



**ANIMAL LEGAL
DEFENSE FUND** EST
1979

525 East Cotati Avenue
Cotati, California 94931

T 707.795.2533
F 707.795.7280

info@aldf.org
aldf.org

August 21, 2023

Skagit County Hearing Examiner
1800 Continental Place
Mount Vernon, WA 98273
Submitted via email

Re: Special Use Permit application #PL22-0133 submitted by Predators of the Heart

Dear Skagit County Hearing Examiner:

The Animal Legal Defense Fund (“ALDF”) is a nonprofit organization dedicated to protecting the lives and advancing the interests of animals through the legal system. ALDF accomplishes this mission by filing high-impact lawsuits to protect animals from harm, providing training to prosecutors to ensure that animal cruelty laws are enforced, supporting laws that protect animals, and providing resources and opportunities to law students and professionals to advance the emerging field of animal law. ALDF is supported by thousands of dedicated attorneys and more than 300,000 members and supporters.

Through its work with roadside zoos, ALDF has encountered Predators of the Heart (“POTH”) and learned information about its operations. ALDF respectfully submits this comment to share this information, as well as to provide the Skagit County Hearing Examiner with its view that: (1) the USDA’s regulation of POTH is not sufficient to guarantee the welfare of animals; (2) POTH’s conduct falls well below the generally accepted standards adhered to by legitimate and reputable sanctuaries, and (3) POTH’s claim that it could be forced to euthanize its wolves if its

All our clients are innocent

Printed on recycled paper

application for a SUP is denied may violate the federal Endangered Species Act and is patently false, as there is a well-established history of successfully rehoming endangered and other wild animals from roadside zoos to legitimate sanctuaries. ALDF’s comment explains each of these issues and also provides supporting documentation.

I. Conducting activities regulated by the USDA does not ensure the welfare of animals.

POTH holds a U.S. Department of Agriculture (“USDA”)-issued exhibitor license and is therefore subject to the Animal Welfare Act (“AWA”).¹ Although POTH makes much of this fact in its briefing,² the AWA only provides a minimum floor for the treatment of animals. It does not preempt local bodies from promulgating standards in addition to the “minimum requirements” set forth therein.³

The AWA’s standards are notoriously low; for example, the Act allows puppy mills to keep dogs in cages that are only six inches larger than the size of their bodies.⁴ As a result of its low standards, there have been numerous court decisions finding that facilities neglect, abuse, and otherwise harm animals despite maintaining an active AWA license. In *Kuehl v. Sellner*, for example, ALDF sued Cricket Hollow Zoo for violations of the Endangered Species Act (“ESA”).⁵ Despite noting that “Cricket Hollow Zoo [was] inspected regularly by the United States Department of Agriculture,” the court found that Cricket Hollow, a licensed USDA facility, had violated the ESA through its “failure to provide adequate veterinary care” to its animals, who were forced to live in “social isolation,” with a “lack of environmental enrichment, and inadequate sanitation.”⁶ The same was true in *PETA v. Tri-state Zoological Park*, where the court found that a USDA-licensed facility had

¹ See, e.g., Predators of the Heart’s Opening Brief, In The Matter of the Appeals of Predators of the Heart et al., No. PL22-0133 (SUP), at 3:14 [hereinafter “POTH Opening Brief”].

² See e.g., POTH Opening Brief, at 11:1–10.

³ 7 U.S.C. §§ 2141(a)(2), (8).

⁴ 9 C.F.R. § 3.6(c)(1)(i).

⁵ 161 F. Supp. 3d 678 (N.D. Iowa 2016).

⁶ *Id.* at 696, 719.

“deplorable conditions,” including inadequate veterinary care, a lack of proper enrichment, and unhealthy food.⁷ In both cases, the court transferred the animals to new facilities.

Beyond its low standards, the AWA also suffers from inadequate enforcement. The USDA Inspector General remarked that the Agency does not “consistently address complaints it receive[s] or adequately document the results of its followup.”⁸ Members of Congress have expressed similar concerns.⁹ The explanatory statement accompanying the Consolidated Appropriations Act of 2022 (P.L. 117-103), for example, noted that “[c]ommittees are concerned about the ongoing mismanagement of [USDA’s] Animal Care program,” including the “long and inexplicable delays by [USDA] in acting against blatant violations of the Animal Welfare Act that resulted in the illness and death of many animals under [USDA’s] jurisdiction.”¹⁰

Despite the AWA’s low standards and the USDA’s lax enforcement, POTH has still been cited under the AWA for improper conduct with its gray wolves.¹¹ Specifically, on June 28, 2018, a USDA inspector noted that the “Wolf Encounter Experience” offered by POTH “does not assure the safety of the public nor the animals” and ordered it to be “corrected immediately.”¹² This was, notably, two years prior to the wolf escape that resulted in the death of a domestic dog.¹³ In response to this violation, POTH argued that the USDA was mistaken because the wolfdogs were

⁷ 424 F. Supp. 3d 404, 430–31, 434 (D. Md. 2019). More than half of the ESA protected species housed at Tri-State died.

⁸ OFF. OF INSPECTOR GEN., “ANIMAL CARE OVERSIGHT OF DOG BREEDERS,” AUDIT REPORT 33601-0002-31 (June 2021) (“We found that APHIS did not consistently address complaints it received or adequately document the results of its followup.”), available at https://www.oversight.gov/sites/default/files/oig-reports/USDAOIG/33601-0002-31finaldistribution_0.pdf [<https://perma.cc/T9ZL-92B4>].

⁹ *See, e.g.*, Press Release, Sen. Tim Kaine, Warner & Kaine Demand Immediate Action in Light of “Continued, Horrific Mistreatment” of Dogs and Puppies at Va. Facility (Mar. 31, 2022); Press Release, Rep. Mike Quigley, Quigley Leads Letter to USDA on USDA Animal Welfare Enforcement (Apr. 27, 2020)..

¹⁰ 168(42) CONG. REC. 1712 (Mar. 9, 2022) (explanatory statement).

¹¹ USDA, FOIA Request Response 2020-APHIS-05260-F, Records relating to William David Coleburn/Predators of the Heart, (Nov. 16, 2021).

¹² Ex. 1, U.S. DEP’T OF AGRIC, Inspection Report (June 28, 2018).

¹³ Neighbor Parties Prehearing SEPA Brief, In The Matter of the Appeals of Predators of the Heart et al., No. PL22-0133 (SUP), at 9:31 (August 2, 2023).

merely “wild canines” and were even *reported as dogs* to the USDA from 2009-2014.¹⁴ As set forth below, however, the animals at POTH qualify as protected gray wolves under the ESA.¹⁵

II. POTH’s conduct violates the generally accepted standards of legitimate sanctuaries.

Reputable sanctuaries adhere to a set of generally accepted standards. These include: (1) no human-animal contact; (2) no breeding; and (3) no sale of animals.¹⁶ These principles are reflected in state law.¹⁷ Despite declaring itself a “wildlife sanctuary,”¹⁸ POTH violates all three of these standards.

First, POTH sells direct human contact with wolves through commercial platforms like Airbnb.¹⁹ Facilitating direct exposure to dangerous animals is in conflict with generally accepted welfare and safety standards for legitimate sanctuaries.²⁰ Although POTH alleges that “[o]ffering special opportunities to interact with animals is a common way that zoos, preserves, wildlife centers and similar facilities increase revenue and make their operations financially stable,”²¹ standards set by numerous third parties, including the Global Federation of Animal Sanctuaries, the Big Cat Sanctuary Alliance, and the American Sanctuary Association, all prohibit these types of “special

¹⁴ Ex. 2, Email from POTH to USDA, APHIS, (July 23, 2018).

¹⁵ See *infra* Sec. III(a).

¹⁶ See, e.g., GLOB. FED’N OF ANIMAL SANCTUARIES, GENERAL ANIMAL CARE STANDARDS 19 (last updated April 2023) (“There is no intentional breeding of animals in lifetime care”) available at https://sanctuaryfederation.org/wp-content/uploads/2023/06/General-Animal-Standards-2022_2023-version-updates.pdf [<https://perma.cc/KC7T-HLQ3>]; GLOB. FED’N OF ANIMAL SANCTUARIES, STANDARDS FOR CANID SANCTUARIES 31 (last updated December 2019) (“In general, humans do not enter enclosures with canids. Direct physical interaction is limited to protected forms of contact, by experienced personnel, to minimize the risk of injury”) available at <https://sanctuaryfederation.org/wp-content/uploads/2020/02/Canid-Standards-2019.pdf> [<https://perma.cc/KYT3-DSAJ>]; *Positions Statements*, BIG CAT SANCTUARY ALL., <https://www.bigcatalliance.org/learn-more/> (generally opposing breeding, sale, or use of big cats or hybrid cats in entertainment); *Accreditation Criteria*, AM. SANCTUARY ASS’N, <https://www.americansanctuaries.org/accreditation-criteria> [<https://perma.cc/XQ4K-Q4QL>] (“No breeding”; “No use of animals for any commercial activity that is exploitive in nature”).

¹⁷ RCW § 16.30.010(5) (defining “wildlife sanctuary”).

¹⁸ POTH Opening Brief, *supra* note 1, at 11-12.

¹⁹ *Id.* at 4:7–21.

²⁰ *Supra* note 18.

²¹ POTH Opening Brief, *supra* note 1, at 9:18–20.

opportunities” for accredited sanctuaries because they are known to be harmful to the animals and dangerous to the public.²²

POTH also has a history of breeding and transferring animals for compensation.²³ For example, in 2017, POTH transferred ownership of two of its unsterilized wolf pups to a roadside zoo in exchange for \$2,450.²⁴ Breeding wolf pups and transferring ownership of them in unsterilized condition to roadside zoos is antithetical to the very purpose of a genuine animal sanctuary.

III. If Predators of the Heart’s Specific Use Permit is denied, the animals at the facility do not have to be euthanized.

POTH warns that it “may be forced to euthanize up to 80%” of the animals at the facility if a Special Use Permit is not granted.²⁵ Euthanizing the wolves is likely illegal, since the animals are protected by the ESA. It is also unnecessary, since the animals can almost certainly be transferred to genuine sanctuaries.

a. Injuring or killing the federally-protected gray wolves at POTH may violate the ESA.

The United States District Court for the Western District of Washington held in 2022 that four wolves who POTH bred and transferred to a roadside zoo —Tonka, Grace, Seth, and Sam²⁶— are not hybrid wolf-dogs but rather gray wolves protected under the ESA.²⁷ After reviewing POTH’s transfer records and expert genetic testing of the wolves, the Court found that “[t]here is no indication that any of the wolves had a parent, grandparent, or even great-grandparent that was a

²² See *supra* note 16.

²³ See Ex. 3, Predators of the Heart, “Receipt of Transfer” (June 19, 2017); Ex. 4, Predators of the Heart, “Receipt of Transfer” (Dec. 12, 2012).

²⁴ *Id.*

²⁵ Caitlin Berard, *Wolf Wildlife Sanctuary Facing Lawsuit & Closure*, OUTSIDER (Jan. 25, 2023), <https://outsider.com/outdoors/news-outdoors/wolf-wildlife-sanctuary-facing-lawsuit-closure/> [<https://perma.cc/QP5F-99TG>]; see also *Anacortes Wolf Sanctuary May Have to Close, Euthanize Animals*, KGMI (Jan. 25, 2023), <https://kgmi.com/news/007700-anacortes-wolf-sanctuary-may-have-to-close-euthanize-animals/> [<https://perma.cc/D2KV-TW5M>] (quoting Ashley Carr as saying POTH may “have to euthanize” the animals).

²⁶ See *supra* note 46.

²⁷ *Animal Legal Def. Fund v. Olympic Game Farm, Inc.*, 591 F.Supp.3d 956, 963–64 (W.D. Wash. 2022) [hereinafter “*ALDF v. OGF*”].

dog.”²⁸ Further, the Court held that “there is no support in the ESA, its legislative history, the implementing regulations, or case law . . . that a negligible amount of non-wolf genetic material from a distant ancestor excludes an individual from the protections of the statute.”²⁹ Since POTH’s wolves are protected under the ESA (among other laws), it would be illegal for POTH to unnecessarily euthanize them. The ESA protects the wolves from being “taken” or “killed” without a permit.³⁰ And its protections apply with equal force to wolves in captivity.³¹

As an aside, POTH appears to fundamentally misunderstand the actual lineage of its wolves and the purpose of conservation captive-wildlife breeding. POTH’s assertion that it might engage in the breeding of its endangered wolves to both preserve the “several unique genetic lines of wolfdog” or fulfill “a request for wolfdog puppies from an organization that has contracted with a government agency to operate a wolf reintroduction program into the wild” is yet another example of POTH’s fast-and-loose terminology when it comes to describing its endangered wolves.³² The wolves at POTH’s facility are either endangered gray wolves subject to the protection of the ESA or they are, as POTH attempts to argue throughout its brief, merely “dog-hybrids” or “wolfdogs” that can be considered domestic animals³³— they cannot be both. As already discussed, a court has already found that four wolves bred at POTH are wolves protected under the ESA.³⁴ POTH’s desire to breed its wolves for conservation purposes would face the initial hurdle of requiring a permit from the U.S. Fish and Wildlife Service (USFW).³⁵ A captive-wildlife breeding permit requires several affirmative showings, including that the breeding is “to enhance the propagation or survival

²⁸ *Id.* at 963.

²⁹ *Id.* at 963–64.

³⁰ 16 U.S.C. § 1538(a)(1)(B); *Id.* § 1532(19).

³¹ *Animal Legal Def. Fund v. Special Memories Zoo*, 42 F.4th 700, 706 (7th Cir. 2022) (“Nothing in the statute allows people to harass or harm endangered animals so long as they do so on private property.”).

³² POTH Response Brief Re: SEPA Appeal, In The Matter of the Appeals of Predators of the Heart et al., No. PL22-0133 (SUP) at 6:1–9 [hereinafter “POTH Response Brief”].

³³ POTH Opening Brief, *supra* note 1, at 12:5–8, FN 21.

³⁴ *ALDF v. OGF*, 591 F.Supp.3d at 963–64.

³⁵ 50 C.F.R. § 17.21(g).

of the affected species.”³⁶ The captive breeding of wolfdogs does not enhance the propagation of gray wolves in the wild at all—quite the opposite. Numerous studies of wolf recovery efforts have cited hybridization as a key threat to wild wolf populations and have adopted adaptive management plans to address concerns about the harm hybridization could have on the recovery of wild wolf populations.³⁷ Since POTH has now classified its wolves as dogs, high-content wolfdogs, and wolf-hybrids, it is unclear what species it would be intending to propagate with a breeding program.

b. There is a well-established history of successfully transferring and rehoming endangered and other wild animals to legitimate sanctuaries.

POTH’s argument that it may be required to euthanize animals³⁸ is not a legitimate concern when, instead of killing the animals, they could be rehomed to sanctuaries.

ALDF has been directly involved in a number of successful, large-scale rehoming efforts in similar situations. For example, after bringing a series of successful lawsuits against Cricket Hollow Zoo in Iowa based on the facility’s violation of the state’s animal cruelty standards, public nuisance laws, and the ESA, ALDF facilitated the rescue and rehoming of more than four hundred animals.³⁹ This was a logistically complex rescue operation, with animals being transferred and rehomed to animal shelters and sanctuaries across the country.⁴⁰ ALDF has also participated in other rehoming efforts, such as the move of all the endangered animals at Pymatuning Deer Park in Pennsylvania to

³⁶ *Id.* § 17.21(g)(1)(ii).

³⁷ *E.g.*, Eric M. Gese et al., *Managing Hybridization of a Recovering Endangered Species: The Red Wolf Canis rufus as a case study*, 61(1) CURRENT ZOOLOGY 191 (2015) (discussing ways to manage “the threat of hybridization” towards the recovery effort for red wolves in North Carolina); *see also* Christophe Dufresnes et al., *Two Decades of Non-Invasive Genetic Monitoring of the Grey Wolves Recolonizing the Alps Support Very Limited Dog Introgression*, 9 SCI. REP. 148 (2019) (stating that expert “[r]ecommendations include” the “removal” of wolfdog hybrids “to protect the integrity of wild populations”).

³⁸ *See, e.g.*, POTH Opening Brief, *supra* note 1, at 10:16; *see also* *Anacortes Wolf Sanctuary May Have to Close*, *supra* note 49; Berard, *supra* note 52 (“Carr may be forced to euthanize up to 80%” of the animals at POTH).

³⁹ Press Release, Animal Legal Def. Fund, Precedent-Setting Victory Against Cricket Hollow Zoo for Violating Animal Cruelty Laws (Aug. 5, 2021), available at <https://aldf.org/article/precedent-setting-victory-against-cricket-hollow-zoo-for-violating-animal-cruelty-laws/> [<https://perma.cc/6MDP-TK9G>].

⁴⁰ *See* Bennett Goldstein, *Following Rescue From Manchester Zoo, Animals on Road to Recovery*, TEL. HERALD (Dec. 21, 2019), https://www.telegraphherald.com/news/tri-state/article_d8787727-3571-57f7-9985-e165d14e3a00.html [<https://perma.cc/BAS3-8T5L>]; Press Release, Animal Legal Def. Fund, Court Orders Animals From Cricket Hollow Zoo be Transferred to Sanctuaries (Nov. 25, 2019), available at <https://aldf.org/article/court-orders-animals-from-cricket-hollow-zoo-be-transferred-to-sanctuaries/> [<https://perma.cc/767M-XPUU>].

the Wild Animal Sanctuary in Colorado.⁴¹ Beyond ALDF's direct experience, there are many other examples of successful rehoming efforts that resulted in the relocation of animals to legitimate sanctuaries, including, for example, the 2023 closure of the Mayaguez Zoo in Puerto Rico and the relocation of the animals to the Wild Animal Sanctuary.⁴²

The cost of transferring and rehoming these animals is regularly borne by the organization managing the transfer and not by the facility the animals are leaving. In the Mayaguez Zoo case, the Wild Animal Sanctuary spent well over one million dollars to fly animals to sanctuaries.⁴³ Similarly, in the Cricket Hollow case, ALDF expended tens to hundreds of thousands of dollars to advocate for and carry out the rescue and rehoming of the animals.⁴⁴

IV. Conclusion

POTH fails to qualify as a legitimate sanctuary by almost every generally accepted metric and is actively engaged in activities, such as direct human-animal contact, breeding, and the transfer of wolves for compensation, that are fundamentally antithetical to the mission of a true sanctuary.⁴⁵ Moreover, merely possessing a USDA exhibitor license does not establish that a facility is operating a humane, safe, or otherwise reputable facility given the numerous issues with AWA enforcement and oversight.⁴⁶

⁴¹ See Press Release, People for the Ethical Treatment of Animals, Rescued! Big Cats, Lemurs, and Others Move to Sanctuary From Local Roadside Zoo (Feb. 1, 2022), available at <https://www.peta.org/media/news-releases/rescued-big-cats-lemurs-and-others-move-to-sanctuary-from-local-roadside-zoo/> [<https://perma.cc/4A67-2REL>].

⁴² See Dánica Coto, *Weld County Wildlife Sanctuary Will Give New Home to Animals Rescued From Puerto Rico Zoo*, CPR NEWS (Mar. 8, 2023), <https://www.cpr.org/2023/03/08/weld-county-wildlife-sanctuary-helps-puerto-rico-zoo-animals/> [<https://perma.cc/W2FT-2HFD>]; Kirin Pandit, *Colorado Sanctuary to Take in Animals from Puerto Rico Zoo*, 9 NEWS (Mar. 27, 2023), <https://www.9news.com/article/life/animals/colorado-sanctuary-to-take-in-animals-puerto-rico-zoo/73-9fc43c75-0c64-4467-90bc-9336acbcba89> [<https://perma.cc/L253-EV35>]; Monte Whaley, *Lions, Bears and a Camel: Colorado Sanctuary Leads Effort to Save Hundreds of Puerto Rico Zoo Animals*, COLO. SUN (May 17, 2023), <https://coloradosun.com/2023/05/17/puerto-rico-zoo-rescue-wild-animal-sanctuary/> [<https://perma.cc/3AP9-ZV9N>].

⁴³ See Whaley, *supra* note 42.

⁴⁴ Complaint at 25, Animal Legal Defense Fund v. Vilsack, No. 22-cv-3146 (D.D.C. Oct. 17, 2022).

⁴⁵ See *supra* note 16.

⁴⁶ See *supra* note 4–10.

Additionally, POTH's claim that it will be forced to euthanize its animals if the SUP permit is denied is untrue and misleading. Entities like ALDF regularly engage in the transfer of animals from facilities violating federal or state laws to legitimate sanctuaries across the United States.⁴⁷ POTH also possesses and exhibits endangered wolves, which are protected under the ESA from unlawful killing.⁴⁸ Any attempt by POTH to euthanize animals protected by the ESA would likely be a violation of federal law.⁴⁹ For these reasons, ALDF does not consider POTH a legitimate sanctuary and believes its animals can and should be transferred to a true sanctuary in lieu of euthanasia.

Sincerely,



Bailey Frank
David R. Reuben Litigation Fellow
Animal Legal Defense Fund
bfrank@aldf.org



Michael Swistara
Litigation Fellow
Animal Legal Defense Fund
mswistara@aldf.org

⁴⁷ See *supra* note 38–41.

⁴⁸ See *supra* note 31.

⁴⁹ See *id.*



Inspection Report

Predators Of The Heart
6128 Parkside Dr.
Anacortes, WA 98221

Customer ID: **8612**
Certificate: **91-C-0071**
Site: 001
PREDATORS OF THE HEART

Type: ROUTINE INSPECTION
Date: 28-JUN-2018

2.131(c)(1)

HANDLING OF ANIMALS.

The facility's "Wolf Encounter Experience" allows direct contact between the public and the wolves used during the tour. This direct contact includes both petting the wolves and kissing, in which the wolves are allowed to lick the faces of the patrons.

During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the public so as to assure the safety of the animals and the public. This type of activity does not assure the safety of the public nor the animals.

To be corrected immediately.

This inspection and exit briefing were conducted with the facility representative.

Additional Inspectors

Mckinnie Carolyn, Supervisory Animal Care Specialist

Prepared By:

FORBES DIANE, D V M USDA, APHIS, Animal Care

Date:
05-JUL-2018

Title: VETERINARY MEDICAL OFFICER 5053

Received By:

DAVE COLEBURN VIA EMAIL

Date:
05-JUL-2018

Title: DIRECTOR

EXHIBIT 2

PREDATORS OF THE HEART
6128 Parkside Drive
Anacortes, WA 98221
360-840-6164

July 23, 2018

Diane Forbes
USDA, APHIS, Animal Care
Veterinary Medical Officer 5053

Dear Diane Forbes and USDA:

I am writing an appeal letter in response to the latest inspection report we received on July 5, 2018 that included a violation sited on June 28, 2018 during a routine inspection. This violation has been sited based on the consideration that our animals are pure wolves.

I have always known that our wolf dogs are not 100% pure wolves because the wolves I introduced into my line on July 8, 2007 were born white with pink noses, which is not a wolf trait, but is a dominate trait that has been passed down into our line. Also, our black wolf dog, Razzel, was acquired July 6, 2009 from wolf dog breeder Mace Loftus. Mace is a well known breeder of high content wolf dogs. Our very first wolves, Juno and Dakota, came to us in May and June of 2006. They were neutered and never bred, so they have not been introduced into our current line.

YEAR:	RECORDED AS:
2006	Wild Canines
2007	Wild Canines
2008	Wild Canines
2009	Dogs
2010	Dogs
2011	Dogs
2012	Dogs
2013	Dogs
2014	Dogs
2015	Exotic Mammals
2016	Exotic Mammals
2017	Exotic Mammals
2018	Dogs

On our yearly license renewal, we began reporting wolf dogs starting in 2006. From 2006 – 2008 we were advised to list them as “Wild Canines” because we were under the impression that our starting wolves were pure. But we learned that the traits in our line, such as the born white and pink noses, are dog traits, not wolf traits. We reported our wolf dogs as “Dogs” from 2009 – 2014. Then we were advised by our USDA inspector that it would be easier to meet wolf standards rather than dog standards for housing. We were told we could call it either way. So, we reported our wolf dogs as “Wild or Exotic Mammals” from 2015 – 2017. Now we have been informed that because our wolf dogs are listed as “Wild and Exotic Mammals”, we can no longer have public contact. We have currently reported our wolf dogs as “Dogs” on our 2018 license renewal, because we know that they are not pure wolves.

On May 13, 2013, we were cited for not having tags on our wolf dog enclosures. This was to be corrected by July 9, 2013, in which we complied. Attached is a copy of the inspection report that references our animals as “wolf dogs”.

Because our animals are wolf dog ambassadors, and not pure wolves, we should be held to the USDA dog requirements. We will do whatever is required to be in compliance for exhibiting wolf dog ambassadors. There are currently wolf dog hybrids used in the same manner, allowing public contact, in many other facilities across the country.

Please provide for us the CFR Law that states that there shall be no public contact with Hybrid Canines.

CFR 9 1.1. for the definition reference <https://www.law.cornell.edu/cfr/text/9/1.1>

Hybrid cross means an animal resulting from the crossbreeding between two different species or types of animals. Crosses between wild animal species, such as lions and tigers, are considered to be wild animals. Crosses between wild animal species and domestic animals, such as dogs and wolves or buffalo and domestic cattle, are considered to be domestic animals.

Dog means any live or dead dog (*Canis familiaris*) or any dog-hybrid cross.

Thank you for your kind consideration in this matter. Our goal is to be in complete compliance with the Federal Animal Welfare Act.

Sincerely,

(b) (6), (b) (7)(C)

Dave Coleburn

Predators of the Heart President

DC/dlc

EXHIBIT 3

"TONKA"
"GRACIE"



PREDATORS OF THE HEART
6128 Parkside Drive
Anacortes, WA 98221
360-840-6164
USDA #91-C-0071

TRANSFER OF OWNERSHIP

2 Number of Animals Transferred

2 Species/High Content Wolfdogs

1 Male 1 Female

5 May 2017 Birth Date

0 Purchase Price

\$2,450.- Cost of Freight/Delivery

\$2,450.- Amount Paid

NOTE: Animals too young to vaccinate.
These are not pure wolves, but they are wolf hybrids.

Buyer: John T. Butler Date: 19 JUNE 2017

Seller: Dave Wilson Date: 6-19-2017

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0579-0036. The time required to complete this information collection is estimated to average 1.7 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

EXHIBIT 4

"SETH"
"SAM"



PREDATORS OF THE HEART
6128 Parkside Drive
Anacortes, WA 98221
360-840-6164
USDA #91-C-0071

TRANSFER OF OWNERSHIP

2 Number of Animals Transferred

✓ Species/High Content Wolfdogs

2 Male 0 Female

5 July 2012 Birth Date

0 Purchase Price

0 Cost of Freight/Delivery

0 Amount Paid

NOTE: Animals too young to vaccinate.
These are not pure wolves, but they are wolf hybrids.

Buyer: Robert J. Becker Date: 12 DEC 2012

Seller: William D. Cohen Date: 12-1-2012

Born Free USA Testimony: Special Use Permit application #PL22-0133 submitted by Predators of the Heart (POTH)

Contact: Devan Schowe: devan@bornfreeusa.org

8/8/2023

Dear Mr. Hearing Examiner,

As a leading animal welfare and wildlife conservation non-profit with decades of experience in campaigning against the exploitation of wild animals in captivity, Born Free USA strongly opposes the Special Use Permit application #PL22-0133 submitted by Predators of the Heart (POTH).

Born Free USA has had several prior dealings with POTH and wild animal ownership in the state of Washington. In 2007, Born Free USA (then the Animal Protection Institute) co-sponsored HB 1418, which successfully banned the private possession of dangerous wild animals in Washington state. At the time, Washington was one of only eleven states that did not restrict this dangerous practice. By 2023, 17 states have taken steps to ban the private ownership of most dangerous wild animal species.

In 2006, Born Free filed a complaint with the United States Department of Agriculture (USDA) documenting violations of the federal Animal Welfare Act by POTH owner David Coleburn. This complaint documented various instances where our investigators were allowed repeated and direct physical contact with bobcats with whom Mr. Coleburn attested he had been severely injured by in the past.

In February of 2008, Born Free called on the Chehalis City Council in Washington, to prohibit public displays of wild and exotic animals. This request was a direct response to a gathering of the Phoenix Exotic Wildlife Association at Yard Birds Mall, where the public was put at risk by allowing people, including children, to have direct contact with dangerous and unpredictable wild animals owned by POTH.

Allowing direct interactions with wild animals is irresponsible and dangerous to both the animals and humans involved. Further, displaying dangerous wild animals and non-native wildlife in such a way does not provide any visitor education or animal conservation benefits. Wild animals owned by POTH, including bobcats, cougars, wolves, wolf-dog hybrids, alligators, opossums, sloths, and others, have not been domesticated through extensive artificial breeding over thousands of years like domestic dogs and cats have been. Therefore, despite having early human exposure or being subjected to training routines, these are wild animals who will remain unpredictable and aggressive for the duration of their lives. The severe behavioral restrictions and high stress levels wild animals experience in captivity often heighten these aggressive tendencies.

According to Born Free's Exotic Animals Incident Database, 91 human deaths occurred from 1990-2019 and 662 human injuries occurred from 1990-2021 due to escapes or attacks involving wild animals. These attacks have occurred irrespective of animal species, size, age, background, habituation to humans, within or outside of an enclosure, and with or without the humans involved having previous wildlife handling experience, including zookeepers, veterinarians, and animal trainers.

When these animals attack or escape, first responders including paramedics, firefighters, and police officers are typically called upon to handle the fallout. First responders are not, however, trained to deal with dangerous wild animals. Because human safety is always prioritized in these volatile situations, and nonlethal options like tranquilizers or other forms of live capture can become too time consuming, first responders often end up shooting dead the escaped animals to prevent further damage and risk. By keeping wild animals captive and allowing direct interactions like photo ops and other hands-on experiences, POTH is endangering public safety and potentially sacrificing the lives of the animals should one of them escape or initiate an attack.

Zoonoses, or diseases that may be transferred from animals to humans, also pose a major health concern. There are more than 200 known types of zoonoses, which comprise a large percentage of new and existing diseases in humans. Zoonoses can spread to humans through direct contact or through food, water, or the environment. This is of particular concern with rabies, which can be spread to people through contact with infected saliva via bites or scratches.

As is the case for many other wild animal species, the canine rabies vaccine is not approved for preventing rabies in wolves or wolf-dogs. Despite their partly shared heritage with domesticated dogs, the administration of the rabies vaccine in wolf-dogs remains “experimental,” or even illegal for veterinarians to administer in some cases. Therefore, rabies poses significant potential danger to people interacting with these animals. The close contact and rabies threat also places the animals themselves at risk; if a wolf-dog bites a person, the animal would be immediately killed to conduct rabies testing.

The Global Federation of Animal Sanctuaries (GFAS) accredits and recognizes sanctuaries and rescue centers worldwide to achieve the highest Standards of Excellence. GFAS-accredited sanctuaries are among the best in the world regarding animal care because they uphold commitments to having non-exploitative environments and ethical practices. As an organization that holds a GFAS-accredited primate sanctuary, Born Free USA knows first-hand what is involved in prioritizing the welfare of captive animals. This includes preventing the breeding of wild animals in captivity for entertainment purposes, banning the private ownership of wild animals, ending the cruel exotic pet trade, and taking steps to benefit genuine conservation efforts in the wild; none of which POTH currently achieves.

As outlined in this testimony, it is clear that POTH has consistently put members of the public in danger by allowing unsafe direct interactions between the public and their animals, during which serious injury and zoonoses transfer can occur. Further, POTH does not represent a legitimate animal sanctuary that adheres to appropriate regulations as outlined by GFAS. Instead, POTH exists purely for the sake of entertainment; entertainment that happens at the expense of the animals in their care.

On behalf of our expert organization and our thousands of supporters across the U.S., we implore you to oppose the Special Use Permit application #PL22-0133 submitted by POTH to preserve human public health and safety, alleviate the suffering of animals at this exploitative facility, and prevent future tragedies – both human and animal.



Helping Sanctuaries Help Animals

August 21, 2023

Dear Hearing Examiner,

Thank you for the opportunity to comment regarding USDA licensure and animal euthanasia as discussed in arguments regarding Special Use Permit PL22-0133. The Global Federation of Animals (GFAS) was founded in 2007 to ensure that animals receive the highest standards of care during rescue, rehabilitation, and the remainder of their life. Through the development of globally recognized standards, and a rigorous accreditation program, GFAS has accredited 216 sanctuaries, rescues, and rehabilitation centers in 18 countries.

GFAS has developed and maintained a set of 26 animal-specific standards that we use to promote excellence in animal care and evaluate sanctuary operations all over the world. These Standards of Excellence include valuable information for the proper space, housing, diet and social needs of each animal group and detailed information for promoting organizational health and sustainability such as proper governance; safety training and protocols; financial practices; education and outreach; intake and disposition. In addition, GFAS standards are “living documents” and are updated as new information is acquired from experts in the field.

In contrast, USDA animal care regulations as administered through APHIS, are widely regarded as bare minimum requirements for keeping animals. USDA regulations are easy to meet as they solely consist of general statements on basic animal care elements of food, water, temperature, lighting, sanitation, shelter, and electricity. In terms of space requirements for a large variety of animals, the regulations specify the space should be “sufficient,” leaving much room for interpretation.

Commercial operators holding animals in roadside zoos and other dismal, unsafe and inhumane venues are often able to obtain USDA exhibition licenses, as the process can be as simple as paying a fee online. Because the USDA has several thousand facilities to inspect on an annual basis, the agency is stretched extremely thin in an overburdened and ineffective system of their own making; thus, violators are rarely ever held to account either by fines or license suspensions.

A core tenet of the GFAS standards is prohibition of public contact with wild animals. Until recently, the USDA had no concern over public contact activities, but earlier this year, the

SanctuaryFederation.org | PO Box 73308, Phoenix AZ 85050 | info@sanctuaryfederation.org



agency put out a proposal for public comment on that exact topic. In the solicitation, APHIS states, “maintaining sufficient distance and/or barriers between the animal and the general viewing public would benefit licensees, Animal Care inspectors, and the public, and would aid in the enforcement of the AWA.” The agency is currently in process of reviewing the comments on public contact with wild animals and appears they may be prepared to adopt some form of restriction.

In regard to claims of mandatory euthanasia when animal operations are closed down, we have seen many instances where animals were successfully placed in appropriate facilities across the country rather than be put down. With time and resources, it's possible. Our GFAS Accredited organizations and other reputable sanctuaries around the country have long served on the front lines of the captive animal crisis in the United States and abroad. In the last few years alone, several large animal operations have been shut down and animals seized by authorities. In 2019, hundreds of animals from the defunct, Wildlife Waystation, including chimpanzees and big cats, were given new permanent homes in the following years. Animals kept at the notorious Tiger King Park were saved by multiple sanctuary organizations and most recently, over 700 animals remaining at the crumbling Mayaguez Zoo in Puerto Rico were transported off the island to new homes across the country.

In closing, USDA licensing, sadly is not at all what it should be in order to protect animals under the Animal Welfare Act. The licenses are easy to acquire, regulations are limited, and rarely enforced, making USDA licensure no reliable measure of an animal operation's care of their animals, safety and overall condition. When animal facilities close for any reason, it has been our experience that the animals are able to be transferred to reputable sanctuaries with time and appropriate funding rather than being euthanized.

Very Truly Yours,

A handwritten signature in blue ink that reads "Valerie Taylor". The signature is fluid and cursive, with a long horizontal flourish at the end.

Valerie Taylor
Executive Director, Global Federation of Animal Sanctuaries (GFAS)



**THE HUMANE SOCIETY
OF THE UNITED STATES**



**HUMANE SOCIETY
INTERNATIONAL**

22 August 2023

RE: Special Use Permit application #PL22-0133 (Predators of the Heart)

Dear Mr. Hearing Examiner,

I am writing today in reference to the facility, Predators of the Heart (POTH) and their Special Use Permit Application. I have worked in the field of animal rescue, specifically with wildlife and captive exotic animals, for over ten years. Three issues are top of mind when evaluating this particular situation:

On Placement versus Euthanasia: POTH believes or purports that their animals will be euthanized if not allowed to stay within their possession. Having successfully placed hundreds of exotic animals in true sanctuaries or AZA (the Association for Zoos and Aquariums) accredited facilities during my career, I do not believe euthanasia is the required outcome for these animals. With appropriate time and resources, all of the healthy animals from POTH can find permanent, appropriate placement so that their species-specific, physical, mental, and emotional needs can be properly met. My team at HSUS has recently assisted in the placement and transport of hundreds of animals from the closed Puerto Rico zoo, with far more challenging species such as hippopotamus. In 2019, we assisted law enforcement in Canada to confiscate, place and transport over two hundred animals from a roadside zoo in Quebec. In this case, the US offered greater sanctuary placement than is currently available in Canada, so we were able to acquire all necessary permits and approvals to successfully place animals such as wolves, big cats, exotic hoofstock among other animals in US sanctuaries. I see no reason why the animals at POTH wouldn't also be able to find suitable placement at true sanctuaries.

On USDA License: Acquiring a USDA license to exhibit captive wild animals has historically and still remains a very low bar to pass and has generally says nothing about a facility functioning as a true sanctuary. Recently, a single year license is easily obtained with a cost of \$40. Now, the USDA Animal Care (AC) department has been transitioning these one-year licenses to three-year licenses, still with a relatively low fee of \$120 every three years. Each year, the number of USDA AC Inspectors numbers around 100, while the number of facilities requiring inspection throughout the country is in the thousands. Naturally, the capacity for inspectors to properly and thoroughly inspect each licensee is limited, and the species-specific expertise varies widely, and enforcement for noncompliance rarely benefiting an animal's direct welfare. Oftentimes, a license is simply revoked, while the animals remain in the possession of the exhibitor, and it falls to the local and state authorities to determine next cause of action. While a USDA exhibitor license allows the licensee to possess and exhibit certain animals, it has no requirements or intent to certify or verify a facility as a true sanctuary – which would include requirements such as no breeding (unless as part of a verified endangered species program); no buying, selling or trading; and no activities which exploit animals. Unfortunately, POTH does not meet the minimum requirements of a true sanctuary.

On Wolfdog Breeding: To my knowledge, there is no legitimate argument to justify the breeding of wolfdogs. Cross breeding between a wild species, such as wolves, and domesticated ones, such as the domestic dog, has zero conservation value for the former. There are no possible release programs for wolfdogs into the wild, nor should there be, and breeding wolfdogs for captivity or as pets is strongly discouraged among legitimate sanctuary and animal welfare and conservation communities. Wolfdogs are regularly in need of sanctuary placement due to being illegally kept or owners realize the significant challenges of attempting to keep a partially-wild animal in a domesticated environment. There are a number of critically valuable conservation breeding programs for wolves in the United States, largely coordinated through AZA Species Survival Plans (SSPs) and SAFE (Saving Animals From Extinction) programs.

Sincerely,

Kelly Donithan, MSc Conservation Medicine
Director, Global Animal Disaster Response



**THE HUMANE SOCIETY
OF THE UNITED STATES**



**HUMANE SOCIETY
INTERNATIONAL**

Animal Rescue Team
Humane Society of the United States
Humane Society International

August 22, 2023

David A. Perez
DPerez@perkinscoie.com
D. +1.206.359.6767
F. +1.206.359.7767

Hearing Examiner Alex Sidles
Skagit County Office of Land Use Hearings

Re: Special Use Permit Hearing for Application No. PL22-0133

Dear Mr. Hearing Examiner:

We represent the following members of the Welch Lane community and neighbors of the subject property, 4709 Welch Lane: Edward and Lynne Borlin, David and Pamela Knutsen, Nolan Berlin and Millicent Swietzer, and Kevin and Jenny Welch. On behalf of our clients, we write to oppose Special Use Permit application No. PL22-0133 and urge the Hearing Examiner to accept Skagit County Planning and Development Service's recommendation of denial.

The issue before the Hearing Examiner at the Special Use Permit hearing is whether Predators of the Heart's ("Predators") Special Use Permit application satisfies all applicable special use criteria under the County Code. *See* SCC 14.16.900. Predators' application has not made (and cannot make) such a showing and, in fact, cannot satisfy any applicable special use criteria. The Hearing Examiner should therefore deny Predators' application.

The County's Special Use Criteria (SCC 14.16.900(1)(b)(v)(A)–(E), (G)–(I)).

1. Complies with the Skagit County Code.
2. Will be compatible with existing and planned land uses.
3. Will not cause potential adverse effects on the general public health, safety, and welfare, is not in conflict with the health and safety of the community, and will not adversely affect public services to the surrounding areas.
4. Will not create undue noise, odor, heat, vibration, air, or water pollution impacts on surrounding, existing, or potential dwelling units.
5. Will not generate intrusions on privacy of surrounding uses.
6. Will maintain the character, landscape, and lifestyle of the rural area.

As the applicant for a Special Use Permit, Predators has the burden of satisfying the Special Use criteria under the County Code. Predators cannot satisfy a single one of the applicable requirements, let alone all of them. The Hearing Examiner should therefore adopt the County’s recommendation and deny Predators’ application.

1. Predators’ proposed use violates the Skagit County Code.

Predators’ application should be rejected at the outset for the simple reason that its proposed use—exhibiting a host of potentially dangerous wild animals, most of which were bred by Predators, that members of the public can touch and photograph—is unlawful. *See* SCC 14.16.900(1)(b)(v)(B).

Both Washington and County law prohibit possessing, owning, or having custody or control of potentially dangerous wild animals, including captive-bred cougars, alligators, wolves, rattlesnakes, and non-human primates. RCW 16.30.030(1); SCC 7.04.030(1). Although wolf-hybrids (or as Predators calls them, “wolfdogs”) are not identified as potentially dangerous wild animals under Washington law, *they are expressly banned in Skagit County*. SCC 7.04.010(1)(b); Ex. 82 (2014 County Ordinance).¹ Violating the County’s ban on possessing potentially dangerous wild animals—including wolf-hybrids—“is detrimental to the public health, safety, and welfare and is declared to be a public nuisance,” exposing violators to \$2,000 per animal, per day. SCC 7.04.060(1)–(2).

Now Therefore, Be It Ordained by the Board of County Commissioners that:

Section 1. The Board of County Commissioners adopts the following findings of fact:

- A. The animals to be regulated by the proposed ordinance are inherently dangerous, as they are not normally domesticated and pose unique threats to human life due to their physical and temperamental characteristics, including their strength, speed, and unpredictability.**
- B. According to the US Department of Agriculture, wolf hybrids, often larger in size than either the wolf or dog from which they were bred, have been the source of a number of attacks on people—mostly children—that have resulted in severe injuries and several deaths. Many states prohibit or regulate possession of wolves and wolf hybrids.**

Ex. 82 at 2.

¹ All citations are to the exhibits compiled for SEPA appeals Nos. PL22-0583 & PL22-0577.

Because Predators possesses cougars, wolf-hybrids, alligators, and other dangerous wild animals (*see, e.g.*, Ex. 2 at 20; Ex. 47; Ex. 48), its proposed use is illegal unless a specific statutory exception applies. *See* RCW 16.30.020; SCC 7.04.020 (incorporating RCW 16.30.020).²

Predators argues that its proposed use meets three exceptions: (1) as a wildlife sanctuary, RCW 16.30.020(1)(g); (2) as a nonprofit animal protection organization, such as a humane society or shelter, housing an animal at the request of an animal control authority, RCW 16.30.020(1)(c); and (3) as a person displaying animals at a state-approved fair, RCW 16.30.020(1)(l). Predators' proposed use does not fall into any of those three exceptions. It therefore not only violates, but constitutes a public nuisance, under the County Code. *See* SCC 14.16.900(1)(b)(v)(B); SCC 7.04.060(1).³

a. Predators is not a wildlife sanctuary.

Predators' assertion that it is a "wildlife sanctuary" is frivolous. Under County law, a wildlife sanctuary is a nonprofit that has "custody or control" of a potentially dangerous wild animal and does not engage in *any* of the following:

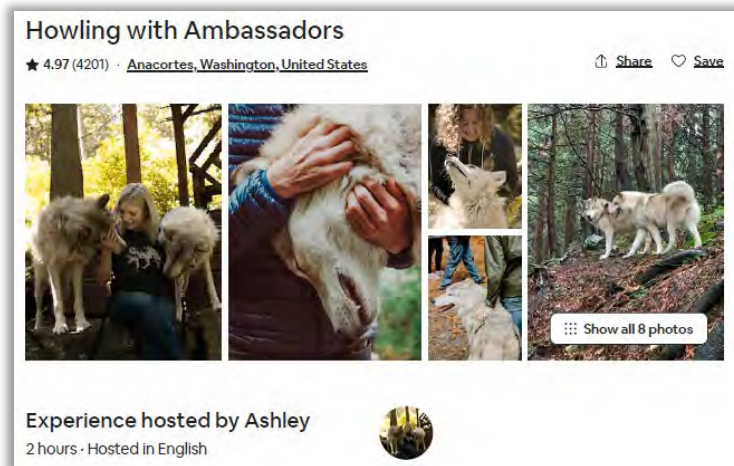
- ✚ "activity that is not inherent to the animal's nature [or] natural conduct;"
- ✚ "commercial activity involving an animal including . . . the sale of photographic opportunities involving the animal;"
- ✚ "unescorted public visitations or direct contact between the public and an animal;" or
- ✚ "breeding of animals."

² Evidence at the Special Use Permit hearing will show that Predators likely has pure wolves but miscategorized them as hybrids in attempt to evade federal and State oversight. For example, the Animal Legal Defense Fund will explain that four wolves bred at Predators' facility are wolves protected under the Endangered Species Act. *Animal Legal Defense Fund v. Olympic Game Farm, Inc.*, 591 F. Supp. 3d 956, 963–64 (W.D. Wash. 2022). Because the distinction is irrelevant under County law, however, this comment simply assumes that the animals are hybrids.

³ Rather than dispute the illegality of its operation, Predators argues in its opening brief that the relevant legal framework falls under Washington State and federal law, and that the Hearing Examiner "lacks jurisdiction" to resolve the issue. POTH Br. at 10–11. Predators cites no authority on that point because there is none. The potentially dangerous animal law at issue—including the portions of State law that it expressly incorporates—is County law. SCC 7.04.020. The Hearing Examiner is authorized (in fact, required) to interpret County law, which plainly bars Predators' proposed use. SCC 14.16.900(1)(b)(v)(B).

SCC 7.04.020 (incorporating RCW 16.30.010(5)(a)–(d) and RCW 16.30.020(1)(g)).

Predators engages in all four of those disqualifying activities. There can be no dispute that allowing humans to “touch, photograph, and even howl with wolf dogs” “is not inherent to the animal’s nature.”



Pacific Northwest! Just 1.5 hours North of Seattle, our wildlife refuge is nestled in 10 forested acres. We will introduce you to our mission and history with wolves and other exotic animals. Come enjoy Max and Kakoa, in their new 1/4 acre enclosure. Old-growth trees tower overhead; the wolf dogs will lead you around their new open run, while our guide talks about wolves' habitat, behavior, & the myths and misconceptions surrounding this apex predator. Our new photo area will allow us to pause for photos and rest with the wolves. When we return to the refuge, you will see a few more beautiful animals, including sloths, cougars, foxes, and more! **You will be able to touch, photograph and even howl with wolf dogs in this once-in-a-lifetime setting!**

Ex. 55; *see also* Ex. 45 (USDA citation for allowing “direct contact between the public and hybrid wolves”); Ex. 16 (2015 sworn statement from County expert that “display[ing]” wolf-hybrids and cougars “in close proximity to humans . . . would not qualify as natural conduct”).

Predators’ Airbnb tours also involve both “the sale of photographic opportunities” *and* “direct contact between the public and” wolf-hybrids—the second and third disqualifying activities. RCW 16.30.010(5)(a)–(c); *see e.g.*, Ex. 59 at 5–6 (“Dave Coleburn proposed a money making idea of taking pictures of individuals with an animal . . . [I]t was a great money making idea to create revenue for POTH.”). That is the whole point of Predators’ \$200/person “Howling with Ambassadors” tours. Ex. 55.

Lastly, Predators admits to breeding wolf-hybrids—a practice that for years fueled its lucrative Airbnb tours and wolf-sale operation. RCW 16.30.010(5)(d); Ex. 58 (report reflecting thousands of dollars in “wolf” sales); Ex. 81 (wolf sales receipts); Ex. 30 (wolf puppy contracts).



Ex. 70. Predators also strangely claims that, even though it is a “wildlife sanctuary,” it is also entitled to continue breeding wolf-hybrids for “conservation purposes.” POTH Br. at 3 n.6; POTH Resp. Br. at 6 (“POTH has several unique genetic lines of wolfdogs, which are critical to maintain for conservation purposes.”).⁴ Predators can call its tours “educational,” but the fact remains that it charges visitors \$200 to touch and photograph potentially dangerous wild animals—all of which were bred by Predators, and most of which were bred after the County amended the Code in 2014 to ban possession of wolf-hybrids. *See* Ex. 56 at 18, 26–27 (11 wolves bred after 2016); Ex. 58 (below; reflecting wolf sales through at least 2018).

4:09 PM
10/05/22
Accrual Basis

**Predators of the Heart
Account QuickReport
January through December 2017**

Type	Date	Num	Name	Memo	Split	Amount
Miscellaneous Income						
Wolves						
Deposit	05/16/2017		Deposit	deposit/1	Skagit State B...	1,500.00
Deposit	05/30/2017		Deposit	1/2 final	Skagit State B...	1,550.00
Deposit	06/16/2017		Deposit	1 wolf	Skagit State B...	1,800.00
Deposit	06/20/2017		Deposit	2 wolves	Skagit State B...	2,450.00
Total Wolves						7,300.00

⁴ Even setting aside the illegality of breeding these animals in Skagit County, it is not evident what possible “conservation” efforts could be advanced by breeding wolf-hybrids. Testimony presented at the hearing will make clear that there are none.

Predators is plainly not a “wildlife sanctuary” under SCC 7.04.020. Its contrary assertion—despite acknowledging that it sells the opportunity to photograph and touch potentially dangerous animals, which it breeds—only highlights its blatant disregard for County law.

b. Predators is not a humane society or shelter, and none of its wolves or cougars are housed at the request of animal control.

Predators cannot satisfy either prong of RCW 16.30.020(1)(c), which covers (1) “[d]uly incorporated nonprofit animal protection organizations, such as humane societies and shelters,” that (2) “hous[e] an animal at the written request of the animal control authority or acting under the authority of this chapter[.]”

First, Predators is not a humane society or animal shelter. Far from it. Again, Predators bred dozens of wolf-hybrids and now seeks a permit to continue breeding and to allow members of the public to touch and photograph those same animals during paid tours. *See* Ex. 55 (“\$200 / person” tour includes the chance “to touch, photograph and even howl with wolf dogs”). The Association of Shelter Veterinarians, an organization dedicated to advancing the practice of shelter medicine, asserts that it “*is unacceptable for organizations to allow shelter animals to breed.*” Assoc. of Shelter Veterinarians, Guidelines for Standards of Care in Animal Shelters, <https://jsmcah.org/index.php/jasv/article/view/42/19>, at 38 (emphasis added). **Humane societies and animal shelters do not breed animals, nor do they allow visitors to touch and photograph animals (dangerous or not) in exchange for money.** *Cf.* Ex. 45 (USDA citation for allowing “direct contact between the public and hybrid wolves,” including “petting the hybrid wolves, and allowing the hybrid wolves to lick the faces of members of the public”—practices that do “not minimize the risk of harm to animals and/or the public”).

Second, and even if Predators could somehow establish that it is a “humane society or shelter,” this exception applies *only* to the specific potentially dangerous wild animals housed at the written request of animal control. RCW 16.30.020(1)(c) (referring to “an animal” housed at animal control’s request). The reference to “an animal” does not, as Predators has argued, mean that someone can breed and lawfully possess dozens of banned animals simply because it managed to secure a single animal from the authorities. Ex. 7 at 3; *see City of Yakima v. Godoy*, 175 Wn. App. 233, 236, 305 P.3d 1100 (2013) (“[We] cannot read a statute in a way that renders unlikely, absurd, or strained results.”). At a minimum, therefore, Predators’ home-grown wolf-hybrids and cougars are not covered by this exception. *See, e.g.,* Ex. 2 at 12 (admitting in application that “[o]ur wolves are bred”); Ex. 56 at 18 (at least two of three cougars were bred, and none are housed at animal control’s request).

Predators cannot illegally breed and possess cougars and wolf-hybrids and then claim to be a “rescue organization” simply because it has accepted other animals, like parakeets and lizards, from animal control authorities (which in all events were presumably unaware that Predators was operating without a permit, in violation of County law). *See* SCC 7.04.030(1). In other words, that some of Predators’ many animals may have come from animal control does not give it a free pass to violate the County Code.⁵

c. The “fair” exception is inapposite.

County law exempts a “person displaying animals at a fair approved by the Washington Department of Agriculture.” SCC 7.04.020; RCW 16.30.020(1)(l). That exception is inapplicable on its face. It applies to a “person *displaying* animals at a fair,” in the present tense. RCW 16.30.020(1)(l) (emphasis added). The exception protects *only* an individual actively displaying an animal at such a fair—not generally to an entire operation, simply because an entity occasionally attended a fair with certain animals at some point in time. Such an interpretation would be absurd. *See City of Yakima*, 175 Wn. App. at 236 (declining to “read a statute in a way that renders unlikely, absurd, or strained results”).

Regardless, Predators acknowledges that it no longer attends fairs. Although Predators’ application asserted that it completes “at least one State fair yearly,” Ex. 2 at 12, Predators conceded in its opening brief that it attended fairs in “the past,” POTH Br. at 3; *see also* Ex. 56 (December 2022 interrogatory response indicating that Predators last attended a fair in 2021). Predators’ claim to satisfy the fair exception is baseless.

⁵ Predators claims in its opening brief that “[e]ighty percent of [its] current operations involve housing exotic animals and wildlife that have been confiscated by various government agencies[.]” POTH Br. at 2–3. But Predators’ December 2022 sworn interrogatory responses indicate that only 35 percent of its animals came from “Authorities.” *See* Ex. 56 at 18–20. Again, Predators plays fast and loose with the facts.

In sum, Predators’ operation disqualifies it from every exception under County law to the ban on possessing potentially dangerous wild animals, including wolf-hybrids.

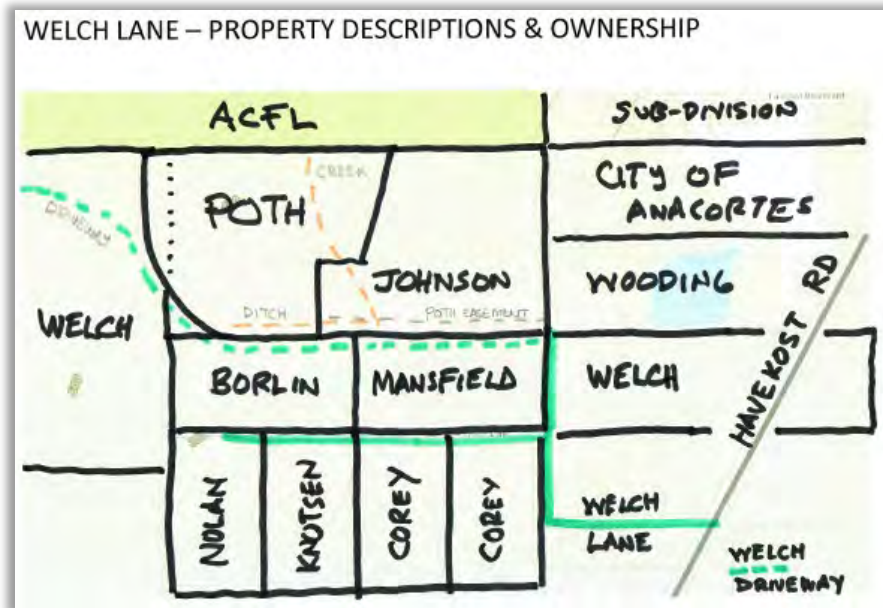
The County agrees: “the Department does not believe the current operation meets the exemption criteria specified within SCC 7.04.020.” Cty. Rep. & Rec. at 8.

Because the proposed use is illegal under the County Code, Predators is ineligible for a Special Use Permit.

2. Predators’ proposal is incompatible with existing and planned land uses.

Nor can Predators establish that its proposed use is compatible with existing and planned land uses. SCC 14.16.900(1)(b)(v)(A). The applicable zoning designation for Predators’ proposed project is Rural Reserve, which “allow[s] low-density development and . . . preserve[s] the open space character of those areas not designated as resource lands or as urban growth areas.” SCC 14.16.320. Rural Reserve land encompasses “transitional areas between resource lands and non-resource lands . . . and provide[s] *residential and limited employment and service opportunities for rural residents.*” *Id.* (emphasis added). The Skagit County Comprehensive Plan provides that land within this category “may be developed at one residence per 10 acres,” and that “greater limitations [should] be placed upon [commercial] uses within *areas devoted predominantly to residential use (i.e., . . . Rural Reserve areas).*” (Emphasis added).⁶

⁶ The current version of the Skagit County Comprehensive Plan is available at https://www.skagitcounty.net/Departments/PlanningAndPermit/comp_toc.htm. Skagit County Comprehensive Plan 2016-2036 at 64, 85.



Ex. 116.

Predators’ operation—and resulting safety threats, privacy invasions, and unreasonable levels of noise and traffic, among other issues—is not compatible with the residential use of the land (which, notably, was in place *before* Predators moved to the neighborhood) or with the recreational use of the Anacortes City Forest Land (“ACFL”) (which Predators simply ignores). *See id.*

Predators’ application is replete with false statements and unsubstantiated promises that the potential for escapes has been mitigated and that its proposed use is therefore now compatible with other existing uses. Predators’ assurances ring hollow in light of its nearly identical assurances after past escapes from its facility. Time and time again, Predators has promised upgrades that would prevent future escapes:

- ✚ **2012:** Dave Coleburn assured that after the “white wolfdog Shasta jumped on a wooden crate, jumped onto a 10 foot high roof and then over an eight foot fence, . . . [w]e installed an additional 700 feet of heavy chain link fence with two strands of electric wire[.]” Ex. 33 at 4.
- ✚ **2017:** After two wolves broke free in September 2017 and killed a lab being walked by an individual who thought he was still on an ACFL trail, Predators wrote: “What have we done to solve this? We have added more ‘NO TRESPASSING’ signs to our property. We

also do not allow our wolves on leash anywhere without perimeter fencing present. Wolf dogs are now in bigger fenced enclosures and no longer walk on leash [sic] with guests for tours.” Ex. 44.

✚ **2017:** Predators wrote after an escape just one month later, in October 2017 (which Predators now denies even occurred), that “one adolescent female [wolf] took an opportunity to jump over two 8’ fences and a hotwire . . . [and] briefly strayed across our property line onto his land . . . She was secured within 18 hours. . . . Fences are being fitted with high angled hearing, electric fence upgraded and interior dens and décor have all been re-set away from the fence to prevent jumping.” Ex. 63.

- Dave Coleburn reported to a local newspaper following the escape that Predators “is spending \$40,000 on new fencing and enclosures. . . . *This was a one time incident.*” Ex. 28 (emphasis added).

3. Predators’ operation creates adverse effects on public health, safety, welfare, and services.

Predators continues to disregard and misrepresent the real impact and harm the numerous escapes from its facility have had (and continue to have) on residents and on City and County resources (including the ACFL). *See* SCC 14.16.900(1)(b)(v)(E), (G)–(H).

Wolf-hybrids are potentially dangerous wild animals under County law. And for good reason. The evidence paints a picture of wild animals that pose a potentially lethal threat to both humans (and, in particular, children) and their pets. Predators’ meeting minutes describe certain “wolf-dogs . . . that would be considered dangerous to the public and/or employees” and should likely be euthanized, including a wolfdog named Lexi. Ex. 59 at 16. Lexi is one of Predators’ 15 hybrids. Ex. 56 at 27. Predators’ wolf-hybrids have twice killed pet dogs after either breaking free from their handler or escaping the facility, including a 50-pound lab mix. Exs. 62 & 69. In one of those instances, a family in their own yard watched three wolves kill their pet dog, forcing closure of the entire ACFL. Ex. 6 at 3–4; Ex. 62; Ex. 75; Ex. 78; Ex. 79.

Anacortes Community Forest Lands trails back open after wolves captured

By JACQUELINE ALLISON @Jacqueline_SVH
Oct 19, 2021

Ex. 23.

Posted on: December 26, 2017

[ARCHIVED] Warning signs in Anacortes Community Forest Lands

FOR IMMEDIATE RELEASE

December 26, 2017 - Anacortes, WA - The City of Anacortes has posted Warning signs on four trails in the Community Forest Lands to alert trail users that there is a wild animal refuge in unincorporated Skagit County. The trails with the signs are in the southern end of the Little Cranberry area. According to two police reports, in February 2012, a wolf from the refuge was captured in the ACFL. In October of 2017, a wolf escaped an enclosure and went on to private land adjacent to the animal refuge.

Ex. 26.

As described below by the former Mayor of the City of Anacortes, Laurie Gere, Predators' location on Welch Lane is "unacceptable."

Predators of the Heart's animals have a history of escaping and attacking and killing dogs. The City has shared its concerns about this facility with the County on multiple occasions and cannot emphasize enough that the location of dangerous wild animals adjacent to the largest public amenity within the City of Anacortes is unacceptable.

Ex. 6 at 4.

In another letter, the City Attorney stressed that Predators cannot be trusted to ensure its facility is safe.

The materials submitted to not address safety and security. In fact, during the pre-application meeting on February 3, 2022, the project proponent defended current fencing as being USDA compliant. Since the most recent wolf escape happened in October of 2021 and apparently resulted from wolves digging under their enclosure, it is troubling that the applicant defended current security infrastructure. The City's position is that the security measures and equipment currently in place, whether USDA compliant or not, are inadequate to guarantee there will be no future tragedies in our community.

August 22, 2023

Page 12

Ex. 6 at 8.

Indeed, even Ms. Carr said in a moment of candor on social media that kids cannot participate in tours because “**wolves know when kids are kids and they act on that.**” Ex. 77 at 5:56. She continued, “**even my kids don’t work [with the wolves] and they are eight and five.**” *Id.* By Ms. Carr’s own admission, these animals are plainly not—contrary to representations in Predators’ application—“domesticated” dogs, and neighbors justifiably live in fear of another attack, the next of which could result in the death of a child.

Predators’ self-serving and unsupported contrary assurances in these proceedings cannot establish that its proposed use does not adversely impact the public health, safety, welfare, and services. Indeed, the numerous letters already submitted in opposition to Predators’ application make clear that Predators’ proposed use poses a substantial threat to the public’s physical safety and emotional well-being. *See, e.g.*, Ex. 4 at 56–57 (letter from Dr. Jude Apple, Anacortes resident and “frequent user of the [ACFL]”; “Will it take a small child being mauled or killed to end this operation?”); Ex. 5 at 100 (letter from Nicolas Leonovich, “long-time Skagit County resident”; “On multiple occasions while driving by [POTH], we have seen trees that have collapsed part of the fence and observed holes in and around the fence.”); Ex. 5 at 124 (letter from Charles Davis; “The concept of dangerous, predator animals escaping into the community forest is an ever-present danger,” and “forest trail runners such as my wife and I are confronted with that thought every time we run through the forest”); Ex. 5 at 128 (letter from Justin Kirby; “the most recent attack on a pet was under [current ownership’s] watch” and “they lied about it to the public”; “[s]o it seems to be more of the same”); Ex. 5 at 145 (letter from David and Meg Mourning, whose “dog was brutally killed by their wolves”; “It could have been a child, not just a dog”); Ex. 5 at 145 (letter from Grant Johnson; “We have spoken with many other residents of the area and everyone lives with a nagging fear of the next escape and what could happen to our pets, our children and loved ones and to ourselves”).

To put it simply, as asserted by the former Mayor, “this is a picture of a facility that is out of control”:

Heart leadership clearly being aware of the situation. This is a picture of a facility that is out of control and does not feel enough of a sense of a responsibility to the adjacent community to even notify the City when dangerous animals are unsecured or on the loose.

Ex. 6 at 5.

4. Predators' proposal creates noise, odor, and pollution impacts.

Nor can Predators establish that its proposed use does not create noise, odor, or pollution impacts. SCC 14.16.900(1)(b)(v)(C). In its application, Predators falsely asserts that “there have been no noise, odor, heat, vibration, air or water pollution complaints” since 2001. Ex. 2 at 18. Not only have there been unofficial complaints, but in 2015, the County sued Predators for violating Washington and County law and, in doing so, relied heavily on neighbors' complaints about both noise and odor. *See* Ex. 5 at 42–49 (complaint for injunctive relief, to abate a nuisance, and to impose a civil penalty).

In that lawsuit, one neighbor complained that “during the summers there has been awful stench like that caused by a dead animal carcass that comes from the [Predators'] property.” Ex. 17 at 3. Another neighbor asserted that he had found “pieces of meat in my yard multiple times going back many years. . . . These are usually dropped from the beaks of ravens that are flying over from [Predators'] property.” Ex. 18 at 3. Complaints stemming from unreasonable noise levels on Predators' property are also well documented. *See, e.g.*, Ex. 19 at 3 (“[The] wolves howl and their pups yip. The cougars screech. I also began to hear the animals fighting. . . . My wife and I have resorted to using ear plugs at night to be able to sleep[.]”).

The odor from spoiled, discarded raw meat and the howls and screeches of wolves and cougars (far from “exceedingly quiet,” Ex. 2 at 7), have created, and/or continue to create significant disturbances for the residents of the Welch Lane area.

5. Predators' proposal impacts the privacy of surrounding uses.

Predators also fails to establish that its proposed project will not impact the privacy of surrounding uses. SCC 14.16.900(1)(b)(v)(D). Predators sells “Wolf Encounters” through Airbnb for \$200 per person. Ex. 55. As proposed, these tours run six days a week, twice a day, and can include up to ten guests per tour (120 guests per week). Predators' tours bring a consistent stream of commercial traffic onto the single-lane gravel road that provides access to Predators' property and other nearby residences. Tour guests consistently get lost and wander onto private property, by vehicle or foot. Ex. 14 at 4; Ex. 5 at 103–04; Ex. 54. This unreasonable intrusion on the residents' privacy is evidenced by the convoluted directions Predators provides to its customers: “As you continue straight you will see a nice, paved road to a beautiful gate on the left, THAT IS NOT OURS! (PLEASE DO NOT RING THE BELL ON THIS GATE!!!)” Ex. 2 at 18. That instruction undoubtedly stems from the ongoing issue (which Predators failed to disclose) of individuals trespassing on neighbor's property in search of Predators' facility.

6. Predators' operations are inconsistent with the area's rural character.

Lastly, Predators cannot show that its proposed use is consistent with the area's rural character. SCC 14.16.900(1)(b)(v)(I). Predators asserts that its goal is to "endeavor[] to keep the land as natural as possible for the animals and the community." Ex. 2 at 18. But the "rural character" of the area is not uninhabited forest land. It is low-density rural and residential living that was in existence long before Predators began operating. The safety, noise, and other issues created by Predators' operation are inconsistent with that rural residential living, as are the fences, lights, and cameras needed to secure Predators' facility.

* * * * *

Predators' application fails at the outset because County law bans Predators from possessing potentially dangerous wild animals, including wolf-hybrids. That alone requires denying Predators' Special Use Permit application. SCC 14.16.900(1)(b)(v)(B). In addition, Predators cannot satisfy the other criteria required for a Special Use Permit. SCC 14.16.900(1)(b)(v)(A), (C)–(E), (G)–(I). The Hearing Examiner should deny Predators' application.

Sincerely,



David A. Perez
Perkins Coie LLP

cc: Alison R. Caditz, Perkins Coie LLP
Jane E. Carmody, Perkins Coie LLP
Andrew Ferlo, Perkins Coie LLP
Edward & Lynne Borlin
David & Pamela Knutsen
Nolan Berlin & Millicent Swietzer
Kevin & Jenny Welch

August 22, 2023

Special Use Permit application #PL22-0133 (Predators of the Heart)

Dr. Mr. Hearing Examiner,

My name is Wendy Spencer, and I am the Director of Montana Operations for Wolf Haven International, a 501(c) 3 wolf sanctuary located in Tenino, Washington. We also have a satellite facility in Bridger, Montana. I have been with the organization for 25 years and have been involved in the evolution of our organization as we move along the sanctuary continuum.

My background is in Anthrozoology, the study of the intersect between humans and non-human animals and the complicated relationships we have with them.

No relationship is more complex than the one we share with wild animals. Many people are under the false assertion that in order to foster compassion and empathy, they need to see the animals up close and personal, which often runs counter to a wild animals' true nature and can have deleterious effects on an individual's well-being (e.g. stereotypy behaviors, redirected aggression, etc.).

It is Wolf Haven's firm believe that wolves belong in the wild, not in captivity, and if organizations are doing anything to perpetuate the belief that wolves (or any other large carnivore) belong in captivity (except in rare exceptions for recovery/reintroduction programs such as for Mexican or American Red wolves), is a false narrative. Additionally, depending upon the organization and how the animals are managed, it can be unethical and potentially dangerous (particularly if free contact with the animals is permitted). Additionally, sanctuary residents should not be bred, sold, or transferred. Nor should they be used as "ambassador" animals (i.e.: taken to off-site events).

Wolf Haven is the only wolf sanctuary to be globally accredited through the Global Federation of Animal Sanctuaries (GFAS). Under the auspices of GFAS and in accordance with our own philosophy, following is our guiding philosophy:

A sanctuary exists solely for its residents, and as such, their welfare should be its highest priority. A sanctuary commits to the highest level of care, and every action or procedure is examined to ensure that it best serves the animals living there. A true sanctuary does not cater to the needs and desires of people; it follows an animal-centric rather than a human-centered approach.

There is no question that all animals, both wild and domestic, "feel" their lives. They are unique, living, breathing beings with a full complement of emotions, so how we treat them matters greatly. A sanctuary provides a safe, lifetime home where its residents are free to express themselves and be appreciated for who and what they are. For those who have suffered at the hands of humans, a sanctuary helps to restore their sense of self – for that is the nature of a true sanctuary.

A sanctuary is more than just a safe haven. It is a philosophy and a guiding principle that considers all aspects of an animal's well-being and ensures that they are treated with compassion, respect and dignity from the day they arrive until their end of days.

Thank you for the opportunity to provide comment.

Respectfully,

Wendy Spencer