From: Wildthing (DFW)
To: Eturaspe, Teresa A (DFW);
Subject: FW: WOLF MANAGEMENT PLAN COMMENTS
Date: Friday, January 08, 2010 4:48:49 PM
Attachments: WOLFCOMMENT.doc

For review

-----Original Message-----
From: Stefan Heller [mailto:soheller@lclark.edu]
Sent: Friday, January 08, 2010 4:46 PM
To: Wildthing (DFW)
Subject: WOLF MANAGEMENT PLAN COMMENTS

To Whom It May Concern:

My name is Stefan Heller I am the Pro Bono Coordinator for The Student Animal Legal Defense Fund of Lewis and Clark College of Law. Our group submitted a comment regarding Washington State's Draft Wolf Management Plan online, In addition to that format I wanted to send a .pdf version to ease the review process. You will find it attached. Thank you for your time.

Regards,
Stefan Heller

From: The Student Animal Legal Defense Fund of Lewis & Clark Law School
10015 S.W. Terwilliger Blvd.
Portland, Oregon 97219
Phone: (503)768-6795
http://go.lclark.edu/saldf

To: WDFW SEPA Desk
600 Capitol Way N.
Olympia, WA 98501

Regarding: Washington Department of Fish and Wildlife Grey Wolf Management Plan.

I. Introduction

The Student Animal Legal Defense Fund (SALDF) respectfully submits this comment to the Washington Department of Fish and Wildlife (WDFW) supporting Alternative 2 as the basis for the final Grey Wolf management plan in Washington State. Alternative 2 is a sufficient option for ensuring the reintroduction and continued existence of wolves in Washington. SALDF commends the agencies involved in the creation of the draft plan. It is balanced and reasonable and significantly furthers the lofty goal of protecting the Grey Wolf. However, while Alternative 2 is adequate incorporating elements from Alternative 3 and reconsidering the appropriateness of direct hostile action towards wolves could improve the proposal. These additions and recalculations would create a plan that would be more effective in meeting Washington's management goals. This hybrid plan would restore a viable wolf population to Washington, and is calculated to do no harm to the interests of other stakeholders that are addressed in the current Preferred Alternative. The addition of SALDFs suggested provisions aiding wolves will not alter the balance of interests struck by the current plan but represent value added at little cost to the proposed status quo.

First, this comment will address the structure proposed for state delisting of the Grey Wolf. Second, this comment will address the use of non-lethal harassment and lethal control measures in managing the wolf population in Washington. Third, this comment will address compensation for livestock producers resulting from wolf depredation. Finally, this

comment will address the reduction of conflict between wolves and ungulate populations (and those who have an interest in ungulate population levels).

II. The Path to Delisting Wolves in Washington

All 3 of the viable proposed plans have the same basic graduated structure leading to the delisting of wolves when their population level reaches 15 successful breeding pairs. However, the plans differ in the distribution of wolves within the state that must be achieved to move wolves from one level of protection down to a lower level. The requirements presented in Alternative 3 are more likely to achieve the goal of restoring wolves in Washington and to create a population that is sustainable over time. Alternative 3 is superior to Alternative 2 because it requires the Pacific Coast region to be considered separately from the Southern Cascades. This difference significantly advances the goal of sustainable populations by increasing the distribution of wolves in the state. This distribution ensures that populations will not lose genetic diversity and will be able to recover even if substantial challenges to wolf survival in one area arise. The preference for Alternative 2 regarding this issue is arbitrary in light of stated goals of the plan. There are clear benefits from increased wolf distribution. Additionally, there are no significant conflicts present if wolves repopulate the Olympic Peninsula because there are negligible ranching interests in that area of the state. The Preferred Alternative states that the Pacific Coastal Region is good wolf habitat. It also claims that the Peninsula may be one of the hardest areas for wolves to reach naturally. Despite these facts Alternative 2 would allow wolves to be delisted even if no wolves were present in the Pacific Coast Region. This could happen if all of the breeding pairs for the combined area (South Cascades and the Pacific Coast) needed to delist wolves were only present in the eastern portion of that territory. This is an unreasonable outcome because there is a possibility that wolf densities will be focused in the eastern portion of the state where ranching interests are strongest and human-wolf conflict will be high and wolves will not be present on the coast where conflict potential is low. Under Alternative 2 it is possible and in fact likely that wolves will be delisted despite the fact that a large area of habitat free from human-wolf conflicts exists and is not being utilized. The only rationale given in Alternative 2 for ignoring this issue is that delisted status could be reached more quickly under that plan then under Alternative 3. Delisting is not synonymous with recovery and restoration if this major area of the state is in effect ignored. Alternative 2 allows this to happen by lumping together the Coast and the South Cascades, two areas that do no share similar conditions.

The Student Animal Leal Defense Fund urges WDFW to include the additional Pacific Coast Region proposed under Alternative Three when finalizing the Grey Wolf Management Plan. Alternative Three mandates that the goals of sustainable wolf populations wholly distributed through out the state exist before the protection for wolves are removed. This will better ensure the sustained survival of wolves in the State of Washington.

III. Non-Lethal Harassment and Lethal Take of Wolves

A. Non-Lethal Injurious Harassment

The Endangered Species Act prohibits the "take" of endangered species. The term "Take" includes acts that "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [as well as] attempt[s] to engage in any such conduct" (ESA § 3(19); 16 USCA 1532). 50 C.F.R. § 17.3 defines "harass" as acts or omissions, whether intentional or negligent, that annoy wildlife so as "to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering." 50 C.F.R. § 17.3. The harassment proposed by WDFW under this plan will violate the ESA by allowing individuals to shoot at and wound wolves. Additionally, the actions allowed in the Preferred Alternative would violate the definition of "harass" under 50 C.F.R. § 17.3 by disrupting the normal behavioral patterns of the wolves. WDFW should not violate the ESA, Congressional intent, and agency rulemaking or permit others to do likewise under this plan. WDFW has many options other than harassment to prevent livestock conflicts. The proactive non-lethal non-harassment measures proposed by the plan do not violate the Endangered Species Act and 50 C.F.R. § 17.3 and should therefore be the focus of the plan to recover the wolf populations. In summary, Alternatives 1, 2, and 3 allow for the harassment of wolves, at some stage of protection, which is prohibited under the ESA and 50 C.F.R. § 17.3. Thus, WDFW should change the final plan to eliminate the possibility of engaging in or permitting others to harass endangered wolves.

B. Lethal Control: for Livestock Depredations and Attacks on Livestock/Dogs

The Preferred Alternative accurately states that "[i]t is unusual to include lethal management strategies in a plan for recovery of a listed species." (Wolf Recovery Plan). It is counterproductive to the goals of the recovery plan to shoot any individual animal of the species in recovery. During the time when the ESA clearly prohibits this action, federal law should be followed. Additionally, when Wolves are federally delisted in Washington lethal methods should not be used. With so few wolves in Washington, lethal methods of controlling livestock depredation and attacks are not necessary or reasonable and should not be an option. Livestock conflicts are better remedied through compensation for livestock producers. WDFW should not engage in or permit the killing of wolves, it is unusual in endangered species recovery plans to kill the species that is the focus of the plan and it is unnecessary in context of restoring wolves to Washington.

C. Conclusion

In Tennessee Valley Authority v. Hill, the United States Supreme Court stated that "[t]he plain intent of Congress in enacting this statute [ESA] was to halt and reverse the trend toward species extinction, whatever the cost." Tennessee Valley Authority v. Hill 437 U.S. 153, 184. The "cost" of wolf recovery in Washington should be limited to education, outreach, compensation, and proactive non-lethal and non-harassing methods to reduce depredation and attacks. The "costs" of wolf recovery should not include the killing and harassment of the wolf itself, especially when multiple other options exist. The plan accurately states that "conserving wolves in Washington and meeting the delisting criteria will necessitate social tolerance for wolves on both public and private lands." (Wolf Recovery Plan). WDFW should therefore promote tolerance for wolves, not the killing and the harassment of wolves. The recovery plan does not need to take the "unusual" method of permitting violations of the ESA or 50 C.F.R. § 17.3 while working to recover

the endangered wolf. The plan includes several methodologies that are not "unusual" lethal control or harassment. These options should be sufficient to mitigate human-wolf conflict.

While working to recover wolf populations, WDFW should not adopt a plan that involves the killing or harassment of the wolf. Instead, the WDFW recovery plan should focus on the non-lethal and non-harassment methods discussed in the plan that do not violate the ESA, 50 C.F.R. § 17.3, or involve unusual practices in the recovery of an endangered species.

IV. Compensation for Livestock Depredations

Reducing conflict between livestock producers and wolves is an essential part of any viable final plan protecting wolves in Washington after Federal protection falls away. The Preferred Alternative is sufficient to recompense any loss suffered by most producers in the state. However, higher amounts of money will be more likely to prompt those in conflict with wolves to take the time and effort to use the administrative process rather than resorting to violent actions against wolves. The parcel size requirements within the plan seem to be a reasonable ways to assist those producers who may have undiscovered losses. However, the Preferred Alternative allows for the amount paid for probable depredation to drop below the full fair market value of the livestock killed by wolves on small plots. This is an unnecessary risk. An essential goal of developing a management plan is to defuse conflict between wolves and ranchers. This can be done with out excessive monetary burden on the state. The Preferred Alternative states that there will be less human-wolf conflict in Washington than in other states that have reintroduced wolves. There will be less conflict because there are a lower number of livestock animals overall in the state and there is a significant difference in the types of species cultivated in Washington compared to other states. In addition, the actual total number of wolves in Washington and thus the number of animals killed by wolves will most likely be small. Thus, providing additional monetary incentive to reduce conflict will not be a financial burden on the state. Washington will only have to pay for a small number of livestock killed. Compared to this small cost there are great additional benefits to providing full market value in all situations where there is sufficient evidence of predatory activity by wolves. This policy will improve wolves' public relations and will reduce violence towards them. The actual amount of money paid out to ranchers will most likely be small but the perception of the Final Management Plan by livestock producers will be greatly improved.

The Student Animal Legal Defense Fund suggests that the final wolf management plan raise the minimal amount paid out to livestock producers to fair market value in both confirmed and probable depredations. The more fair and equitable the plan appears to be the lower the risk that the illegal killing of wolves will occur. The increased monetary burden on the State will be small and will not significantly outweigh benefits to wolves

V. Ungulate Conflict Management

A. It is important to take proactive measures to reduce depredation, Wolf Specialists provide the ability to take proactive measures.

Increasing Washington's wolf population numbers is an important goal in preserving the local ecosystems, and preserving a wolf population over time. By reducing the amount of human-wolf conflict, wolves will have a greater likelihood of successful recovery. The Preferred Alternative's implementation of a Wolf Specialist is critical to wolves' success in Washington. Wolf Specialists will be highly educated on the subject and able to educate the residents of areas where people and livestock are in conflict with wolves about non-lethal methods of reducing the likelihood of wolf encounters. Additionally, these specialists will have the experience and expertise necessary to properly and effectively implement proactive measures to reduce depredation. Specialists can provide technical assistance to the livestock producers, thus they can more effectively assist livestock owners compared to existing WDFW staff. Livestock owners' implementing non-lethal control techniques is essential to the success of the wolf management program. Aiding livestock owners with specialists is necessary to ensure that the plan has an opportunity succeed.

The Student Animal Legal Defense Fund believes that it is critical that Washington include Wolf Specialists in their final plan to implement proactive measures to reduce depredation. We urge the WDFW to include these new staff members in the final wolf management plan.

B. The wolf recovery should be a high priority when dealing with ungulates.

Healthy ungulate populations are critical for a healthy ecosystem, continued sport hunting, and a healthy wolf population. It is not possible to definitively determine whether or not the introduction of a wolf population will directly reduce the ungulate population in Washington. Additionally if there is a reduction in ungulate population after wolves are introduced the causation of this drop it will not be clear. Because decreases in the ungulate population cannot be definitively linked to the introduction of a wolf population (which is required before action can be taken under Alternative 2), measures should be added to the final plan to preserve the ungulate population even before there is a problem.

The measures set forth in Alternative 2 are sufficient to preserve ungulate populations in Washington. Habitat improvement, harvest management, and reduction of illegal hunting are all likely to decrease any significant negative impacts a wolf pack may have on the ungulate population. These methods would be successful in preserving ungulate herds even without the threat of wolves. In the context of this plan there is the added benefit of increasing the amount of prey for wolves. Unfortunately, Alternative 2 would only adjust recreational harvest levels to benefit wolves in localized areas when the wolves were not meeting recovery objectives. Protecting ungulate populations ensures that growing wolf populations will have adequate prey to support their needs. This fosters increased distribution and numbers. In order for the wolf program to be successful, wholesale management of the recreational take of ungulates should be implemented to create a sustainable environment for the new wolf population.

Although the methods in Alternative 2 are necessary, the measures in Alternative 3 are more likely to see successful results in a shorter time period. Rather than requiring research to show that the recreational harvest is having an adverse effect on the wolf

population, keeping them from meeting recovery objectives, Alternative 3 allows for the adjustment of recreational harvest levels to benefit wolves in each recovery region until recovery objectives there are met. This ensures that the recovery will be expedited. Further, conclusive findings of inadequate recovery due to over harvest will be unlikely. Showing that the cause of the failure to recover is directly related to recreational harvest levels will likely be a difficult task. Trying to show this conclusively will delay the recovery of wolf populations.

The Student Animal Legal Defense Fund believes that the ideal situation would be to allow reductions in recreational harvests from the outset of the program, and then adjusting harvest levels based on the wolf population performance. This course of action will build a strong population from the outset, rather than waiting to take action until the wolf population is struggling.

C. Special attention may be paid to wolf interactions with protected species, but there is no need for lethal control.

Alternative 2 allows for non-lethal measures while wolves are listed to reduce interaction with protected species, and allows for both non-lethal and lethal response options after wolves are delisted. Non-lethal measures are a superior choice for reaching the goal of delisting Washington's wolf population while also ensuring the survival of other important species. For example, the Preferred Alternative appropriately expands efforts to maintain and restore landscape connectivity and allows translocation of problem wolves. These options allow wolves to interact with the ecosystem but also include the potential safety valve of removal if the wolves are jeopardizing the survival of another species. This option is critical to the maintenance of a diverse ecosystem and does not allow one species to dominate another. Alternative 2's plan for wolf interactions with protected species should be included in the final plan, however, it should be noted that even after wolves are de-listed, lethal measures should be only a last resort.

D. Wolf-Ungulate conflict management must be managed in a way that protects both the ungulate populations, as well as preserving the established wolf populations.

The state of Washington has both a hunting population, as well as a population of wildlife watchers. Each of these groups has a significant interest in the wolf populations. The hunters may fear that the wolf population will reduce their ability to have a successful recreational hunt, and wildlife watchers may welcome the possibility of wolf sightings, but fear the possibility that wolves will lead to reduced ungulate sightings. If the wolf population rises to a level at which it can be delisted Alternative 2 allows for both lethal and non-lethal techniques to reduce wolf abundance. This control can be applied in localized areas with at-risk ungulate population, if it can be shown that the wolf presence in the area caused the reduction in that specific ungulate population. This plan is appropriate because before any disturbance to the wolf population is allowed there must be a showing that the ungulate reduction is caused by the wolf presence. There should not be a disruption of the ecosystem, unless a population is actually threatened, and wolves are the cause. With that said, lethal force should always be only a means of last resort. SALDF believes that preserving wolf populations is as important to the ecosystem as preserving ungulate

populations. Thus, the use of lethal force should not be an open option, it should only be used when the preservation of the ungulate population requires it. Hunting is an important part of outdoor life in Washington. In order to maintain wolf populations in addition to hunting opportunities, recreational harvest management plans must be implemented. Alternative 2 provides for restrictions such as antlerless take reductions, shortened hunting seasons, etc. These management tools should be expanded and included in the final management plan to help ensure that the prey population of the state is maintained at a level that can satisfy wolves' need for food, as well as the hunter's desire for a healthy population of ungulates.

We urge the WDFW to include Alternative 2's plans for wolf-ungulate management in hunting areas in the final wolf management plan. We propose that the plan include additional provisions allowing for lethal removal only after delisting and then only in circumstances where there is a significant danger to the continued existence of other species.

E. Outreach and education is critical to a successful campaign to preserve Washington wolf populations.

A healthy new wolf population in Washington will affect a variety of interest groups, some positively and others negatively. Because there are multiple interests involved, it is vital that all parties affected are aware of the management plan, and are able to obtain advice and guidance on how to properly implement the plan while preserving their interest. In order to effectuate this, Alternative 2's wolf specialist plan is vital. The plan will hire specialists to develop and conduct outreach and education programs. These programs will target those interested parties and provide the needed guidance. The education of livestock owners, hunters, and other effected groups is key to a successful program. The more these groups learn about how to live with the wolves, the more likely the program will succeed.

The Student Animal Legal Defense Fund believes that education is a necessary component of a successful wolf management program. The final plan should include Alternative 2's specialists to educate and assist interested parties.

VI. Conclusion

In conclusion Alternative 2 is an adequate option for a final management plan for Grey Wolves in Washington. It should serve as a base below which efforts to protect wolves should not dip. However, Alternative 2 could be improved by incorporating elements from the third alternative plan proposed by the state as well as reconsidering the affect of direct hostile action towards wolves by agency actors and private livestock producers. These additions and recalculations would create a plan that would be more effective in meeting the goal of restoring a viable wolf population to Washington. These additions could improve the protection of wolves and their chances for survival in the state while doing no harm to the other interest and stakeholders affected by the presence of wolves.

Sincerely,

Stefan Heller, Pro Bono Coordinator
Mark Jordan, Member
Kimberlee Petrie, Member

Student Animal Legal Defense Fund of Lewis & Clark Law School
10015 S.W. Terwilliger Blvd.
Portland, Oregon 97219
Phone: (503)768-6795
http://go.lclark.edu/saldf

January 7, 2010

Phil Anderson, Director
Washington Department of Fish & Wildlife
600 Capitol Way North
Olympia, WA 98501-1091

Dear Director Anderson,

Your October 7, 2009 letter to the Game Management Advisory Council chair and members concerning the Wolf Conservation and Management Plan and associated DEIS prompts this letter. Individual GMAC members and their respective organizations have submitted comments concerning the plan through conventional channels. However, the GMAC has voted to respond to you directly as an advisory group.

At the December 12, 2009 GMAC meeting department staff discussed the plan and heard comments from the GMAC members. The GMAC voted not to endorse the proposed plan. The main consensus was that both the proposed number of breeding pairs recommended for delisting is excessive and the impact on Washington's limited prey base are not truly addressed.

The proposed number of breeding pairs, Chapter 3 in the plan, is not persuasive in justifying 15 pairs. Considering that Idaho, Montana and Wyoming needed only 30 pair for federal delisting, this plan is excessive as proposed. All of these other states have substantially more suitable habitat, a much larger prey base, and a much smaller human population than Washington. Yet these states' recovery plans for delisting are based on fewer breeding pairs than is being proposed for Washington. The rationale and logic for the Washington plan of 15 pair is not adequately addressed.

Requiring three years for each state of recovery is too long. Federal recovery plans using the 3 year schedule resulted in wolf populations far exceeding the number required for delisting. The GMAC believes the same will occur in Washington. Both the Minority Report to the Wolf Recovery Plan and the Washington Cattleman's Association proposal are more reasonable options to the proposed plan.

Another major concern is that the plan is almost dismissive of the impact on elk and deer herds, and the resultant impact on hunting opportunities in Washington. Other western states with wolf populations have over 100,000 elk distributed over a large area, with fewer hunters per elk. Washington has approximately 50,000 elk, with hunters harvesting about 7,200 per year. Washington has short hunting seasons, hunting method requirements, point limitations, and a few permits for branched antlered bulls. These restrictions have had hunter support because herd management plans espoused these steps. It has been implied that habitat improvement and poaching enforcement would improve elk herd health, and increase elk populations. Yet, eight out of the ten herds have yet to reach desired population levels. Wolves will take about 2,000 animals annually, and we believe that eventually herds will be reduced to the point where hunting will be extremely limited, if not eliminated entirely.

The Wolf Plan is substantially based on an ongoing prey base. Increasing that base by habitat improvement and enforcement has not been successful so far. Though this concept is included within the plan to mitigate wolf impacts, there is an apparent lack of funding, staff, and a positive history of success. Therefore, hunting will be the loser with the implementation of this proposal.

GMAC members recognize that wolves will become a part of the natural environment in Washington. How delisting levels are established and then realized form the key items of disagreement. Wolves will have to become socially acceptable to all citizens - naturalists, environmentalists, livestock producers, hunters and landowners.

The Wolf Recovery Plan as presently proposed is too aggressive and not a good balance. A more conservative approach is warranted.

We appreciate your consideration of our concerns and recommendation.

Sincerely,

(Signed) Bobbie

(Mrs.) B.J.Thorniley, Chair
Game Management Advisory Council

cc: Members, Fish & Wildlife Commission
Dave Britell, Wildlife Management
Dave Ware, Wildlife Management
Harriet Allen, Wildlife Diversity
Teresa A. Eturaspe, SEPA, Habitat Program

√

January 6, 2010

Mr. Phil Anderson, Director
Washington Department of Fish and Wildlife
600 Capitol Way North
Olympia, WA 98501

RECEIVED
JAN 08 2010
HABITAT PROGRAM

Dear Director Anderson:

The Wildlife Diversity Advisory Council submitted comments on the Draft Wolf Conservation and Management Plan in October, 2008. Again, the Washington Department of Fish and Wildlife (WDFW) is to be commended for the collaborative process used to construct the draft plan and for carrying the work forward into a DEIS with meaningful alternatives. Here we wish to offer further input relevant to this new document.

Scientific Validity

- There has been extensive debate over the target population numbers for each downlisting stage. We stand by our earlier comments that wolf populations at the numbers allowing for delisting may not be viable, and recommend that WDFW commit to a re-evaluation when additional information is available. Before any regulated take occurs, WDFW needs to have a good understanding of a sustainable population level and associated social structure.
- The blind peer review process will likely result in additional input on this and other key components of the plan. However, we are concerned that release of the DEIS for public review prior to receipt of the peer review makes incorporation of appropriate changes untenable. We recommend incorporation of the best available information and scientific expertise even if this delays finalization of the plan.

Recovery Regions and Reintroduction/Translocation

- We continue to support differentiation of the Olympic Peninsula from the Cascades, given their differing habitats and intervening dispersal barriers. We therefore support use of four recovery regions as per Alternative 3.
- We commend the continued incorporation of translocation as an important management tool and believe it will likely prove necessary in order to reestablish an Olympic Peninsula population. However, we are concerned that reliance entirely on translocation within the state may lead to low genetic diversity of our wolf populations, given that they may descend from a very small number of colonizers. We recommend monitoring of population genetics and allowance for future reintroductions from genetically distinct source populations if warranted. We would also caution that the availability of translocation as a tool should in no way be seen as an alternative to preservation and enhancement of habitat connectivity.

Wolf Depredation Compensation

- We reiterate our support for a system for compensating livestock producers for losses clearly attributable to wolves, with eligibility dependent on following reasonable best management practices. The DEIS alternatives accomplish these objectives. However we

continue to support a system that can adapt as wolf populations expand and data accumulate on wolf-livestock interactions in Washington.

- The DEIS alternatives fail to differentiate between public and private lands where depredation occurs in setting compensation rates. We believe it would be reasonable for guidelines to reflect the fact that public lands are managed for multiple resource objectives and livestock grazers may need to accept higher risk of livestock loss in exchange for use of community resources. We therefore suggest that compensation for wolf depredation on public lands be limited to no more than fair market value of lost livestock.

Again, we are appreciative of the proactive efforts of your Agency to prepare for the recovery of wolves within the State. We are hopeful that the final Washington Wolf Conservation and Management Plan will strike appropriate balances to reflect the values of the citizens of Washington State, the vast majority of who support a strong wolf recovery program. We encourage the agency to take the time required to best incorporate the best available science in striving to recover this key species.

Sincerely,

Chuck Lennox

Chuck Lennox, Chair
Washington Department of Fish and Wildlife
Wildlife Diversity Advisory Council

NORTH OLYMPIC TIMBER ACTION COMMITTEE
P.O. Box 1057 • Port Angeles, WA 98362 • (360) 452-6645 • FAX (360) 452-0718

RECEIVED
JAN 06 2010
HABITAT PROGRAM

Department of Fish and Wildlife
Teresa Eturaspe
SEPA/NEPA coordinator
600 Capitol Way North
Olympia, WA. 98501-1091

January 5th, 2010

Re: Wolf Conservation & Management Plan DEIS

To Whom It May Concern:

The North Olympic Timber Action Committee is a non profit, grassroots organization representing a membership of residents and businesses of the Olympic Peninsula. We have numerous concerns regarding the proposed wolf plan which will greatly impact the residents of the Olympic Peninsula.

Our greatest interests are in the rules and regulations that adversely impact forest management. The following comments based on your draft plan further express our concerns for additional regulations and certain conflicts with wolves and people.

*The Executive Summary, page 8, second paragraph, you discuss affects on the deer, elk and ungulate populations. You suggest that "improved habitat management and flexibility in harvest strategies could be measures for sustaining healthy ungulate populations that will support wolves and maintain harvest opportunities." Forest Practice Rules in the State of Washington are already some of the most stringent in the world. So are you suggesting more rules as a result of the wolf? We request a better explanation of the last sentence of paragraph 2 page 8: greater prevention of illegal hunting are recommended as measures for sustaining healthy ungulate populations that will support wolves and maintain harvest opportunities! What measures does WDFW propose to better manage illegal hunting when the problems exist now? What are you going to do and how much money will it cost? What do you mean by the words "maintain harvest opportunities?"

The one million acre, unmanaged, Olympic National Park and a 634,000 acre, mostly unmanaged, Olympic National Forest does not provide adequate openings for forage the

elk and deer need for food. Currently many elk herds live in rural pastures on small farms in our county.
Please explain how the Washington Department of Fish and Wildlife is working with the U.S. Forest Service to increase the management of their timberlands so the deer and elk have forage in the Olympic National Forest. How does a 634,000 acre late successional forest produce forage for deer and elk?

Your preliminary cost estimates for monitoring and research mentioned in the draft plan range from $326,000 to $804,000. The estimates are very general so we are interested in knowing what other costs might be buried in other parts of the state budget for additional support staff, office space, vehicles and their operating costs.
Where will the money come from given the budget deficit in our State? What existing programs might be cut in this current deficit budget so that you can spend the dollars on this new wolf program? How do you justify spending money on a new program during such difficult economic times?

The environmental community has opposed the delisting or hunting of wolves most recently in the State of Montana. How will you guarantee that the same thing will not happen in Washington? Once the wolves are introduced the citizens of our State will be attacked by lawsuits from environmental groups that we will end up paying for whether they win or lose. We will then be stuck with wolves no matter how menacing they become!

The success of wolf populations in Alaska, Canada, and Montana has been used to justify wolves in Washington. One key difference should be noted regarding wolves on the Olympic Peninsula. The number of acres for wolf habitat on the Olympic Peninsula is very small compared to other wolf areas and the wolf/human conflicts will likely be more immediate and frequent. At least 6 months of the year wolves will likely hunt below the snow line. Elk herds reside at the east and west ends of Clallam County in private pastures and near population centers. With a food source so close to the population, encounters are inevitable.

Wolves are moving into north eastern Washington and they will probably continue to occupy new territory. It seems unnecessary to spend money we don't have and divert the precious time of existing staff to take on this project when there is no urgency! We strongly urge you to put this project on hold! Let wolves choose their own habitat. Wolves are not going extinct in the world so there is no urgency! We strongly oppose your plan!

Respectfully,

Carol Johnson

Carol Johnson
Executive Director

✓

AMERICAN FOREST RESOURCE COUNCIL

Wednesday, 6 January 2009

RECEIVED
JAN 07 2010
HABITAT PROGRAM

Ms. Teresa Eturaspe
SEPA/NEPA Coordinator
Washington Dept of Fish and Wildlife
600 Capitol Way, North
Olympia, WA 98501-1091 re: Wolf Conservation & Management Plan

Dear Ms. Eturaspe:

American Forest Resource Council represents forest products manufacturers in the western United States. Our mission is to secure and protect short and long term timber supplies for our members; we monitor issues that affect Washington's timber supply. Thank you for the opportunity to comment on the draft wolf plan.

We commend the Department for recognizing that wolves have returned to Washington and that a management strategy is needed to manage them. Our concerns are as follows:

- The Olympic Peninsula is a geographic and ecological "island," and as such is not likely to have wolves without reintroduction, or translocation, as you choose to call it. Federal lands are managed for animal species such as the spotted owl that prefer older forests. Those forests do not have a habitat base attractive to large ungulates forcing wolves onto private or state timber ownerships and private property. In addition, cougar populations have increased dramatically in the recent past and bear populations already are high. Have the above factors been considered?

- Various "recovery" populations are discussed in terms of numbers of breeding pairs. Wolves have a distinct social structure in that the Alpha male and female is the only "breeding pair" in a pack. A breeding pair, therefore, is not two wolves but an entire pack. As presented, this does not present an accurate picture of what must occur to reach the benchmarks, and the potential impacts of a much larger number of predators than is portrayed.

5100 S.W. Macadam Avenue, Suite 350
Portland, Oregon 97239
Tel. (503) 222-9505 • Fax (503) 222-3255

JH

- "Delisting," an ESA endangered species is presented a certainty. Given other states' experience with litigation and associated controversy, we suggest the wolf be delisted, if possible, before the department pursues expanded ranges. That will allow flexibility to manage wolf populations and avoid litigation experienced by other states.
- Department of Fish and Wildlife has a reputation with landowners for being heavy handed. A new attitude will greatly help secure cooperation for projects such as the proposed wolf plan.
- Wolf Plan implementation will cost almost a million dollars per year. Is it new money or will another program be shorted? Federal money is temporary. The department must ensure it can deliver on its promises.
- Wolves eat an average of nine pounds of meat per day, or 3300 lbs per year. A pack of ten animals will eat 33,000 lbs of meat each year. That's an enormous amount of deer, elk and other prey species. Will Washington's ungulate herds withstand that demand? Will hunters have any left? Has the department done its homework in this arena?
- Washington demographically is different than other states and provinces with wolves. Fields for livestock, communities and human habitation are located in areas likely to become wolf winter habitat. Areas that have not seen wolves for a hundred years now will host the animal. People who have seen wolves only on television will be up close and personal. The department must ensure it is taking a pragmatic approach to the subject.

In closing, it is appropriate that the department write a wolf management plan. It appears, however, the draft plan has not adequately taken into account factors it should face before a plan is adopted. This is especially true when it comes to translocation, which, by the way, is repackaged "reintroduction." The department should concentrate on managing wolves that naturally are here before it takes on artificial repopulation, whatever term is used.

Sincerely

Malcolm R. Dick, Jr.
Washington Manager

THE HUMANE SOCIETY
OF THE UNITED STATES

RECEIVED
JAN 19 2010
HABITAT PROGRAM

OFFICERS
Anita W. Coupe, Esq.
Chair of the Board
Jennifer Leaning, M.D., S.M.H.
Vice Chair of the Board
Walter J. Stewart, Esq.
Board Treasurer
Wayne Pacelle
President & CEO
Michael Markarian
Executive Vice President & COO
G. Thomas Waite III
Treasurer & CFO
Andrew N. Rowan, Ph.D.
Chief International Officer & Chief Scientific Officer
Roger A. Kindler, Esq.
General Counsel & CLO
James D. Fraker
Secretary

STAFF VICE PRESIDENTS
John Balzar
Senior Vice President
Communications
John W. Grandy, Ph.D.
Senior Vice President
Wildlife & Habitat Protection
Holly Hazard
Chief Innovations Officer
Heidi Prescott
Senior Vice President
Campaigns
Geoffrey L. Handy
Media and Online
Communications
Jonathan R. Lovvorn, Esq.
Animal Protection Litigation
Kathleen C. Milani
Investigations and Video
Nancy Perry, Esq.
Government Affairs
Kelly Peterson
Field Services
Robert G. Rhop, Ph.D., SPHR
Human Resources & Education Programs
Melissa Seide Rubin, Esq.
Animal Care Centers & Veterinary Services
John M. Snyder
Companion Animals
Martin L. Stephens, Ph.D.
Animal Research Issues

DIRECTORS
Jeffrey J. Arcmindo
Peter A. Bender
Eric L. Bernthal, Esq.
Barbara S. Brack
Anita W. Coupe, Esq.
Neil B. Fang, Esq., C.P.A.
Jane Greenspun Gale
Paula A. Kislak, D.V.M.
Jennifer Leaning, M.D., S.M.H.
Kathleen M. Linehan, Esq.
Dwight E. Lowell II
William F. Mancuso
Mary L. Max
Patrick L. McDonnell
Gil Michaels
Judy Ney
Sharon Lee Patrick
Judy J. Peil
Marian G. Probst
Joshua S. Reichert, Ph.D.
Walter J. Stewart, Esq.
Andrew Weinstein
Persia White
David O. Wiebers, M.D.
Lona Williams

Printed on recycled paper

January 8, 2010

Submitted via Email and First-Class Mail

Teresa A. Eturaspe
SEPA/NEPA Coordinator
600 Capitol Way North
Olympia, WA 98501-1091
SEPAdesk2@dfw.wa.gov

RECEIVED
JAN 20 2010
WILDLIFE PROGRAM

Re: Draft Gray Wolf Environmental Impact Statement and Conservation & Management Plan

Dear Ms. Eturaspe,

The Humane Society of the United States (The HSUS) submits the following comments on the Washington Department of Fish and Wildlife's (WDFW) Draft Environmental Impact Statement (DEIS) and Wolf Conservation and Management Plan (Draft Plan). Over 220,000 of HSUS's over 11 million members and constituents reside in Washington State, and many members regularly seek to observe the state's diverse wildlife. The HSUS strongly supports wolf conservation efforts and opposes the hunting or lethal removal of wolves, particularly when populations have not fully recovered. We commend the agency for proactively proposing a plan to recover wolves in the state and for complying with procedural requirements before delisting. However, as explained below, The HSUS has concerns with both the legal and scientific adequacy of WDFW's proposal.

Background

The HSUS and its members are pleased and encouraged by the recent return of breeding wolves to Washington State. Despite the virtual extirpation of wolves from the state by humans in the early 1900s, WDFW confirmed one wolf pack in Okanogan/Chelan counties in 2008 and another wolf pack in Pend Oreille County in 2009. Evidence suggests there is another wolf pack in the Blue Mountains. Draft Plan at 9.

A. Federal Legal Background

The United States Fish and Wildlife Service (FWS) listed wolves as endangered throughout the contiguous United States under the federal Endangered Species Act (ESA) in 1974. 39 Fed. Reg. 1171 (Jan. 4, 1974). In 2003, FWS attempted to downlist the former Western Distinct Population Segment (DPS) of gray wolves, which included wolves in the eastern third of Washington, to threatened status. 68 Fed. Reg. 15,804 (Apr. 1, 2003). However, two courts rejected the downlisting effort, and the gray wolf retained its original endangered status

JH

throughout the United States, except in Minnesota and in a small experimental population introduced in the Northern Rockies. *See Defenders of Wildlife v. Sec'y, U.S. Dep't of Interior*, 354 F. Supp. 2d 1156 (D. Or. 2005); *Nat'l Wildlife Fed. v. Norton*, 386 F. Supp. 2d 553 (D. Vt. 2005).

Then again in 2008, FWS attempted to designate and delist a new Northern Rocky Mountain DPS of gray wolves, which also included wolves in the eastern third of Washington. 73 Fed. Reg. 10,514 (Feb. 27, 2008). The HSUS and others challenged the delisting, and Judge Malloy of the District Court of Montana found the plaintiffs likely to succeed on the merits of their challenge, and issued an injunction that effectively prohibited lethal removal of wolves under state management plans. *Defenders of Wildlife, et al. v. Hall*, 565 F. Supp. 2d 1160 (D. Mt. 2008). In response, FWS agreed to voluntarily remand the rule for reconsideration.

Two weeks after the remand, FWS reopened public comment on the same, already-rejected delisting rule. 73 Fed. Reg. 63,926 (Oct. 28, 2008). In adopting its final rule, FWS again designated and delisted the Northern Rocky Mountain DPS, including wolves in eastern Washington, but retained the listing status for wolves in Wyoming. 74 Fed. Reg. 15,123 (Apr. 2, 2009). The HSUS and other wildlife protection groups challenged the decision because FWS unlawfully delisted the DPS, arbitrarily relied on out-dated and unscientific recovery goals, and unlawfully included wolves in largely unoccupied areas, including those in Washington, in the delisted DPS. On September 8, 2009, Judge Malloy refused to issue a preliminary injunction against the rule, but nonetheless found that plaintiffs were likely to succeed on the merits of their challenge. *See Defenders of Wildlife, et al. v. Salazar*, 09-cv-077 (Order Sept. 8, 2009). The case is now in summary judgment briefing.

B. State Legal Background

Despite the federal delisting of wolves in eastern Washington, wolves throughout the state remain listed as endangered pursuant to state law. WASH. ADMIN. CODE § 232.12.014. An animal is endangered if it is "seriously threatened with extinction throughout all or a significant portion of its range within the state." *Id.* § 232.12.297(2.4). State law prohibits hunting, possession, or malicious harassment of any endangered animal. WASH. REV. CODE § 77.15.120.

In addition, the Washington Fish and Wildlife Commission (Commission) may list species as either threatened or sensitive. *Id.* § 77.12.020(6). A species is threatened if it "is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats." WASH. ADMIN. CODE § 232.12.297(2.5). A species is sensitive if it "is vulnerable or declining and is likely to become endangered or threatened." *Id.* § 232.12.297(2.6). Any threatened or protected species is considered "protected," and state law prohibits hunting of any protected animal. *Id.* § 232.12.011.

Once an animal is listed as endangered or threatened, Washington law requires WDFW to adopt a recovery plan that includes population objectives, criteria for reclassification of the species as a different status, a monitoring plan, and an implementation plan. WASH. ADMIN. CODE § 232.12.297(11.1). WDFW must adopt a management plan for sensitive species containing the same elements. *Id.*

A species may be delisted, which means reclassified as any status other than endangered, threatened, or sensitive, *id.* § 232.12.297(2.3), if the Commission determines the species is: (1) no longer in danger of failing, declining, and no longer vulnerable, or (2) meets recovery plan goals, and

no longer meets the definitions of endangered, threatened, or protected. *Id.* § 232.12.297(4.2). Before delisting, WDFW must first seek public and scientific input. *Id.* § 232.12.297(6.2). Using information received, WDFW must then prepare a species status report, review the consequences of delisting, and consider recovery goals. *Id.* § 232.12.297(7.1), (7.3). WDFW must again seek public input on the status report, and make a recommendation to the Commission "based on scientific data" in the status report. *Id.* § 232.12.297(8.1), (7.2). The Commission's delisting decision must be made "solely on the basis of the biological status of the species being considered, based on the preponderance of scientific data available." *Id.* § 232.12.297(4.1). Then, before a hunt may occur, the Commission must classify the species as a "game" animal. WASH. REV. CODE § 77.15.120; WASH. ADMIN. CODE § 232.12.007; Draft Plan at 53.

In 2009, the Legislature enacted a new provision, effective in July, allowing property owners to trap or kill wildlife "that is threatening human safety or causing property damage." WASH. REV. CODE § 77.36.030(1). The taking must be consistent with limitations established by the Commission, which must include "[a]ppropriate protection for threatened or endangered species." *Id.* § 77.36.030(2)(a). The statute instructs the Commission to "take into consideration the recommendations of the Washington state wolf conservation and management plan" when promulgating rules. *Id.* § 77.36.030(3). The provision in no way requires the Commission to allow taking of threatened or endangered animals.

C. Washington's Draft Wolf Management Plan

In anticipation of a growing wolf population in Washington, WDFW's Draft Wolf Management Plan proposes measures to "ensure the reestablishment of a self-sustaining population of gray wolves," and "establish[ ] conservation/recovery objectives for downlisting and delisting the species." DEIS at 7. Washington regulations require issuance of the recovery plan because wolves are endangered pursuant to state regulations. WASH. ADMIN. CODE §§ 232-12-014; 232-12-297(11.1).

WDFW's DEIS proposes four alternatives, including a no-action alternative. Each alternative proposes to successively downlist the wolf's status as the number of breeding pairs increases. When 6 breeding pairs have been confirmed, wolves will be downlisted from endangered to threatened. DEIS at 18. When 12 breeding pairs have been confirmed, wolves will be downlisted from threatened to sensitive. And when 15 successfully breeding pairs are confirmed, the wolf can be delisted. *Id.* These numbers, deemed "conservation/recovery objectives," "represent the numbers needed to achieve the downlisting and delisting of wolves in Washington," and once 15 breeding pairs have been confirmed, "WDFW will begin the process of proposing delisting of the species." Draft Plan at 50-51. The alternatives vary in how the wolves must be distributed before downlisting may occur. DEIS at 18.

Each alternative also allows: (1) state or federal agents to lethally take depredating wolves, regardless of state status, (2) livestock owners to kill wolves involved in repeated depredations on private lands, but only by permit, and depending on the wolf's listing status, and (3) livestock owners to kill wolves in the act of wounding or killing livestock, depending on the wolf's status. *Id.* at 19. The alternatives vary as to what listing status the wolf must reach before lethal take is allowed. All alternatives also involve a compensation program for livestock killed by wolves and improved ungulate management. *Id.* at 21.

Analysis

A. The Multi-Step Procedure Followed by Washington Will Promote More Careful Consideration of Wolf Conservation Efforts.

The HSUS commends the agency for following the proper procedure in first promoting wolf recovery throughout the state, and then moving towards a possible delisting. As described above, Washington law requires WDFW to first adopt a recovery plan. If WDFW later deems it appropriate to consider delisting wolves, WDFW must request scientific and public input, prepare a species status plan, and then seek comments on its proposed recommendation to the Commission. WASH. ADMIN. CODE § 232.12.297(6.2), (7) (8.2). If the Commission chooses to delist the species, WDFW must then deem wolves game animals before hunting may commence. This multi-step process ensures a more cautionary approach than that adopted by Idaho, Wyoming, and Montana, and provides an essential opportunity for the agency and the public to reconsider conservation policy as scientific information becomes available at each stage in the process. Washington's more careful approach to promoting wolf recovery is laudable and appropriate.

B. Strict Federal ESA Prohibitions against Taking Wolves Apply in Western Washington, and Will Likely Apply Again in Eastern Washington.

Wolves in the western two-thirds of Washington are currently listed as endangered under the federal ESA. The ESA specifically prohibits the take of any endangered species. 16 U.S.C. § 1538(a)(1). Take is defined to include "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or … attempt to engage in any such conduct." *Id.* § 1532(19). The ESA provides several narrow exceptions, including permitted incidental take and take to enhance the species' survival. *Id.* § 1539(a).

As noted above, in 2003, FWS attempted to downlist wolves in the former Western DPS, which included wolves in the eastern third of Washington, to threatened status. 68 Fed. Reg. 15,804 (Apr. 1, 2003). At the same time, FWS also issued an ESA 4(d) rule that allowed "threatened" wolves to be killed when found attacking livestock. *See id.* at 15,864. However, courts subsequently rejected FWS's downlisting rule, and the rule was vacated. *See Defenders of Wildlife v. Sec'y, U.S. Dep't of Interior*, 354 F. Supp. 2d 1156 (D. Or. 2005). Accordingly, prior to the 2009 federal delisting, all wolves in Washington were federally endangered, no 4(d) applied, and take was strictly prohibited, including taking to protect livestock. *See* 50 C.F.R. § 17.84(n) (2008) (applying only to nonessential experimental wolves).

Because the federal delisting only applies to wolves in eastern Washington, 74 Fed. Reg. 15,123, wolves in western Washington remain federally listed as endangered. Take – including the killing, harming, or even harassment – of wolves in western Washington is strictly prohibited. However, WDFW's Draft Plan proposes to allow livestock owners to kill wolves involved in repeated depredations on private lands by permit and wolves in the act of wounding or killing livestock or domestic dogs. DEIS at 19. As WDFW is aware, the agency has no authority to authorize killing by livestock owners in contravention of the ESA. *Id.* (killing must be "consistent with federal law"); Draft Plan at 13. By issuing a recovery plan that purports to allow wolf killing and harassment without clearly stating that such take is prohibited due to the federal listing status, WDFW creates confusion among the regulated public. In order to ensure compliance with the

federal ESA, the Wolf Management Plan must make clear that, all wolf killing and/or nonlethal harassment is strictly prohibited in western Washington until federal delisting occurs.

Further, Washington should adopt an extremely precautionary approach in allowing the killing or harassment of depredating wolves in eastern Washington at this time, because it is likely wolves in eastern Washington will again be federally listed as endangered. As noted above, the federal delisting is currently being challenged, and a District Court judge has already found plaintiffs likely to succeed on the merits. *See Defenders of Wildlife, et al. v. Salazar*, 09-cv-077 (Order Sept. 8, 2009). Although the case is still being briefed, it is likely the federal delisting rule will be rejected by the court, meaning that FWS should not have deemed wolves to be recovered. If the rule is vacated, wolves will again be listed as endangered throughout Washington, and the ESA's strict prohibition on taking wolves will apply. Until the federal legal and administrative listing issues are resolved, WDFW should prohibit all killing and harassment of depredating wolves. Such a prohibition will ensure that wolves – a population that has not fully recovered under federal standards – are not harmed, and will ensure future compliance with federal requirements and reduce confusion among regulated parties.

C. WDFW Provides No Basis for Deeming 15 Breeding Pairs Is Sufficient for Recovery.

Under each alternative considered, WDFW sets the same "conservation/recovery objectives": (1) when 6 successfully breeding pairs have been confirmed, wolves will be downlisted from endangered to threatened; (2) when 12 breeding pairs have been confirmed, wolves will be downlisted from threatened to sensitive; and (3) when 15 successfully breeding pairs are confirmed, the wolf can be delisted. DEIS at 18. Accordingly, 15 breeding pairs "represent[s] the numbers needed to achieve the . . . delisting of wolves in Washington." Draft Plan at 50-51. The Draft Plan indicates 15 breeding pairs is equivalent to between 97 and 361 individual wolves. *Id.* at 49.

1. 15 Breeding Pairs Is Insufficient To Achieve Recovery or Viable Wolf Populations.

WDFW repeatedly states that "15 breeding pairs is considered minimal or barely adequate for population viability and achieving recovery." *Id.* at 47. Further, citing FWS's recovery plan, WDFW acknowledges that 15 breeding pairs "are below those thought to be needed for long-term persistence of an isolated population (30 or more successful breeding pairs containing 300 or more wolves in a metapopulation)." Draft Plan at 50; 37. As WDFW notes, "experts also concluded that viability would be 'enhanced by higher (500 or more wolves) rather than lower population levels (300).'" *Id.* at 38. Thus, Washington's proposed management plan does not ensure that wolves will be "no longer in danger of failing, declining, and no longer vulnerable," nor does it ensure that wolves will achieve a sustainable recovery status prior to delisting, as required by state law. WASH. ADMIN. CODE § 232.12.297(4.2).

Further, FWS's conclusion that 30 breeding pairs of gray wolves and 300 individuals constitute a viable population has been harshly criticized. As explained in detailed comments submitted by Earthjustice, The HSUS, and other groups during FWS's delisting proposal, numerous studies indicate even 500 individuals is inadequate to achieve population viability:

> To avoid the adverse genetic effects of inbreeding, early studies estimated that a minimum viable population ("MVP") requires an effective population size (N_e) of

> 500 individuals (Soule and Wilcox 1980, Frankel and Soule 1981, Soule 1986). Soule and Simberloff (1986) concluded that "estimates of MVPs for many animal species are rarely lower than an *effective size* of a few hundred." Since effective population sizes are generally 10 to 20 percent of the census population, this means that a total population count of 2,500 to 5,000 individuals is necessary to ensure population viability.
>
> Since these early estimates, there have been a number of theoretical and empirical developments in the field of population biology demonstrating that thousands of individuals are needed to maintain healthy, viable populations. Lande (1988) criticized the blanket application of N_e=500 because it does not consider species-specific demographic data. Lande concluded that demographic parameters may require populations to have even larger numbers than an effective population of 500. A number of researchers have also explored these earlier estimates with empirical data. C. D. Thomas (1990) estimated that MVPs should number in the thousands—ideally, 10,000 individuals for populations that experience fluctuations. Reed *et al.* (2003) estimated the specific MVP for over 100 vertebrate organisms. The mean population value for these vertebrates to maintain viability was estimated to be greater than 7,000 individuals. As part of the analysis, Reed *et al.* estimated the MVP for *adult* gray wolves (*i.e.*, effective population size) to be 1,403. When these data were corrected for 40 generations worth of data, the MVP for gray wolves was estimated to be 6,332.

See Douglas Honnold, Comments on the Renewed Proposal to Remove the Gray Wolf Northern Rocky Mountain Distinct Population Segment from the Federal List of Endangered and Threatened Wildlife (Nov. 28, 2008).

WDFW states that its purpose in issuing the wolf recovery plan is to establish a "viable" wolf population, and finds that its "conservation/recovery objectives for downlisting and delisting are set at sufficient numbers of individuals … to ensure that a permanently viable population is reestablished." DEIS at 40. However, as WDFW later acknowledges – and as recent science confirms – these recovery objectives are far too low to achieve and maintain a viable gray wolf population. *See* Draft Plan at 50 ("conservation/recovery objectives for Washington *are below those thought to be needed for long-term persistence*") (emphasis added).

2. WDFW's Selection of 15 Breeding Pairs as the Delisting Standard Is Not Based "Solely" on the Wolf's Biological Status.

WDFW provides virtually no scientific justification for selecting 15 breeding pairs as "the numbers needed to achieve . . . delisting." Draft Plan at 49. Washington regulations require delisting decisions be made "*solely on the basis* of the biological status of the species being considered, based on the preponderance of scientific data available." WASH. ADMIN. CODE § 232.12.297(4.1) (emphasis added). WDFW's final recovery plan will be used to determine whether delisting will occur. *See id.* § 232.12.297(4.2) (delisting may occur when wildlife "meet recovery plan goals, and . . . no longer meets the definitions" of endangered, threatened, or protected). Accordingly, the recovery plan's delisting criteria must also be "solely" based on the biological status of the species being considered. WASH. ADMIN. CODE § 232.12.297(4.1), (6.2).

Instead of using the wolf's biological status, the selected delisting criteria appear to have little scientific basis. *See* Draft Plan at 50 (vaguely concluding 15 breeding pairs "is believed to be sufficient . . . because of the distribution and time requirements"). In fact, WDFW acknowledges that the 15 breeding pairs standard, as well as the 6 and 12 breeding pairs standard for downlisting, are merely an accommodation between conservation and livestock interests. For example, WDFW states "[t]he objectives for delisting in this plan are considered minimal to achieve recovery and are recognized as being a compromise between biological and social values." Draft Plan at 10. Further, WDFW based the delisting criteria on the multi-stakeholder Wolf Working Group's (WWG) recommendations. WDFW initially recommended the WWG delay establishing delisting/recovery numbers while research is conducted, so that modeling and demographic information "could then be used to derive scientifically based estimates of the wolf numbers needed for recovery." *Id.* at 204. The WWG rejected that proposal, and instead selected delisting numbers that "represented the balance point among the different interests around the table." *Id.*

Because WDFW admits that the proposed delisting criteria are not based "solely" on a preponderance of scientific recovery data, but were selected on an apparently random basis to reach a compromise between conservation and livestock interests, the recovery plan violates Washington law. WASH. ADMIN. CODE § 232.12.297(4.1).

D. Lethal Management Is Inappropriate.

Under each action alternative proposed, WDFW will allow private landowners to kill wolves. DEIS at 19. As the DEIS rightly acknowledges, "[i]t is unusual to include lethal management strategies in a plan for recovery of a listed species." *Id.* at 16. Until a species is fully recovered, the plan should focus solely on encouraging the growth and expansion of the population.

Further, WDFW fails to explain why lethal management is necessary or appropriate during recovery. The DEIS concludes that lethal management "build[s] public tolerance for wolves," without offering any supportable basis for this conclusion. *Id.* at 16. While providing compensation for livestock killed by wolves may build public tolerance for wolves, killing wolves may simply foster an inaccurate view of wolves as nuisances. WDFW provides no explanation for why lethal management promotes wolf "tolerance." Nor does the agency explain why non-lethal harassment, or limiting lethal control to state agents, is somehow insufficient to build tolerance.

If WDFW does choose to allow lethal management, WDFW's final recovery plan should set specific limitations on the total numbers of wolves that may be taken annually. For example, the DEIS indicates that 6 breeding pairs is equivalent to only 50 to 100 individual wolves. Draft Plan at 11; 49. WDFW's recovery plan should set a maximum number of wolves that may be lethally taken from this small population each year. Further, if WDFW adopts its proposal to permit the killing of depredating wolves, WDFW should prohibit the killing of any member of a breeding pair

E. WDFW Fails to Consider Reasonable Alternatives.

Washington's State Environmental Policy Act (SEPA) requires that an "environmental impact statement [EIS] . . . be prepared on proposals for . . . major actions having a probable significant, adverse environmental impact." WASH. REV. CODE § 43.21C.031. An EIS must contain a description of reasonable alternatives to the proposed action, including "actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost." WASH. ADMIN.

CODE § 197.11.440(5)(a). The wolf DEIS proposes four alternatives; however, each of the three action alternatives are extremely similar. DEIS at 19. By failing to propose a reasonable range of viable alternatives in its DEIS, WDFW violates the SEPA regulations.

First, WDFW fails to consider recovery/delisting targets greater than 15 breeding pairs. Under each action alternative (1 through 3), the recovery/delisting objectives (6, 12, and 15 successful breeding pairs) are identical. DEIS at 19. As discussed above, substantially higher numbers of breeding pairs, as well as higher numbers of individual wolves, are necessary for recovery. Further, the DEIS repeatedly admits 15 breeding pairs is "minimal" and "barely adequate for achieving population viability and recovery." *Id.* at 15. And while WDFW acknowledges the WWG discussed setting *lower* recovery objectives, neither WDFW nor WWG apparently considered requiring a larger number of breeding pairs before delisting. In order to fully consider available alternatives, WDFW must consider a variety of recovery/delisting standards, beyond the level "barely adequate" for recovery. *Id.*

Second, WDFW fails to consider prohibiting all non-lethal management activities until wolves have recovered. In contrast, all of the alternatives includeaction lethal management, including by private individuals, before wolves are delisted. DEIS 18, 20. As noted above, The HSUS and its members strongly oppose lethal management of wolves before the species is fully recovered. By failing to truly consider a sufficient range of alternatives – including an alternative that prohibits lethal management during recovery – neither WDFW nor the public can fairly judge the impact of the proposal.

F. Of the Proposed Alternatives, Alternative 3 Is Most Appropriate to Promote Wolf Recovery and Comply with State Law.

As noted above, WDFW failed to propose an adequate range of alternatives or an alternative that sufficiently achieves viable wolf populations before delisting. However, of the alternatives proposed, The HSUS believes Alternative 3 is most appropriate because it most strictly limits lethal control and requires increased distribution of wolves before delisting. DEIS at 32, 33. Establishing widely distributed wolf populations, including requiring confirmed breeding pairs in the Olympic Peninsula, before delisting is appropriate. Under state law, a species must remain listed until the species occupies a significant portion of its original geographic range. *See* WASH. ADMIN. CODE § 232.12.297 (defining endangered, threatened, and sensitive as species at risk in all or "a significant portion of its range within the state"). A significant portion is "that portion of a species' range likely to be essential to the long-term survival of the population in Washington." *Id.* § 232.12.97(2.9).

As WDFW is aware, wolves historically inhabited the Olympic Peninsula. *See* Draft Plan at 16. Because the Olympic Peninsula covers a large portion of the state, and constitutes a "significant" geographical portion of the wolves' original range, wolves must remain listed until the species is recovered in this area. WASH. ADMIN. CODE § 232.12.297. Further, wolves are likely to thrive in the Olympic Peninsula. The Olympic Peninsula contains relatively large tracts of contiguous habitat and comparatively low road densities. *See* Draft Plan 40-44. Because livestock is not commonly raised on the Peninsula, there is little risk of depredation, thus a lower risk of illegal wolf killing, and less demand for depredation control. In fact, WDFW notes that wolves on the Olympic Peninsula avoided extirpation longer than wolves in the rest of the state, because the wolves were in "more remote locations." Draft Plan at 16. Because wolves will thrive there, the Olympic Peninsula is likely to be "essential to the long-term survival" of wolves in Washington. *Id.* § 232.12.97(2.9).

Conclusion

In conclusion, The HSUS and its members commend the agency for proactively proposing a step-wise plan to recover wolves in the state and for complying with procedural requirements before delisting. However, as explained above, WDFW's final recovery plan should make clear that killing and harassment of federally listed wolves is strictly prohibited, and all killing should be prohibited until the federal legal status of wolves is finally determined. Further, WDFW must adopt recovery/delisting criteria based solely on scientific, biological information, not social preferences. WDFW should also propose and adopt an alternative(s) that consider requiring greater than 15 breeding pairs prior to delisting, and does not involve lethal management before delisting. Please contact us anytime if you have questions regarding these comments.

Sincerely,

Sarah Uhlemann
Staff Attorney
Animal Protection Litigation Section
The Humane Society of the United States
2100 L Street, NW
Washington, DC 20037
(240) 751-0981
suhlemann@humanesociety.org

✓

RECEIVED
JAN 08 2010
HABITAT PROGRAM

1251 2ND AVENUE SOUTH – ROOM 101, OKANOGAN, WA 98840
PHONE: (509) 422-0855 EXT. 5 • FAX: (509) 422-0532 • WEB: WWW.OKANOGANCD.ORG

January 7, 2009

WDFW SEPA Desk
600 Capitol Way N.
Olympia, WA 98501-1091

Washington State Fish and Wildlife Responsible Officials:

The Okanogan Conservation District (OCD) represents land users and land managers across Okanogan County. Our goal is to foster and support conservation of renewable resources in Okanogan County. We believe that your proposal for wolf management plan is strongly lacking economic analysis in the Draft Environmental Impact Statement and Wolf Management Plan (DEIS). It is unfortunate that the most innovative funding source identified in the DEIS and Plan is to create a new wolf license plate especially as there is currently a moratorium on creating new background license plates in the State of Washington. These unfunded mandates set a dangerous precedent that may result in a movement away from balanced multiple use management on our public lands and sever public trust.

OCD urges the Washington State Fish and Wildlife Board of Commissioners to make a responsible decision and require funding be secured for the long-term management of Washington wolves. The funding should be sought from the State Legislature, the Federal Government and private sources, and a trust fund should be established whose proceeds could be used by Washington State for the management of wolves.

The DEIS and Plan iterates the majority of the funding will be needed as wolves establish numbers in Washington State. This establishment will move the Gray Wolf closer toward Federal delisting. The Federal funds expected to fund the described programs such as Section 6 and other ESA funding, is available only until a species is delisted. Establishing a Trust originating from a Congressional appropriation and or private donations could build interest and help offset the future high costs of managing large wolf populations when they become delisted and federal assistance is no longer available to the State.

OCD believes your proposal seeks to support a program to manage and conserve wolf populations in Washington State. Okanogan County encompasses a large portion of the Colville Reservation. The proposal does not examine tribal reservation lands that may be affected by this Plan. The OCD is concerned with the lack of information that was presented at the public hearing in Okanogan on Nov.9—particularly information regarding the coordination of planning and the involvement of the Tribes. It is unclear the level of support from WDFW and cooperating agencies will provide for both tribal and non tribal members on Tribal lands within

JH

Okanogan County. Will the Tribes in Washington State accept wolves within the boundaries of reservations as part of the management plan?

The Okanogan Conservation District is sympathetic to the challenges the Washington State Fish and Wildlife Board of Commissioners face associated with maintaining a balanced approach to the management of our State's public resources; therefore, we strongly encourage you to strategically look into the future, for this is a long term program and to be successful it needs a long term funding plan. All the people who reside in Washington State deserve the hard work and determination it will take to continue conservation efforts while looking out for the public's welfare.

Sincerely,

Ivan Oberg
Chair

North Yakima Conservation District
1606 Perry St., Suite C - Yakima, WA 98902 - (509) 454-5736, Ext. 5 - Fax (509) 454-5682

RECEIVED
DEC 02 2009
HABITAT PROGRAM

Washington State Department of Fish and Wildlife
SEPA Desk
600 Capital Way N
Olympia, WA. 98501-1091

Re: Draft Wolf Management Plan for Washington

November 27, 2009

Dear Sirs,

The North Yakima Conservation District Board of Supervisors has reviewed elements of the "Draft Wolf Plan" (DWP) and wishes to express specific concerns and provide comment at this time.

The North Yakima Conservation District (NYCD) works closely with landowners, landowner groups, local, State and Federal entities to promote and implement Natural Resource enhancement, protection and preservation actions throughout its boundaries. In order to be effective we need to not only partner with many diverse entities (including the WDFW) but we need to respect their views and opinions. Our hope is that they respect the NYCD's. In return, successful partnerships and programs are implemented where mutual benefit is achieved. One might actually call this "consensus". It is our understanding that the WDFW can use this process; NYCD has actually seen this from WDFW. We have seen this through very formal Coordinated Resource Management (CRM) processes as well as through the normal day to day staff level functions between our respective personnel. That is why it was very disturbing to read the "Minority Report" included in the Draft Wolf Plan that was stated to be derived by consensus.

Upon reading the "Minority Report", the NYCD finds it disturbing that these six (6) Wolf Plan Participants felt strongly enough to insist in the inclusion of a separate document to your Draft Wolf Plan. These six (6) represent 35 percent of the appointed Wolf Plan Working Group yet consensus is claimed to be reached. Much of the Minority Report is supported by the data within the Draft Wolf Plan itself. To simply put out the Draft Wolf Plan without these 6 individuals able to stand behind this document is an appalling example of this plans defects and therefore should not even be out for review until the Minority Report can be withdrawn from the Draft Wolf Plan.

The NYCD's number one resource priority identified through our Annual and 5-Year Planning processes is the conservation and preservation of agricultural lands. This resource priority includes the large rangeland tracts where wolf will logically exist.

JH 12/2

The reasoning behind this natural resource priority is complex yet simple to understand. In observing land use it's easy and very clear that many resource problems occur when land use is changed. This is most prevalent in the NYCD when rangeland is converted to 40 acre "ranchettes". This conversion is most often due to ever increasing economic pressures put upon the rancher. When these types of conversions occur, many natural resource issues develop such as increased storm water run-off, degraded water quality of creeks and streams, blowing dust, etc…but of mutual concern for NYCD and the WDFW is the degradation of many wildlife habitats that these working rangelands provide. It is simple to see how the preferred alternative of the Draft Wolf Plan will impose greater economic burdens upon livestock ranchers. This in turn threatens accelerated development and conversion of these working rangelands and the current habitats they support.

The NYCD believes that key to this plan is the element of "Compensation for losses" thereby addressing added economic burden to the rancher. However, in reviewing the Draft Wolf Plans definition of "compensation", lack of weight gain by livestock should be included in this definition. Further the NYCD believes that the track record of the WDFW to adequately establish, maintain, manage and fund "compensation funds" is poor at best and would cause major failure in any alternative that is selected.

Thank you for your time and consideration of NYCD's comment and concerns. We as a Board are available for further comment, if you wish we can be contacted through our District manager Michael Tobin at (509) 454-5736 ext 5.

Sincerely,

Gail Thornton

Gail Thornton
NYCD Chairman

Whatcom Conservation District

6975 Hannegan Road, Lynden, WA 98264 Phone: (360) 354-2035 x 3 Fax: (360) 354-4678
e-mail: wcd@whatcomcd.org

December 15, 2009

RECEIVED
DEC 18 2009
HABITAT PROGRAM

WDFW SEPA Desk,
600 Capitol Way N. Olympia, WA
98501-1091

Re: Comment to Gray Wolf Conservation and Management Plan Alternatives.

Dear Sir or Madam:

The function of the Whatcom Conservation District is to serve present and future generations of Whatcom County by fostering a healthy, sustainable relationship between people and the environment. The Gray Wolf Conservation and Management Plan seeks to do just that. So, we have great empathy with your agency's effort to reconcile the seemingly irreconcilable namely, the conflict between livestock producers concerned for the health of their herds which is their livelihood and the need for wolves in the natural ecosystem. We believe that at this time Alternative 1 A presents the best opportunity to craft a sustainable solution.

There is strong controversy over all the proposed alternatives. This is due, in no small part to the lack of trust amongst the stakeholders that the assumptions are valid. Were the Department to view the plan development as iterative, it would more be more likely that consensus could be achieved. Imposing what is perceived as a permanent solution now would increase the rancor among the parties. Litigation will likely follow. Already scant resources would be diverted to defending rather than implementing solutions protective of the species and the landowners.

For these reasons, we urge the Department to adopt Alternative 1A as the first step towards developing a management plan that will be later supported by all parties. With additional time the health of the species can be monitored to demonstrate a compelling case for more mating pairs and, as equally important, the efficacy of the mitigation measures to avoid financial hardship to the livestock operators. With a commitment of the parties to stay engaged and to adaptively manage the plan based upon

Board of Supervisors: Richard Yoder Ed Stone Joseph Heller Terry Lenssen Larry Davis

JH 12-18

observations and experience, we expect that a sustainable solution will found.

Thank you for your kind consideration of our comments.

Sincerely yours
Richard Yoder, Chair

28

✓

Stevens County Fish & Wildlife Advisory Committee

Director Mr. Phil Anderson
Department of Fish and Wildlife
600 Capitol Way N.
Olympia, Wa. 98501-1091

January 5, 2010

Dear Director Anderson:

Wolves pose a substantial concern for Stevens County's economic stability. Management of those wolves that are moving into the county from Canada and Idaho Must be managed so as to not affect the economies of Northeast Washington. The region already has an abundance of predators that have impacted the region.

If the state is in fact going to tolerate these alien species, we feel that the WDFW should use the minority report[3 breeding pairs] of the Wolf Study Group as a basis for beginning a management plan.

The majority report provides too much risk for our agricultural community as well as having a potential of decimating our 4 million dollar annual revenue from hunting.. By the time we reach the majority report numbers they will be out of control like they are in Idaho and Montana.

The Grey Wolf is an alien [invasive] specie to Washington State as described in RCW 77.08.010.

Why are we even planning to manage a specie that is alien to our region and not thinking of the loss of livestock and wildlife that will negatively affect our counties economic future? The livestock and wildlife are our species of importance to the counties of the Northeast.

Compensation for ranchers and farmers has been discussed as an action to solve the loss of livestock before a wolf plan is acceptable.

If we are going to develop a plan for management using the minority report, let those who are promoting the wolves pay for the compensation to our agricultural and recreational community.

Sincerely

Tony Delgado

Tony Delgado, Chair
Stevens County Fish & Wildlife Advisory Committee

Washington Department of Fish and Wildlife
Attn: Teresa A. Eturaspe
SEPA Responsible Official, SEPA Desk
600 Capitol Way N.
Olympia, WA 98501-1091

RECEIVED
JAN 11 2010
HABITAT PROGRAM

Re: Gray Wolf Management Policy, Draft EIS

Dear Ms. Eturaspe:

Thank you for this opportunity to comment on the Washington State Wolf Conservation and Management Plan that is being considered as part of the SEPA process being managed by the Washington Department of Fish and Wildlife (WDFW).

As an organization dedicated to outdoor activities in and conservation of the mountain terrain of the Northwest, and as the oldest, and one of the largest conservation organizations in Washington, The Mountaineers takes a keen interest in decisions affecting the management of our public lands. Our members care deeply about issues involving wildlife in not only our mountains, but throughout the state, and we have a long record of environmental activism in our region. We, like many other Washington residents were delighted to learn that wolves have once again taken up residence here after a 70 year hiatus. We therefore wish to comment on the proposed Draft Wolf Recovery Plan.

The Mountaineers do not endorse any formal Alternative but propose that whatever final plan is selected incorporate the following suggestions

Adequate, consistent and non-federal funding for both implementation and compensation

Procurement of adequate funding for wolf recovery is an extremely high priority. Funding must be robust and consistent, both for the purposes of implementation and compensation. Success or failure of a wolf recovery program will be driven by this factor above all others.

Too great a federal funding nexus makes state oversight of wolf recovery efforts overly reliant on federal policy that can shift suddenly. A hostile federal administration could severely weaken a recovery plan by cutting funding. The Washington state cost projection for wolf recovery is around $471,000 to $1 million, http://www.statesmanexaminer.com/content/view/9217/1/ . The Statesman Wednesday, 14 May 2008. While The Mountaineers are encouraged that the State is exploring a wide array of potential funding sources, both the recent macro economic deterioration and experience in adjacent states is not encouraging. The 2005 Oregon State wolf recovery plan projected $400,000 to $500,000 in costs. However as of May 2008, only $108,000 had been budgeted for wolf management and of that $108,000, 50 percent came from federal government funding to Oregon. Ibid. Washington State will have to do better if the final recovery plan is to have a chance of success.

The Mountaineers also support the proposed compensation mechanisms for wolf depredation and urge that they amply reimburse those affected by it who qualify for compensation. Experience has clearly indicated that where recompense is both robust and consistently available public acceptance of co-existence with wolves is signally enhanced.

The Plan Alternatives require more biologically input and we respectfully request several modifications

WDFW should set Recovery target goals based on the best available science. A revisitation, and significant upward revision of the target goals utilizing a biologically justifiable, and not solely a legally defensible, methodology would provide a stronger foundation for the plan alternatives. We

7700 Sand Point Way NE
Seattle, WA 98115
(206) 521-6000
(206) 523-6763 fax

recommend that most of the Alternatives set forth in the Draft Recovery Plan undergo a biological review.

It is premature at this point in time for WDFW to attempt to set recovery goals in terms of specific numbers, because the scientific methodology and level of knowledge does not yet exist to set recovery targets with any real confidence. The Department should, therefore, err on the side of numbers significantly higher than those chosen in any of the alternatives. Science presently suggests the necessity of at least 50 breeding pairs in a DPS. The most optimistic Alternative in the Draft allows for only 35. Discrete recovery targets should not be set unless and until a methodology that is scientifically justifiable can be developed. The Mountaineers endorse in their entirety the comments directed to this issue by the North Cascades Conservation Council and incorporate them by reference, herein. NCCC Comment Letter dated December 28, 2009.

Blind peer review results must be adequately provided for

The Mountaineers wishes the WDFW to adequately provide for incorporation of blind peer review results. We are concerned that release of the DEIS for public review prior to receipt of the peer review makes incorporation of appropriate changes unattainable. We recommend incorporation of the best available information and scientific expertise despite potential delays.

Augmentation from outside Washington must not be entirely excluded from any final plan

The strategy of translocating wolves within the state is likely insufficient to insure the requisite genetic viability for a self sustaining population over time. The final recovery plan should acknowledge the potential necessity of genetic augmentation from outside Washington if the currently favored translocation strategy proves inadequate. Translocation should not be viewed as a proxy for protecting habitat connectivity and we recommend that this mechanism be considered no matter the political implications.

The Olympic Peninsula must be designated as a Recovery Area

The Mountaineers support the proposed designation of the Olympic Peninsula as a recovery area in Alternative 3 to bring the total up to four rather than the three favored in the preferred alternative, Alternative # 2.

Lethal removal of problem wolves should be limited to the maximum extent practicable

We urge the Department to keep lethal removal to the absolute minimum, and, preferably, avoid its use altogether, if possible. Translocation can be used as a tool to deal with problem wolves as readily as it can for geographic dispersal.

Thank you for your consideration.

Yours truly,

Martinique Grigg
Executive Director

7700 Sand Point Way NE
Seattle, WA 98115
(206) 521-6000
(206) 523-6763 fax

From: Mount Olive Grange, 986
Riverside Washington
approved December 4, 2009

Wolves in our neighborhood.

Members of the Mount Olive Grange are against the introduction of wolves in our county.

Today it would be nice to see wildlife of all sorts just like it might have been in Okanogan County, Wa a couple of centuries ago. Back then a natural balance between the wolves and other critters may have been realized.

The problem we see with introducing wolves into our rural community is that a wide range of development has occurred in the time since wolves roamed freely in packs across this region. We now have substantial towns throughout the county, we have scattered clusters of homes and recreational properties and this county still supports a wide range of agricultural and recreational uses.

Wolves once introduced will multiply quickly. Packs of wolves will roam the area looking for sustenance. We do have cattle grazing in the hills; at our homes we have horses, pets, children and adults. That is not to mention deer and other game that provide part of the economic base in this county which wolf packs would take.

We do not want to be keeping the wolf packs strong through the decimation of our endeavors. Through protection of the wolves we do not want a lopsided balance to be reached at our expense in favor of wolf packs, which would be the case if

the wolf packs were to be introduced at this time.

cc: Mount Olive Grange - Master
Mount Olive Grange - Secretary