

“SUMMARY SHEET”

Meeting: August 16, 2013 Conference Call

Agenda Item A: Petition to Codify Portions of the Wolf Conservation and Management Plan-
Decision

Prepared By: Dave Ware, Game Division Manager, Wildlife Program

Presented By: Dave Ware, Game Division Manager, Wildlife Program

Background:

The Commission will consider a petition for rulemaking, pursuant to RCW 34.05.330, received on July 19, 2013. The petitioners Amaroq Weiss and Tim Ream, Center for Biological Diversity, Josh Laughlin, Cascadia Wildlands, Susan Jane Brown and John Mellgren, Western Environmental Law Center, Jessica Schafer, Gifford Pinchot Task Force, Timothy Coleman, Kettle Range Conservation Group, Mike Peterson, The Lands Council, and Greg Costello, Wildlands Network request that the Commission codify several parts of Washington’s Wolf Conservation and Management Plan (Wolf Plan or Plan). The petitioners cite the concern over the Wedge Pack lethal removal actions in 2012 and allege that this action was not consistent with the Plan. It is their belief that codifying agency actions would help avoid future controversies and will result in greater certainty, accountability, and transparency to wolf management.

As the Commission is well aware, wolf management is dominated by managing wolf-human conflicts. There have been several parts of the Wolf Plan that have already been codified through WAC chapter 232-36 regarding wildlife conflict. The Legislature has specifically charged the Commission with establishing rules for how the public can be compensated for losses of property and the conditions under which the public can kill wildlife.

The 2013 Legislature further modified the RCW chapter 77.36 regarding wildlife interactions in E2SSB 5193 to make them more consistent with the Wolf Plan. The Commission heard public testimony earlier this month on agency proposals to modify the wildlife conflict rules (WAC chapter 232-36) in large part, to comply with the recent statutory changes.

The petitioners ask that several parts of the Plan be codified specifically: definitions, monitoring, reporting and outreach, de-listing objectives, translocation, investigations, lethal control, at-risk ungulate populations, and compensation. The majority of these sections of the Plan guide agency actions in achieving recovery of wolves.

Typically fish and wildlife rules are developed through the Washington Administrative Code to regulate the actions of citizens (persons).

The actions of agency staff are typically addressed through policies and employee performance is evaluated against these policies. As authorized by the Legislature (RCW 77.04.055) , the Commission establishes the broad policies for the department and those policies are expressed through the agency’s strategic plan, the director’s annual performance agreement, formal Commission policies and position statements, and through the adoption of conservation and management plans. Progress in accomplishment of the Wolf Conservation and Management Plan objectives is currently included in all of these examples.

However several of the areas suggested in the petition are being codified such as lethal control actions by the public and establishing criteria and conditions for compensation of losses to property caused by wolves. Amendments to these rules are currently under consideration by the Commission and will likely be subject to amendment in the future.

The petitioners identified several areas of disagreement with the currently proposed amendments because they differ from what is in the Plan. Those concerns are:

- The definition of attack in the Plan includes only “biting, injuring, or killing”; the proposed definition in WAC 232-36-030 is: “Attack” means that there is evidence to support the fact that animal to animal contact has occurred or is immediately imminent and the animal is in the attack posture or mode.’
- The Plan states that a permit is needed in order to kill a wolf caught in the act of attacking livestock. The proposed rule allows the public to do that without a permit (in the federally delisted portion of the state).
- The proposal allows for killing a wolf caught in the act of attacking any domestic animal, the Plan only allows killing a wolf if it is attacking livestock.
- The proposed rules allow compensation for a greater number of animals (if the funding/grantor allows it) than the livestock and guard animals described in the plan.
- The proposals also allow any game animal to be killed if it attacks a domestic animal rather than just wolves. This is an amendment to the previous (2010) rule which stipulated “big game” animal.

The agency responses to these concerns were discussed during the briefing and public hearing at the August 2 & 3 Commission Meeting. In addition, we will be meeting with the department’s wolf advisory group to refine our recommendations regarding these issues for the October Commission Meeting.

As suggested by the petitioners, a plan should be flexible and adaptive in order to successfully achieve its objectives, in this case recovery of wolves. In some cases, it makes sense to create rules so the public understands what is required. However, opening up the plan to codify it could result in extensive debate on a host of issues that had been resolved with Plan adoption in 2011.

The department and the Commission are using a variety of ways to maintain an open and transparent process of managing wolves for recovery. Outreach efforts have been extensive; Plan implementation and progress have been openly shared with the public and comment encouraged; and the details of field operations have been developed and debated extensively with stakeholders. Wolf management continues to be heavily scrutinized by the public and the agency is being held to the highest levels of accountability.

In 2008, we documented our first wolf pack; in 2011 we had five; and today we have eleven packs. Wolves are recovering in the state at a fast pace, we are building working relationships with livestock producers to implement pro-active measures and minimize wolf-livestock conflicts, and we are working hard at building trust, acceptance, and tolerance from those whose lives are most directly affected by the presence of wolves on the landscape. That acceptance and tolerance is the foundation that is necessary for long term sustainability of wolf populations and even how wolves will be treated by those who live with them.

The department plans to modify rules in the future as necessary to address wildlife conflict issues and to continue implementing the state's Wolf Conservation and Management Plan. Those efforts will be guided by the wolf advisory group.

Policy Issue(s) you are bringing to the Commission for consideration:

- Development of appropriate regulations to support wolf conservation and management
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Public involvement process used and what you learned:

Wolf management issues have included extensive public involvement. Recently, the Commission heard testimony on August 2nd related to the wildlife conflict rules and how they relate to wolf management and the department has held been meeting monthly with the Wolf Advisory Group on a wide range of issues from regulations to field operations.

Action requested (identify the specific Commission decisions you are seeking):

The Department requests that the Commission deny the petition and as an alternative, instruct the Department to work with the petitioners to identify areas of the Plan that might be considered for future codification. Staff would discuss those proposals with the Department's wolf advisory group prior to providing a recommendation to the FWC.

Draft motion language:

I move to deny the petition to revise the Washington Administrative Code to codify the Wolf Conservation and Management Plan.

Justification for Commission action:

The Plan is a policy document and intended to guide the agency in the recovery of wolves. Many areas of the plan identified in the petition (that are related to compensation and killing of wolves by the public) are already being codified and will continue to be amended as needed over time. The petitioners are encouraged to work with the department through the wolf advisory group to identify any additional areas of the Plan that might need to be codified.

Communications plan:

WDFW staff have spoken with the petitioners directly and we will respond formally in writing regarding the outcome of their petition.
