Ann. § 78B-6-401, et seq., Utah Rules of Civil Procedure 57 and 65A.

76. This court has authority to strike down HB 469 as unconstitutional as applied and to enjoin Defendants from its implementation. *Id.*

Fourth Cause of Action

Violation of Right to Hunt and Fish under Art. I, Sec. 30(2)(c) of the Utah Constitution, Preservation of Future Hunting and Fishing

77. Plaintiffs restate and reincorporate the preceding paragraphs as though fully set forth herein.

78. According to the Utah Constitution, “the right to hunt and fish is subject to ‘rules and regulations’” to “(c) preserve the future of hunting and fishing.” *See* Utah Const. art. I, sec. 30(2)(c).

79. On June 8, 2023, Defendant Wildlife Board convened a regular meeting to consider whether it would adopt rules and regulations for cougar management pursuant to any remaining authority it retained after HB 469 went into effect.

80. Defendants refused to adopt regulations that would preserve the future of hunting cougars in Utah.

81. In failing to regulate, Defendants have violated the Utah Constitution as applied to the hunting of cougars within the State.

82. This court has authority to issue a declaratory judgment declaring that HB 469 is unconstitutional as applied because Defendants have refused to regulate or manage cougars as required by the Utah Constitution. *See* Declaratory Judgment Act, Utah Code Ann. § 78B-6-401, et seq., Utah Rules of Civil Procedure 57 and 65A.

83. This court has authority to strike down HB 469 as unconstitutional as applied and to enjoin Defendants from its implementation. *Id.*

PRAYER FOR RELIEF

THEREFORE, Plaintiffs request that the Court:

- A. Declare that HB 469 violates the Utah Constitution, Article I, Section 30 on its face and as applied and is therefore invalid;
- B. Issue an injunctive prohibiting Defendants and their officers, employees, servants, agents, appointees, or successors from administering, preparing for, and enforcing HB 469 at all times in the future;
- C. Waive any security requirement for any injunction issued under Utah Civil Procedure Rule 65A;
- D. Retain jurisdiction of this action to render any further orders that this Court may deem appropriate;
- E. Award Plaintiffs' attorneys' fees, costs, and expenses; and
- F. Grant other and further relief as the Court deems just and appropriate.

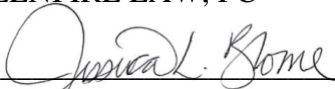
Dated: October 18, 2023,

Respectfully submitted,

BAN LAW OFFICE, PC

By: /s/ Joel Ban
Joel Ban

GREENFIRE LAW, PC

By: 
Jessica L. Blome
Pro hac vice application forthcoming

*Attorneys for Plaintiffs Mountain Lion Foundation
and Western Wildlife Conservancy*