

Sent Via Email to: rules.coordinator@dfw.wa.gov

July 18, 2023

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Washington Fish & Wildlife Commission
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Cc: Director Kelly Susewind
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Re: Petition to amend the Washington Administrative Code to bring clarity, accountability, and transparency to Washington's wolf management decisions

Dear Commissioners and WDFW Rules Coordinator:

In accordance with RCW [34.05.330](#), please accept this petition asking the Washington Fish and Wildlife Commission to undertake rulemaking to put into place enforceable standards to regulate the state's management of endangered gray wolves. The petitioners hope the Commissioners will take the time to give this petition due consideration, and respectfully request that they schedule a meeting at which we can be heard in support of this petition.

I. Introduction

The Washington Department of Fish and Wildlife has struggled since the return of wolves to the state to ensure that conflict between livestock and wolves is being properly managed to the best of their ability. Instead, the Department has chosen again and again to use taxpayer money to gun down the state endangered species to benefit the livestock industry. In June 2020, the Commission voted to reject a rulemaking petition advanced by environmental groups seeking a rule to provide accountability, transparency, and clarity as to when the Washington Department of Fish and Wildlife ("Department") could kill wolves, leaving the public, the livestock industry and the Department once again in a state of uncertainty.

In September 2020, Governor Jay Inslee granted an appeal brought by conservation groups and ordered the Department to engage in rulemaking. When the Department finally complied with the Governor's order and proposed draft rule changes two years later, it indicated it did not believe these rules were necessary, because Washington's wolf management practices were a success. Yet the Department continues to kill state endangered wolves as the result of conflicts with livestock, despite best available science showing that proactive, non-lethal deterrence measures are the most effective means to prevent such conflicts. The Department continues to kill wolves even when livestock producers fail to take basic steps to protect their cattle, such as moving them away from core wolf areas. Despite public opposition, the Department continues to kill wolves on public lands or due to conflicts with livestock on public lands. And the Department continues to target wolves in the same areas for the same producers, year after year.

Meanwhile, livestock owners have made increasing use of a loophole in the current law to kill wolves by claiming the wolves were "caught in the act" of attacking livestock—even where there is no evidence to support these assertions and the livestock owners have not taken any steps to protect their livestock. Since the Department continues to perpetuate the myth that killing wolves is the ultimate solution to livestock conflicts, the increase in the number of these "caught in the act" killings and the startling rise in wolf poaching should come as no surprise.¹

The undersigned Petitioners are asking the Commission to once more consider rules that would make Washington a leader in science-based wolf management. We ask the Commission to approve rules that focus on using effective non-lethal measures to prevent livestock-wolf conflict, promote social tolerance for coexisting with wolves, prevent the use of legal loopholes to kill wolves, and institute a consistent, transparent, and science-based process to guide the Department in authorizing any lethal control actions.

II. Background

On May 11, 2020, several conservation organizations filed a petition for rulemaking requesting codified language that dictated when the Department could use taxpayer funds to kill gray wolves for conflicts with livestock ("2020 Petition").² This petition for rulemaking followed two others filed in 2013 and 2014.

¹ See Chapron, G. and Treves, A. 2016. Blood does not buy goodwill: allowing culling increases poaching of a large carnivore. *Proc. R. Soc. B* 283: 20152939.<http://dx.doi.org/10.1098/rspb.2015.2939>; Laaksonen, M. and Sanchez-Molina, F. 2018. Keeping the wolf from the door. Analysis of derogation-based wolf hunting permits in Finland. Report published by Luonto-Liiton susiryhä / The Wolf Action Group; and Oliynyk, R.T., 2023. Human-caused wolf mortality persists for years after discontinuation of hunting. *Scientific Reports*, 13(1), p.11084. All studies are included in the [resource packet](#).

² [Exhibit A](#), Petition to amend the Washington Administrative Code to require nonlethal techniques to reduce livestock conflict (sent May 11, 2020). Because the 2020 Petition contained extensive background on wolves in Washington and the state's wolf management practices, we will not repeat all that background here.

On June 26, 2020, the Commission denied the 2020 Petition. Petitioners appealed the Commission's decision to Governor Jay Inslee on July 23, 2020,³ and on September 4, 2020, the Governor granted the appeal, requesting in a letter that "the agency initiate a new rulemaking relating to wolf management" and establish these rules prior to the 2021 grazing season.⁴ The Governor indicated that "the potential for future depredations and lethal control actions, under our existing framework, remains unacceptably high," and concluded that "[w]e must move more quickly and decisively to institute practices that will avoid the repeated loss of wolves and livestock in our state." His letter asked the Department to institute rulemaking that would focus on the following areas:

- Standardizing definitions and requirements for the use of range riding;
- Instituting requirements for the use of non-lethal deterrents most appropriate for specified situations;
- Mandating the use of action plans in areas of chronic predations; and
- Putting in place compliance measures for livestock operators who do not implement required non-lethal measures.⁵

The Department, however, failed to propose the rules requested by the Governor in either 2020 or 2021. It was not until February 16, 2022, that the Department circulated draft rules pursuant to the Governor's request ("2022 Draft Rules"), and these proposed rules fell far short of implementing needed changes.⁶ Rather than revising and improving the 2022 Draft Rules, on July 8, 2022, the Commission voted to take "no action" on the rulemaking proposal.⁷

As a result of the Commission's failure to adopt new wolf management rules, determinations by the Department on when to kill wolves in Washington continue to be guided by an advisory-only, unenforceable Wolf Livestock Interaction Protocol ("Protocol").⁸ This Protocol was developed in 2016 and 2017 by a Department-appointed stakeholder group known as the Wolf Advisory Group ("WAG").⁹ The Department frequently deviates from this Protocol because it is only "guidance" and not a binding rule, creating a chaotic environment of uncertainty. And even when the

³ Appeal of the Washington Fish and Wildlife Commission's Denial of Rulemaking to Amend WAC 220-440-040 and 220-440-080 to Require Use of Nonlethal Techniques to Reduce Livestock-Wolf Conflict (Jul. 23, 2020). Included in [resource packet](#).

⁴ Letter from Jay Inslee, Governor, Washington State, to Larry Carpenter, Chair, Washington Fish and Wildlife Committee (Sept. 4, 2020), available at: <https://governor.wa.gov/sites/default/files/2023-01/Letter%20to%20DFW%20-%20Wolf%20Mgmt%20Appeal%20%28final-signed%29.pdf>. (last viewed July 18, 2023).

⁵ *Id.*

⁶ CR-102 filed as WSR 22-05-092 (Feb. 16, 2022), available at: <https://wdfw.wa.gov/sites/default/files/about/regulations/filings/2022/WSR%2022-05-092.pdf> (last viewed July 18, 2023).

⁷ Withdrawal notice filed as WSR 22-15-063 (Jul. 18, 2022), available at: <https://wdfw.wa.gov/sites/default/files/about/regulations/filings/2022/WSR%2022-15-063.pdf> (last viewed July 18, 2023).

⁸ Wolf Advisory Group, Wolf-Livestock Interaction Protocol, Washington Department of Fish and Wildlife (June 1, 2017, as revised Sept. 15, 2020), available at: https://wdfw.wa.gov/sites/default/files/2020-09/20200915_wdfw_wolf_livestock_interaction_protocol.pdf (last viewed July 18, 2023).

⁹ The 2020 Petition discusses both the Protocol and the WAG at length. See [Exhibit A](#).

Department follows the Protocol, its provisions are ineffective at protecting either wolves or livestock, do not provided adequate transparency or accountability and continue to perpetuate the myth that the best solution to livestock-wolf conflicts is to kill wolves.

The 2020 Petition provides a complete background on wolf recovery in Washington, the science regarding the ecological importance of wolves on the landscape, a history on the management of wolves in the state, and information on the importance and effectiveness of non-lethal management. Rather than repeat all that information here, Petitioners incorporate the 2020 Petition by reference, and encourage the Commission to review the information provided there.

Rather than recycle the language from the 2020 Petition, Petitioners are proposing new rule language that modifies the 2022 Draft Rules to propose effective, science-based, and transparent regulations for the Department's management of livestock-wolf conflicts.

III. Wolf Management Since the 2020 Petition

Since the 2020 Petition, the Department has continued to kill wolves on public lands as a result of avoidable conflicts with livestock, while the state has also seen a dramatic rise in illegal wolf killings. These incidents further illustrate the need for new rules to regulate how the Department handles livestock-wolf conflict.

Shortly after petitioners filed the 2020 Petition, Director Kelly Susewind issued a kill order for the Wedge pack. Acting pursuant to that order, the Department killed three more wolves for the same livestock owner for which it has killed 79% of the total state endangered wolves it has killed or authorized to be killed to date, destroying a pack in the "Wedge" area of the Colville National Forest for a second time.¹⁰

Between the Governor's September 4, 2020, directive to the Department and Commission's July 2022 vote not to adopt a wolf management rule, the Department killed several more wolves under Susewind's direction:

- The Department killed one wolf and issued a permit to the producer to kill another in Columbia County in November 2021. These wolves were killed even though range riders were only patrolling the area once or twice a week and the producer had consistently refused to cooperate with the Department, including refusing to provide information about how many cattle remained in the conflict area, which was also a wolf rendezvous point.¹¹ The kill order was issued despite the fact that more than 20 days had elapsed between the last predation and the kill order, during which time one Columbia County wolf had been struck

¹⁰ *Wolves Killed By WDFW*, Washington Wildlife First, updated July 12, 2023 ([Exhibit B](#)).

¹¹ *Livestock Wolf Mitigation Measures*, Washington Department of Fish and Wildlife, Olympia, Washington (final entry Nov. 1, 2021). At page 3, 6. Obtained through PDR and included in [resource packet](#).

and killed by a car.¹² In fact, before it issued the kill order, the Department acknowledged that “[c]urrent research suggests removing wolves at this point would not reduce the likelihood of a future depredation.”¹³

- In June 2022, the Department killed two members of the Togo pack in an area it had identified as a possible wolf den site.¹⁴ The Department had previously killed another member of the Togo pack in 2018, and since then has issued a new kill order against the pack every year—although it was unable to kill Togo wolves in 2019,¹⁵ 2020, or 2021.¹⁶ These repeated kill orders came despite the continued failure of the producers involved to use effective non-lethal measures to prevent conflict, such as effectively and consistently using range riders, keeping cattle away from wolf rendezvous and denning sites, and allowing the Department to deploy RAG boxes, fladry, and/or fox lights.¹⁷ Predictably, killing Togo wolves without addressing this underlying problem has not eliminated livestock-wolf conflict, as the Department reported another confirmed wolf predation on June 27, 2023.¹⁸

The Department has also continued to kill wolves after the Commission’s failure in July 2022 to adopt wolf management rules. In August 2022, Director Susewind issued an order to kill wolves in the Smackout pack, and shortly afterwards, issued an order to kill members of the Leadpoint pack, which had a neighboring territory. In both cases, there had been repeated conflicts with these packs, and the producers involved had not taken basic steps to protect their cattle. In both cases, the livestock predations leading to the kill orders involved cattle belonging to the same ranching family responsible for 79% of the 42 wolves it has killed or authorized to be killed over the past decade.¹⁹

¹² Email from Stephen Pozzanghera, Regional Director, Washington Department of Fish and Wildlife, to Kelly Susewind, Director, Washington Department of Fish and Wildlife (Nov. 8, 2021). Obtained through PDR and included in [resource packet](#).

¹³ Letter from Washington Fish and Wildlife District 3 Team to Kelly Susewind, Director, Washington Department of Fish and Wildlife, and Stephen Pozzanghera, Regional Director, Washington Department of Fish and Wildlife (Nov. 5, 2021). At page 10. Obtained through PDR and included in [resource packet](#).

¹⁴ District 1 Team meeting minutes: Togo Pack Recommendation, Washington Department of Fish and Wildlife, Olympia, Washington (May 17, 2022). Obtained through PDR and included in [resource packet](#).

¹⁵ Togo Pack Update, Washington Department of Fish and Wildlife, Oct. 18, 2019, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/togo-pack-update-10> (last viewed Jul. 12, 2023).

¹⁶ Letter from District 1 Team to Kelly Susewind, Director, Washington Department of Fish and Wildlife, Olympia, Washington (Aug. 24, 2021). Obtained through PDR and included in [resource packet](#).

¹⁷ Email from Stephen Pozzanghera, Regional Director, Washington Department of Fish and Wildlife, to Kevin Robinette, Regional Wildlife Program Manager, Washington Department of Fish and Wildlife, et al. (May 31, 2022). Obtained through PDR and included in [resource packet](#).

¹⁸ Monthly Wolf Report – June 2023, Washington Department of Fish and Wildlife, Jul. 10, 2023, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/monthly-wolf-report-june-2023> (last viewed Jul. 11, 2023).

¹⁹ *Wolves Killed By WDFW*, Washington Wildlife First, updated July 2023 ([Exhibit B](#)).

- After the Department killed two Leadpoint pack wolves on September 27-28, Director Susewind issued a new order on October 9 that authorized the killing of another Leadpoint wolf. Days later, the Department rescinded this authorization,²⁰ after Washington Wildlife First inquired about reports that the Department had found unburied cattle carcasses in a pasture in the vicinity of the reported predations.²¹ This carcass pile was drawing wolves into the area where the cattle were grazing and creating livestock-wolf conflict. In addition, this discovery showed the Department had failed to conduct any due diligence in advance of its previous report that the affected producers had been properly disposing of carcasses—one of the factors the Department had used to justify its killing of two Leadpoint wolves.²²
- In executing the Smackout pack kill order, the Department accidentally killed a five-month-old pup from the Dirty Shirt pack that had wandered into the sights of agency sharpshooters.²³ The Department suspended the Smackout pack kill order on September 8 following this error,²⁴ but then resumed its killing operations on October 7 following additional predations. The Department killed a yearling female from the Smackout pack on October 10.²⁵ The 2022 kill order was the Department's fourth in five years against the Smackout pack, as the affected producers have repeatedly failed to take appropriate proactive measures to protect their cattle.²⁶ The Smackout pack territory is adjacent to the Leadpoint pack territory, and both wolf packs were implicated in predations of cattle belonging to the same producer. As a result, it seems likely that the Smackout wolves had been lured into conflict by the same carcass pile that the Department failed to report until after it had already killed four wolves. However, although Washington Wildlife First submitted a public disclosure request for information on the Smackout pack kill order more than 10 months ago, the Department has failed to provide even the most basic information in

²⁰ Leadpoint pack update, Washington Department of Fish and Wildlife, Oct. 13, 2022, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/leadpoint-pack-update-6> (last viewed Jul. 11, 2023).

²¹ Email from Samantha Bruegger, Executive Director, Washington Wildlife First, to Julia Smith, Wolf Policy Lead, Washington Department of Fish and Wildlife (Oct. 11, 2022). Included in [resource packet](#).

²² WDFW Director reauthorizes lethal action in Leadpoint wolf pack territory, Washington Department of Fish and Wildlife, Oct. 10, 2022, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/wdfw-director-reauthorizes-lethal-action-leadpoint-wolf-pack-territory> (last viewed Jul. 11, 2023).

²³ Smackout pack update, Washington Department of Fish and Wildlife, Sept. 8, 2022, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/smackout-pack-update-2> (last viewed Jul. 11, 2023).

²⁴ *Id.*

²⁵ Smackout pack update, Washington Department of Fish and Wildlife, Oct. 13, 2022, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/smackout-pack-update-4> (last viewed Jul. 11, 2023).

²⁶ Smackout, Washington Department of Fish and Wildlife, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/packs/smackout?page=0> (last viewed Jul 12, 2023).

response—including the recommendations from the district team and regional director that would have been sitting on Director Susewind’s desk when he issued the order.²⁷

In all, since the 2020 Petition was filed in May 2020, the Department has killed or authorized the killing of 10 wolves, meaning that the Department has now killed or authorized the killing of 42 wolves on behalf of the livestock industry over the past 10 years. Unless the Department changes its approach and the framework for making these decisions, this number will continue to grow as wolves expand into new territories.

In October 2022, the Department confirmed that six wolves had been illegally poisoned in northeastern Washington in February of that year.²⁸ The Department’s 2022 annual report confirmed that three more wolves had been illegally killed during 2022.²⁹ Almost all these deaths occurred in areas which have experienced chronic livestock conflicts.

As the Department notes in its annual reports, the vast majority of wolf packs are not involved in any conflicts with livestock. In fact, over the past 12 years that the Department has issued annual reports, while the wolf population has grown from 19 wolves in three packs³⁰ to 216 wolves in 37 packs, on average each year 81% of Washington’s packs are not involved in livestock conflicts.³¹ Nevertheless, repeated conflicts continue in the same areas in northeast Washington, where livestock producers are not taking adequate steps to protect livestock grazing in prime wolf country. As Governor Inslee predicted, under the current framework, such conflicts will persist, and the Department will continue to regularly kill wolves in the same area. Even worse, the Department’s current approach will make conflict more likely in other areas of the state as wolves disperse and establish territories in new locations.

These problems will persist unless and until the Department provides leadership showing that non-lethal deterrents are a better way to reduce livestock-wolf conflicts—and until it refuses to use taxpayer money to kill wolves unless the involved producers have taken meaningful steps to protect their livestock. It is in the interests of the Department, wolf advocates, and livestock producers to put in place enforceable rules that will provide a consistent and predictable wolf management

²⁷ See Letter from Samantha Bruegger, Executive Director, Washington Wildlife First, to Public Records Officer, Washington Department of Fish and Wildlife (Sept. 9, 2022) (included in [resource packet](#)). As of July 18, 2021, the Department had only provided *nine documents* in response to this request, not including any of the district or regional recommendations provided to Director Susewind before he issued this kill order.

²⁸ Monthly Wolf Report – September 2022, Washington Department of Fish and Wildlife, Oct. 10, 2023, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/monthly-wolf-report-september-2022> (last viewed Jul. 11, 2023).

²⁹ Washington Gray Wolf Conservation and Management 2022 Annual Report. Washington Department of Fish and Wildlife, Confederated Tribes of the Colville Reservation, Spokane Tribe of Indians, Yakama Nation, Swinomish Tribe, and U.S. Fish and Wildlife Service, Helena, Montana. 65 pp. At page 3, available at: <https://wdfw.wa.gov/sites/default/files/publications/02419/wdfw02419.pdf>. (last viewed July 18, 2023).

³⁰ Washington Gray Wolf Conservation and Management 2012 Annual Report. Washington Department of Fish and Wildlife, Confederated Tribes of the Colville Reservation, and U.S. Fish and Wildlife Service, Ellensburg, Washington. 21 pp. At page 6, Figure 4 and 7, Figure 5, available at: <https://wdfw.wa.gov/sites/default/files/publications/01502/wdfw01502.pdf> (last viewed July 18, 2023).

³¹ Washington Gray Wolf Conservation and Management 2022 Annual Report. At page 23, Figure 10.

framework, requiring the Department to work with livestock producers to ensure they are using best management practices to prevent livestock-wolf conflict before the state will use taxpayer money to kill wolves.

Such rules will also reaffirm the state's commitment to wolf recovery and combat the intolerance that is leading to more illegal killings, such as the horrific poisoning of wolves in February 2022.³² With no scientific substantiation at all, representatives from wildlife agencies managing wolves at both the state and federal levels often claim that killing of wolves by agency staff or private individuals for livestock conflicts, or via government-sanctioned wolf hunting seasons, promotes tolerance for wolves. In fact, the body of peer-reviewed published research on this subject reaches the opposite conclusion: *such killing increases social intolerance of wolves and illegal killing of wolves.*³³

IV. “Caught in the Act” History and Killings

The 2011 Washington Wolf Conservation and Management Plan (“Plan”) sets forth management options for wolves while listed as endangered, threatened, or sensitive.³⁴ Table 9 of the Plan delineates the circumstances under which individual livestock owners (including family members and authorized employees) may lethally take wolves if “in the act of attacking” livestock. The Plan defines “in the act of attacking” as “actively biting, wounding, or killing,” and “livestock” as “cattle, pigs, horses, mules, sheep, llamas, goats, guarding animals, and herding dogs.”³⁵

Whether wolves are listed as endangered, threatened, or sensitive, the Plan states that livestock owners (including family members and authorized employees) may lethally take a wolf in the act of attacking **livestock** “on private land they own or lease and public grazing allotments, **with an issued permit, after documented depredations (injury or killing) in the area.**”³⁶

Thus, the Plan established six requirements which must be met for the lethal take of wolves in the act of attacking:

- 1) Qualified individuals include only livestock owners, family members, and authorized employees.
- 2) Qualified animals being attacked by wolves include only livestock (which includes guarding animals and herding dogs).
- 3) The lethal take must occur on private lands owned or leased by the livestock owner or on grazing allotments for which they have a permit.
- 4) The wolf's action must be one of “actively biting, wounding or killing.”

³² Chapron and Treves, 2016; Laaksonen and Sanchez-Molina, 2018; Oliynyk, 2023. Included in [resource packet](#).

³³ *Id.*

³⁴ Wiles, G.J., H.L. Allen, and G.E. Hayes. 2011. Wolf conservation and management plan for Washington. Washington Department of Fish and Wildlife, Olympia, Washington. 297 pp. (Wolf Management Plan). At page 87, Table 9. Available at: <https://wdfw.wa.gov/sites/default/files/publications/00001/wdfw00001.pdf> (last viewed July 18, 2023).

³⁵ *Id.* at pp. 233-34.

³⁶ *Id.* at page 87, Table 9.

5) The qualified livestock owner must have received a permit from the Department in advance of killing any wolf.

6) Prior to receiving the permit and prior to killing any wolf, there must have first been wolf predations in the area that led to death or injury of livestock.

However, in the spring of 2013, the Washington state legislature introduced bills requiring the Commission to conduct rulemaking to allow private individuals to kill a wolf without a permit for attacking any domestic animal.³⁷ The legislature did not pass these bills, but in response to this pressure, the Commission enacted an emergency rule in April and subsequently made the rule permanent in October as WAC 220-440-080. WAC 220-440-080 allows for any private individual anywhere to kill a wolf, without first requiring a permit or prior livestock predations, if the wolf is attacking any domestic animal. The rule thus significantly expanded the ability for private citizens to kill wolves, eliminating the requirement that the Department issue a permit first. It also scuttles the requirement under the Wolf Plan that the wolf be “in the act of attacking” by replacing that term with the imprecise word “attacking.”

Since the enactment of WAC 220-440-080, the Department has reported nine wolves killed by individuals asserting the animal was in the act of attacking livestock (or “caught in the act,” as it is sometimes called) and one wolf shot for “caught in the act” but whose body could not be found. Investigations by Department law enforcement ensued, but in all instances the killing was deemed lawful. This is despite the fact that, in most instances, the wolf was not “in the act” of attacking (“biting, wounding or killing”), nor even “attacking,” but was instead chasing or, in some cases, not even chasing but simply nearby. In at least one case, the wolf was nearly 60 yards away from a fenced pasture containing livestock. Of the 10 total shootings of wolves for “caught in the act of attacking,” we have obtained public documents in five of the instances, which took place between 2017 and 2019. We also have recently submitted a request for public documents pertaining to the remaining five known incidents; four took place in 2022 and one in 2023. Representative agency documents from the five incidents which occurred between 2017 and 2019 are summarized below, with pertinent documents from each attached as exhibits:

- Caught in the Act Killing June 30, 2017, in Stevens County – A law enforcement report indicates that two wolves were chasing cattle; a range rider had taken a rifle to where the wolves were, instead of the shotgun they usually use for hazing, and shot and killed one of the wolves with the rifle, then returned to their campsite to retrieve their shotgun to haze the other wolves away. The range rider would not answer a question posed by law enforcement as to why they did not initially take their hazing shotgun with them when they shot and killed the wolf. When killed, the wolf was not attacking nor in the act of attacking (biting, wounding, or killing) livestock. See [Exhibit C](#).

Caught in the Act Killing Oct 27, 2017, in Ferry County – A law enforcement report indicates wolf was chasing cows and was 30-60 feet away from the cows when it was shot and killed with no warning shots fired to attempt to first haze it away. When killed, the wolf was not attacking nor in the act of attacking (biting, wounding, or killing) livestock. See [Exhibit D](#).

³⁷ H.B. 1191 (Wash. 2013); S.B. 5197 (Wash. 2013).

- Caught in the Act Killing February 4, 2019, in Adams County – A Department update to the public advised that a ranch employee in northeast Adams County killed a wolf “in a caught in the act situation.” Per the Department’s update, the ranch employee noticed cattle running, then saw three wolves chasing the cattle. Yelling at the wolves caused two to retreat. When the third wolf paused then continued to chase a cow, the ranch employee shot and killed the wolf from approximately 120 yards away. When killed, the wolf was not attacking nor in the act of attacking (biting, wounding, or killing) the cow. See [Exhibit E](#).
- Caught in the Act Killing April 29, 2019, in Okanogan County – A law enforcement report indicates the wolf was killed with a 22-250 rifle as the wolf was walking towards a pasture containing newborn calves. The livestock’s owner first yelled at the wolf and when it continued walking towards the pasture, instead of trying to scare it away by shooting near the wolf, the livestock owner shot and killed the wolf. The report indicates the animal fell where it was shot, 56 yards away from the pasture. When killed, the wolf was not attacking nor in the act of attacking (biting, wounding or killing) livestock. See [Exhibit F](#).
- Caught in the Act Killing July 24, 2019, in Ferry County – Internal Department communications note that a livestock owner using a high-caliber rifle shot and killed a black wolf observed taking down and standing over a calf (the report alternately refers to the affected livestock as a calf or as a cow). See [Exhibit G](#).

Regarding killing wolves that are “in the act of attacking livestock,” “[w]olves stalking, looking at, or passing near livestock, present in a field with livestock, or present on private property are not considered to be in [the act] of attacking.”³⁸ Yet it is clear from the five actual incidents described above, in nearly every instance, that this is all the wolves were doing. Regardless, the wolves were gunned down, and those who shot them are being relieved of any legal liability for their actions based on the extremely lax, vague wording of the emergency rule adopted by the Commission in 2013. We therefore are including in this administrative petition for rulemaking rule language to clarify “caught in the act” killings of wolves to provide certainty in these specific situations and to realign what is allowed with the intention of the state Wolf Plan.

V. Our Proposed Rule Changes

Our proposal would amend WAC 220-440-080 and add a new rule, WAC 220-440-260, to address the issues identified above and in the 2020 Petition, providing the Commission with another opportunity to bring accountability and transparency to the state’s wolf management and fulfill Governor Inslee’s request for rules to regulate when the state can kill wolves. See Proposed Rules (Attachment 1). Our proposed rule changes would do the following:

- Require three qualifying wolf predations on livestock within 30 days before the Department may consider killing wolves, all of which are confirmed, and at least two of which resulted in the death of livestock. This provision is similar to the standard in the Protocol, but it would make that minimum threshold mandatory and enforceable, while eliminating the

³⁸ Wolf Management Plan at page 89.

Protocol's option of killing wolves after four predations in a 10-month window. There is no science to support the 10-month time period, which spans different grazing seasons and fails to take into account the substantial shifts in wolf packs and grazing conditions that can take place during this time period.

- Set minimum standards before the Department can issue a kill order against a wolf pack, including requiring that two appropriate proactive deterrents are place before such an order is considered. The proposal also defines what the Department may count as “range riding” before it qualifies as an appropriate proactive deterrent. This is similar to language in the Protocol, but further defines those standards and makes them enforceable.
- Eliminate the killing of wolves on public land or as a result of predations of livestock grazing on public land. First and foremost, our public forests should be havens for wildlife, not pastures for livestock. Although Washington cannot change federal grazing policy, it can take a stand against “controlling” wildlife on public lands for the benefit of private industry. A poll the Washington Wildlife First commissioned last year revealed that only 25% of the public supports killing wolves as result of predations on cattle grazing on public forest land.³⁹
- Limit any kill order to 30 days in duration and to the killing of just one wolf, with a requirement that the Department must reasonably believe that any wolves that it kills were responsible for the predations. The Department can present no science to show that killing wolves who are not involved in predations helps to resolve livestock-wolf conflict. Rather than issuing open kill orders to kill any two random wolves, which is the current practice, this proposal would require the Department to identify “problem wolves” and seek to target only those wolves.
- Limit the use of the “caught in the act” provision as a loophole that allows livestock owners to kill wolves without any accountability.
- Prevent the Department from killing wolves due to livestock predations in close proximity to known core wolf areas, including dens and rendezvous sites. The Department has repeatedly killed wolves and eliminated entire wolf packs, including the Profanity Peak Pack and the OPT Pack, due to entirely avoidable conflicts that resulted after cattle were allowed to graze in close proximity to core wolf areas.
- Prevent the Department from killing wolves when doing so will orphan or jeopardize the survival of pups. On multiple occasions, the Department has killed one or both members of a breeding pair, or even most members of the pack, leaving behind pups unlikely to survive on their own. Our proposal would also will prevent the Department from killing wolves younger than six months old and incapable of hunting livestock (or anything larger than mice or rabbits).

³⁹ Public Policy Polling, *Poll on Washington Attitudes Toward Fish and Wildlife*, October 17-18, 2022, available at: <https://5609432.app.box.com/file/1054304133979?s=kutlutofnc2v5fybaq7uw0z9klzisve9> (last viewed July 18, 2023).

- Mandate that livestock owners sign damage control prevention agreements before the Department will consider killing wolves as a result of predation on their livestock. This basic measure is already required before the Department will reimburse livestock owners and farmers for losses due to wildlife. We should require at least as much before the state uses taxpayer dollars to *kill* wolves.
- Instruct the Department to develop a structured decision-making framework for approaching any decision to kill wolves and submit that framework for Commission approval. This would eliminate the *ad hoc* approach to wolf management, while providing both flexibility *and* accountability, and setting up a framework to gather information that will allow the Department to develop better approaches.
- Require the Department to develop conflict mitigation plans for chronic conflict areas. This idea has been circulating for years, was part of the 2022 Draft Rules, and has been widely discussed in the WAG. It is long past time to formalize it in the rules, to prevent the Department from continuing to kill wolves year after year in the same areas and for the same livestock producers, when no steps have been taken to address the underlying problems that cause the conflicts in the first place.
- Institute transparency measures, such as requiring the Department to post key information related to wolf management on its website. This will increase public accountability and trust and decrease the number of public disclosure requests seeking information on actions related to wolves.

VI. Conclusion

We believe our proposal offers the Commission an opportunity to chart a better path forward, setting an example for the rest of the country to follow for science-based wolf management that values the crucial role wolves play in a healthy ecosystem. When considering this rulemaking petition, we urge the Commission to welcome a panel of representatives from the undersigned organizations to testify before the full Commission or the Wildlife Committee, so we may explain why this rule change is important and answer any questions Commissioners may have.

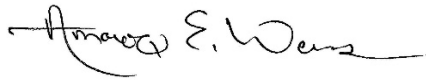
Sincerely,



Claire Loebs Davis
Board President/Interim Executive Director
Washington Wildlife First



Sophia Ressler
Staff Attorney
Center for Biological Diversity



Amaroq Weiss
Senior Wolf Advocate
Center for Biological Diversity



Patrick Kelly
Montana/Washington State Director
Western Watersheds Project



Lizzy Pennock
Carnivore Coexistence Attorney
WildEarth Guardians



Hannah Thompson-Garner
Director of Advocacy and Mission
Advancement
Northwest Animal Rights Network



Lynn Mason
Grassroots Organizer
Coexisting with Cougars in Klickitat County



Bethany Cotton
Conservation Director
Cascadia Wildlands



Suzanne Lieberman
Washington State Director
Animal Wellness Action
Center for a Humane Economy



Tim Coleman
Executive Director
Kettle Range Conservation Group



John Rosapepe
Pacific Northwest Representative
Endangered Species Coalition

Attachment 1
Proposed Changes to Wolf Management Rules
Amending WAC 220-440-080 and proposing new WAC 220-440-260
July 18, 2023

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-440-080 Killing wolves attacking domestic animals.

The commission is authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing damage on private property. The department may authorize, pursuant to RCW 77.12.240 the killing of wildlife destroying or injuring property. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 220 WAC.

~~(1) An owner of domestic animals, the owner's immediate family member, the agent of an owner, or the owner's documented employee may kill one gray wolf (Canis lupus) without a permit issued by the director, regardless of its state classification, if the wolf is attacking their domestic animals. The director may issue a permit to an owner of livestock, the owner's immediate family member, the agent of an owner, or the owner's documented employee to kill one gray wolf (Canis lupus) regardless of its state classification, if the wolf is in the physical act of attacking their livestock, as defined in WAC 220-440-020.~~

(a) This section applies to the area of the state where the gray wolf is not listed as endangered or threatened under the federal Endangered Species Act.

(b) The director may issue a permit under this section if the department has documented a confirmed wolf predation of the owner's livestock within the prior month, and the owner has met the requirements of WAC 220-440-260(2)(b)(ii-ix).

~~(b)~~ (c) Any wolf killed under this authority must be reported to the department within twenty-four hours.

~~(d)~~ (e) The wolf carcass must be surrendered to the department.

~~(d)~~ (e) The livestock owner ~~of the domestic animal~~ must grant or assist the department in gaining access to the property where the wolf was killed for the purposes of data collection or incident investigation.

~~(2) If the department finds that a private citizen killed a gray wolf that was not attacking a domestic animal, or that the killing was not consistent with this rule, then that person may be prosecuted for unlawful taking of endangered wildlife under RCW 77.15.120. If a private citizen kills a gray wolf and does not comply with this rule, then that person may be prosecuted under applicable laws and regulations, including unlawful taking of endangered wildlife under RCW 77.15.120. The department will keep the attorney general apprised of any investigations into such violations.~~

(3) The department must publicly report all permits issued under this section within 24 hours of the issuance of the permit and must report all wolves killed under this section within 7 days of being notified by the livestock owner.

~~(34) In addition to the provisions of subsection (1) of this section, the director may authorize additional removals by permit under the authority of RCW 77.12.240 agency lethal removal of wolves if the director (or staff designee) determines an owner met the conditions described in WAC 220-440-260(2).~~

NEW SECTION

WAC 220-440-260 Wolf-livestock conflict deterrence.

(1) Definitions:

(a) "Affected livestock producer" means any livestock producer who experiences wolf predation.

(b) "Confirmed wolf predation" refers to any event where trained department staff have found reasonable physical evidence to determine that a wolf caused the death or injury of livestock.

(c) "Livestock producer" means any person who owns livestock for home use or for profit, especially on a ranch or farm.

(d) "Proactive deterrence measure" refers to an affirmative action taken to discourage wolf predation, which is appropriate to the conditions, and has been in place long enough prior to a confirmed wolf predation that the local department wildlife conflict specialist is confident it has had time to be effective.

(e) "Qualifying wolf predation" means a confirmed wolf predation on livestock belonging to a producer who has signed a damage control prevention agreement under WAC 220-440-040(3).

(f) "Wolf pack" means a group of two or more wolves traveling together in winter.

(g) "Wolf pack territory" means an area occupied by a pack of wolves, including den and rendezvous sites if the pack is reproductive.

(2) Criteria for lethal removal of wolves.

(a) Within six months of the adoption of this rule, the department will draft a structured decision-making framework to be presented to the commission for approval, outlining the process for deciding whether to issue an order for the lethal removal of wolves. That framework shall be based on the best available science and shall be updated as new information or science becomes available, shall describe the process for making decisions on wolf lethal removal, and shall outline the circumstances under which the department may consider killing wolves, including objective assessments of the following factors:

(i) All the factors described in subsection (2)(b);

(ii) For chronic conflict areas, all the factors described in subsection (4);

(iii) The characteristics of the land on which the predations occurred, including the type of terrain, and its proximity to core wolf areas;

(iv) The appropriateness of the nonlethal preventative measures taken to protect livestock, the timeframe during which they have been in place, and the effectiveness with which they were deployed;

(v) Any commonalities with prior predations, including but not limited to any commonalities in the producer, pack, or terrain;

(iv) Any alternatives to using lethal control, including potential cooperation with other governmental or non-governmental entities to address the wolf-livestock conflict; and

(v) Risks of potential lethal control to pack population, social structure, recruitment, and dispersal.

(b) The director (or staff designee) may authorize lethal removal of wolves on private property in accordance with the department's structured decision-making framework if:

(i) The department has documented at least 3 qualifying wolf predations on private property within a 30-day period, at least two of which have resulted in the death of livestock, and;

(ii) The department determines wolf predations on the affected livestock producers are likely to continue during the same grazing season;

(iii) No attractant was a known factor in any of the qualifying wolf predations, including but not limited to any food or bait source, nearby carcasses or bone piles, unprotected sick or injured animals, and unprotected newborn calves under 200 pounds;

(iv) The livestock were legally present, and, in the case of grazing allotments, the livestock producer was in compliance with all permit requirements in the area where the predations occurred at the time when the predations occurred;

(v) The livestock were not concentrated in close proximity to any known core wolf areas, including wolf den or rendezvous sites; were not being drawn to any core wolf areas by the presence of salt blocks or other attractants; and measures were in place to keep livestock away from any core wolf areas;

(vi) Empirical and predictive data about Washington's wolf population and the wolf population in surrounding areas demonstrates that the lethal removal authorization will not harm the wolf population's ability to reach recovery objectives statewide or within individual wolf recovery regions, or reduce the probability of wolves persisting in the state;

(vii) Killing wolves will not orphan or jeopardize the survival of wolves under a year and a half;

(viii) The department received and reviewed all relevant data on the use of non-lethal practices used by department staff, contracted individuals and non-department entities, including the affected livestock producer; and

(ix) The director (or staff designee) determines that livestock owners who experienced the qualifying wolf predations have

implemented at least two proactive deterrence measures at least 14 days prior to at least two of the predations counted in subsection (2)(b)(i).

(c) At least 24 hours prior to implementing a lethal removal order for wolves, the department must publish on its public website: (1) notice of the lethal removal order; (2) the injury/mortality investigation reports on the wolf predations considered in issuing the order; (3) the district and regional reports given to the director containing staff recommendations on the lethal removal order; and (4) any additional findings made in support of the lethal removal order in accordance with the department's structured decision-making process.

(d) No lethal removal authorization may be in effect longer than 30 days.

(e) No more than one wolf may be killed under any single lethal removal order. The department may not kill wolves under six months of age.

(f) The department shall only kill wolves it reasonably believes were responsible for predation upon livestock.

(3) Conflict mitigation plan.

The director (or staff designee) will designate a geographic area (e.g., all or a portion of a wolf pack territory) as a chronic conflict area when one or more wolves have been killed or authorized to be killed in that area in two of the past three years through department-authorized removal, caught-in the-act shootings, and/or poaching.

(a) For each designated chronic conflict area, staff will develop a conflict mitigation plan in consultation with willing, affected livestock producers, as well as federal, state, and tribal agencies that manage lands and/or wildlife in the designated chronic conflict area. The plan will specify all feasible nonlethal deterrence measures that are appropriate for the chronic conflict area according to the best available science and professional judgment of staff, considering, but not limited to:

(i) Species and type of livestock;

(ii) Characteristics of the livestock operation (e.g., size of pastures, type of fencing, open range grazing, presence of calving pens);

(iii) Herd composition, calving/lambing periods, and/or seasonality of livestock production for each affected livestock producer in a chronic conflict area;

(iv) The season of use when livestock are permitted to be on a leased grazing area (if applicable);

(v) Location(s) where livestock will be grazed and measures to avoid livestock trespass;

(vi) Measures to avoid attractants for wolves;

(vii) Proximity to known or suspected core wolf areas including dens and rendezvous sites; and

(viii) Landscape characteristics.

(b) The department will complete its conflict mitigation plan by April of the year following the date when the geographic region qualified as a chronic conflict area and will post the completed plan on its website within 30 days, with only those redactions required by law.

(c) The department staff will work with willing, affected livestock producers to assist them in implementing the nonlethal measures specified in the conflict mitigation plan.

(d) The department may revise or terminate conflict mitigation plans as appropriate to accommodate changes in the situation or the state of knowledge.

(e) Conflict mitigation plans shall be posted on the department's website within 10 days of completion.

(4) Criteria for lethal removal of wolves in chronic conflict areas.

(a) The director (or staff designee) may authorize lethal removal of wolves on private lands in a chronic conflict area on a case-by-case basis if all the criteria of subsection (2) of this rule are met, and either:

(i) All affected producers have substantially complied with the material conditions and expectations in the applicable conflict mitigation plan; or

(ii) Wolf predations on livestock belonging to livestock producer(s) that have substantially complied with the material conditions and expectations of the conflict mitigation plan are sufficient to meet the standard in subsection 2(a)(ii).

(b) If range riding is included as a component of the conflict mitigation plan, WDFW staff must establish the following before finding that a livestock producer has substantially complied with that provision:

(1) Range riders have taken both proactive and reactive actions to prevent livestock-wolf conflict, including relocating and bunching up cattle as necessary and appropriate, retrieving cattle that have strayed from the herd, and locating and removing sick, injured, or dead livestock.

(2) Range riders are carrying and using GPS-tracking units while performing their duties.

(3) Range riders have prepared daily logs detailing the date and number of hours spent in the field and observations of livestock and wolves and their behaviors, and WDFW staff have reviewed these logs and determined that the range rider activities met the expectations of the conflict mitigation plan.

(4) An adequate number of range riders were used to cover the territory, they were assigned to areas where they were needed to prevent wolf-livestock conflict, and they spent enough hours in the field to reasonably deter such conflict, including nighttime hours as appropriate.

Sent Via Email to rules.coordinator@dfw.wa.gov

May 11, 2020

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Olympia, WA 98504-3200

Cc: Governor Jay Inslee
Office of the Governor
P.O. Box 40002
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Director Kelly Susewind
Washington Department of Fish and Wildlife
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Washington Fish & Wildlife Commission
600 Capitol Way N.
Olympia, WA 98501

Re: Petition to amend the Washington Administrative Code to require use of nonlethal techniques to reduce livestock-wolf conflict

This petition seeks to amend the current rules pertaining to lethal removal of wolves in Washington and address the chronic conflict with livestock that has plagued the state for years. The proposed amendments will clarify requirements for the use of appropriate non-lethal deterrence measures to enhance their efficacy. Further, they will help the Department address areas where livestock-wolf conflict occurs year after year. Initiation of a formal rulemaking process would create enforceable requirements that maximize the Department's credibility, provide transparency to the public whom it serves and fulfill the Commission's mandate under RCW 77.36.030.

The public rulemaking process is a powerful tool that has become a backbone of the nation's procedures to create enforceable law. The process exists to increase the accountability of our public agencies and allow for the public to have a say in governing laws. Rulemaking gives everyone the ability to voice their concerns, interests and expertise and seeks to avoid situations where only a hand-picked group of citizens with specific interests have an impact on regulations affecting a much broader number of people and public interest.

Over the years, the state has developed a wolf-livestock interaction protocol that sets the policy the Department purports to follow when deciding whether to kill wolves following conflicts with livestock. This protocol was created in conjunction with the Wolf Advisory Group ("WAG"), composed of citizens who were selected by Department staff to advise on wolf management in Washington. The protocol fails to include enforceable requirements for livestock operators to use non-lethal conflict-deterrent measures.

Currently, the state uses the protocol to check the necessary boxes in order to make kill decisions, but behind closed doors admits to failing to follow the protocol when deciding to kill wolves.

By using the current process, the citizens of Washington have been shut out of how the decision to kill wolves is reached. Opening the doors to that decision-making process will not only give the public a voice on the matter, but it will provide everyone with the necessary certainty and accountability that is currently lacking. The proposed rule seeks to provide clarity to the requirements relating to non-lethal deterrent measures, including tailoring the type of deterrents to the specific circumstance and assuring that they are fully and properly implemented. The rule also intends to deal with specific situations where livestock operators refuse to implement the necessary non-lethal deterrents, giving the Department clear guidelines on how these situations are handled. Further, the rule seeks to codify language regarding chronic conflict areas and implement requirements for these specific areas where controversy is occurring on a regular basis. Currently, the Department is repeating the same actions within these areas year after year without seeing any changes; new rules in these areas will end this ineffective, cyclical approach.

The Commission is required pursuant to state law to formulate limitations and conditions as to when wildlife causing property damage can be trapped or killed. RCW 77.36.030. The rules as currently written establish some requirements for private parties, but fail to describe the necessary limitations and conditions the Department must follow as required by law. The rules below would establish the necessary limitations and conditions as required by RCW 77.36.030 to ensure the Department has complied with this mandate.

Because of the protocol's fundamental flaws, the state's wolf management program has been fraught with controversy and has cultivated significant public distrust of the Department. An enforceable rule seeks to solve the problems inherent in the Department's current system. Codifying rule language will provide the Department and the public with greater certainty, accountability and transparency. It will also break the dangerous cycle that Washington has found itself in by using available resources to elevate non-lethal methods, finally address chronic conflict areas and reach the ultimate end goal of reducing livestock-wolf conflict. We request that the Commission promulgate regulations amending the Washington Administrative Code ("WAC") to, finally, meaningfully address these concerns.

I. PETITIONERS

The Center for Biological Diversity, Cascadia Wildlands, Western Watersheds Project and WildEarth Guardians ("Petitioners"), hereby petition the Commission and the Washington Department of Fish and Wildlife, under RCW § 34.05.330, to amend various sections of WAC Title 220, Chapter 440 to revise code language to promote the use of non-lethal conflict deterrents, address issues with chronic conflict and provide further transparency and accountability. Each of these groups has worked for years to restore and protect Washington's wolves, and together represent tens of thousands of Washington citizens as members and supporters.

Existing regulations, as interpreted by the Department, provide for the lethal removal of wolves. This petition seeks to revise those regulations to place enforceable constraints on when, where and how lethal removal may occur. Petitioners generally view lethal removal of wolves as ineffectual and contrary to the best available science. This petition should not be interpreted as an endorsement of the effectiveness and/or appropriateness of any lethal removal activities that may still be carried out by the Department under the proposed revised regulations.

This petition initiates a process requiring a detailed response within 60 days upon receipt. RCW 34.05.330(1). If this petition is denied, the Petitioners may exercise their right to a review of this petition by the Governor for a final executive determination on the appropriateness of this request. RCW 34.05.330(3).

I. HISTORY OF WOLVES IN WASHINGTON, CURRENT PROTECTIONS AND STATUS

Though an estimated two million wolves once existed across North America, by the late nineteenth and early twentieth centuries, government eradication programs drove wolves to extinction in most of the lower 48 States. The listing of the gray wolf (*Canis lupus*) under the federal Endangered Species Act in 1974 began to halt the extinction of the species. A small, extant population of wolves in Minnesota began to increase in number and expand in range to Michigan and Wisconsin. Wolves were reintroduced to Yellowstone National Park and central Idaho in 1995-1996, and this northern Rockies wolf population began to increase in size, expand in territory, and become a source population for dispersing wolves which started heading west into Oregon and Washington. Wolves north of the border, in British Columbia, also gradually began to make their way into the State. By that time, the gray wolf had been added to Washington's own state list of protected animals, as an endangered species in 1980. WAC 220-610-010.

In 2011, Congress removed federal protections for wolves in the eastern third of Washington. The western two-thirds of Washington currently retain federal protections, but the U.S. Fish and Wildlife Service has a pending proposal to remove protections for wolves in most of the Lower 48 States, including the remaining part of Washington. For wolves in Washington, this would leave only two measures of protection – their continued listing as endangered under the State's own list of protected species, and the provisions of the Plan.

The Department's end of year annual wolf report for 2019, which was released in April of 2020, documented 21 packs in the state, 10 of which had breeding pairs, and an overall population of 108 wolves. The top three sources of mortality indicated in annual reports from 2012-2019 are agency lethal removal actions, legal harvest by members of the Colville or Spokane Tribes, and other human-caused mortalities such as poaching, and vehicle strikes.

II. ECOLOGICAL IMPORTANCE OF WOLVES

The role of wolves as apex predators in the ecosystems where they live is well-documented in the scientific literature. Wolves are highly interactive with their environments, have direct and indirect effects on multiple animal and plant species, and promote ecosystem biodiversity.

Ongoing studies of wolf populations show that, as their chief diet, wolves prefer wild ungulates (e.g., deer and elk, primarily, but also bison, moose and other region-specific species). As coursing predators which test their prey for vulnerability, wolves tend to select prey animals that are older, young, injured, sick or less fit in some way (Halfpenney 2003, Mech 1970, Stahler et al. 2006). This thinning of less healthy and non-reproductive age animals leaves more forage available for the prime-age, reproductive members of the herd, and may contribute to a reduced prevalence of chronic wasting disease and other diseases in wild ungulates (Wild et al. 2011). Wolves are by no means the efficient "killing machines" that folk tales make them out to be, in fact, the majority of wolf hunts are unsuccessful (National Park Service 2015).

Yet, the mere presence of wolves may result in increased wariness and altered behavior by prey animals (Pyare and Berger 2003). This, in turn, has trickle-down effects on the vegetation browsed by these prey animals, with cascading effects to other species.

Interactions by wolves with their natural prey species, such as deer and elk, can result in decreased over-browsing of vegetation, allowing plant re-growth that will support nesting sites for birds, soil erosion control along riparian banks, and building materials for beavers whose dams then result in cool deep ponds that benefit fish and other species (Ripple et al. 2013, Ripple et al. 2014). Wolves also put food on the ground for other species. Wolf-killed elk carcasses in Yellowstone National Park are scavenged by multiple species ranging from coyotes, bears, and eagles, to magpies, ravens, and even hundreds of species of beetles (Fortin et al. 2005, Smith et al. 2003, Weiss et al. 2007, Wilmers et al. 2003).

These positive ecological effects demonstrate the value wolves have in healthy, functioning ecosystems. The critical role of apex predators in general has been demonstrated in both terrestrial and marine ecosystems. Apex predators fill an essential niche that cannot be replicated by other species within the food webs in which they have evolved over millions of years. However, around the globe, apex predators' numbers have been vastly reduced by human activities -- including outright campaigns to eradicate such predators in many places, as was done with wolves in North America. As a result, scientists are noting that, globally, conservation measures must include the protection of habitat sufficient to ensure the existence of healthy, sustainable populations of apex predators. (Beschta and Ripple 2018, Beschta and Ripple 2016, Brechtel et al. 2019, Ripple et al. 2013, Estes et al. 2011, Ripple et al. 2014).

A recent report by the Washington Department of Fish and Wildlife concluded that Washington's growing population of wolves (115 by the end of 2016) is not harming the state's populations of elk, deer, moose or bighorn sheep. The Department studied ungulate populations from 2015-2017 and found that none showed clear signs of being limited by predation. The Department's assessment shows that Washington's elk herds are generally meeting population objectives (and for some herds exceeding population objectives) despite the expansion of wolves, and that the majority of mortality to elk in Washington state is human-caused. The report also reveals that human disturbance, forest management practices and severe winters are key factors affecting elk population dynamics. (Wildlife Program 2015-2017 Ungulate Assessment.)

Science also shows that wolves play a role in curbing the spread of disease, including but not limited to Chronic Wasting Disease (CWD) and treponeme-associated hoof disease, commonly known as TAHD or hoof rot. CWD, which infects deer and elk, has so far not been detected in Washington, but is spreading widely in wild ungulate populations in the Midwest and other Western states. Hoof rot is an emerging disease already present in elk in parts of southwestern Washington. Several studies have shown a promising correlation between wolf presence and the reduction or elimination of the spread of CWD and possible prevention of its emergence in new areas. A 2011 study suggests that selective predation by predators is more effective than nonselective hunting by humans to reduce incidence of CWD in deer populations, and notes that the ability of wolves to detect subtle behavioral evidence of compromised individuals in a prey population and the coursing nature of wolves means wolves likely have even greater potential selective capability for diseased prey than ambush predators like mountain lions (Wild et al. 2011). The authors of this study suggest that as elk populations and wolf range overlap in the future, wolf predation might work to suppress disease emergence or limit the prevalence of such diseases, and that if wolves had been present to selectively predate when CWD first emerged, it is possible the disease might never have gotten established or been detected.

III. MANAGEMENT OF WOLVES IN WASHINGTON

A. *Development of the Washington Wolf Conservation and Management Plan*

Department regulations codified in 1990 required the Department to prepare a recovery and management plan for the gray wolf by 1995. WAC 220-610-110. Despite this requirement, the Department did not begin the recovery and management plan process for the gray wolf for seventeen years.

In 2007, the Department initiated development of a draft Environmental Impact Statement and simultaneously convened a stakeholder group, representing diverse interests, to assist the agency in developing the Washington Wolf Conservation and Management Plan. The 17 members of the stakeholder group met regularly over 15 months to identify, discuss, negotiate and draft components of the Plan. The State also held 23 public scoping meetings plus official comment periods that generated more than 65,000 written comments submitted by members of the public. Drafts of the Plan were also peer-reviewed by 43 reviewers, plus an additional blind peer-review by four scientists.

The Plan contains several key requirements regarding management of livestock-wolf conflicts, which include:

- Non-lethal management techniques “will be emphasized throughout the recovery period and beyond.” (Plan p. 85.)
- “Proactive deterrents . . . combined with a fair and effective compensation program offer the best solution for both limiting livestock losses and compensating producers for any unavoidable losses.” (Plan p. 78.)
- “Lethal removal may be used to stop repeated depredations if it is documented that livestock have clearly been killed by wolves, non-lethal methods have been tried but failed to resolve the conflicts, depredations are likely to continue, and there is no evidence of intentional feeding or unnatural attraction of wolves by the livestock owner.” (Plan at p. 88.)

The Plan additionally cites to science offering guidance on the use of lethal removal on small, recovering wolf populations so as to least impact recovery. Recommendations (at p. 81) include:

- Limiting lethal control to solitary individuals or territorial pairs when possible.
- Removals from reproductive packs should not occur unless pups are more than six months old, packs contain six or more members (including three or more adults or yearlings), neighboring packs exist nearby, and the population totals 75 or more wolves.

In December of 2011, the Commission formally adopted the Plan. The Plan generally incorporates the best available science, at that time, as well as social and economic considerations that were thoroughly discussed and vetted by stakeholders whose views regarding wolves spanned the widest possible range. It also incorporates the views of the public, whose attitudes towards wolves, wolf conservation, and wolf management, were captured not only by the public scoping meetings and comment periods but also in two independent public opinion surveys (one conducted in 2008 by a professional research firm and the other conducted in 2009 by Colorado State University in collaboration with the Department).

B. Department Killing of Wolves Under the Washington Wolf Plan

In the fall of 2012, the Plan was put to the test when a pack in northeastern Washington, the Wedge pack, was implicated in livestock conflicts and ultimately eradicated by marksmen in helicopters following through on an order by the Department to kill the entire pack. The incident involved conflicting opinions from different experts as to whether initial livestock injuries and deaths were in fact caused by wolves. During these events, the owner of the livestock in question, Diamond M Ranch, had failed to implement adequate non-lethal conflict-prevention measures, as required by the Plan. The Department largely ignored additional Plan elements and in August and September, killed seven of the pack's eight members, thus destroying the pack.

The Department's decision to eradicate the Wedge pack, despite the livestock operator's failure to implement nonlethal measures, conflicting expert opinions, the fact that the pack's pups were only 4-5 months old, and that Washington had only 27 known wolves at the end of 2011 caused a firestorm of public controversy. Further, predations in the Wedge pack area continued through the following year.

In the summer of 2014, in a different area, there were conflicts with livestock and members of the Huckleberry pack, which concluded with the Department killing the breeding female by helicopter. Public outrage resulted in the Governor calling a meeting with the Department immediately after this kill order and the order was subsequently halted based on this meeting.

In the summer of 2016 the Department killed seven of the 11-member Profanity Peak pack for conflict with livestock owned by Diamond M Ranch grazing in the Colville National Forest, leaving behind only one subadult female to care for the pack's three four-month-old pups, which likely failed to survive the winter. The cattle involved were turned out without any range riders and had a salt block that was placed in close proximity to the Profanity Peak's den and rendezvous sites. Despite both the Department and the operator knowing about the poor placement of the salt block, nearly a month and a half passed before the salt block was moved. Its presence drew cattle to key wolf use sites, resulting in the conflicts which ultimately led to the deaths of both cattle and wolves.

During the 2017 grazing season a range rider killed the breeding female of the Smackout pack for conflict with livestock, leaving her two two-month old pups without a mother. A few weeks later, after further conflict the Department killed two more wolves from this pack. During this same season the Department killed one of the two-member Sherman pack, destroying the pack. This was done on behalf of Diamond M Ranch in the same area in which the Profanity Peak pack had been removed the year before. Similar issues with salt block proximity to den and rendezvous sites persisted.

In 2018 the Department killed the breeding male of the Togo pack as well as one member of the Smackout pack and two members of the Old Profanity Territory (OPT) pack. Both the wolf from Smackout as well as the two from OPT were killed on behalf of Diamond M Ranch. The OPT wolves were killed in the same area where conflict had arisen in the past. There were once again issues with failure to remove salt blocks. There were also issues with dead and injured cattle not being removed and according to state documents range riders failing to monitor livestock while claiming they had done so. The Smackout wolf was killed when Diamond M moved some cattle to a private pasture in a different locale but with no human presence or other protections.

The 2019 grazing season saw the killing of another nine endangered wolves. Eight of these were from the OPT pack, for conflicts with Diamond M cattle in the same area that the previous conflicts had occurred. The Department first killed the breeding male of this pack, and after an intervening lawsuit, proceeded to kill another three members. The Department killed the final four members of the pack hours before a restraining order was granted by the court. The Department also killed a member of the Grouse Flats pack for conflict in Southeastern Washington during a similar time period.

Table 1 below summarizes the timeline of wolf killing that has been laid out above:

TABLE 1

Pack	Wolves Killed by WDFW	Year	Wolves Killed for Diamond M Ranch
Wedge	7	2012	7
Huckleberry	1	2014	0
Profanity Peak	7	2016	7
Smackout	2	2017	0
Sherman	1	2017	1
Togo	1	2018	0
Smackout	1	2018	1
OPT	2	2018	2
OPT	8	2019	8
Grouse Flats	1	2019	0
TOTAL	31		26

As is evident by these numbers, the Department has killed 31 wolves since 2012. Twenty-six of those wolves, or 84% of the wolves that have been killed by the Department, have been killed on behalf of Diamond M Ranch in the same area that has seen conflicts year after year.

C. 2013 and 2014 Petitions for Rulemaking

In 2013, following the Department's controversial removal of the Wedge Pack at the behest of the livestock industry, several environmental organizations filed a petition for rulemaking. The Department promised a negotiated process to develop a rule with relevant and interested parties. The Department ended up drafting rule language, which it provided to the WAG and petitioners before filing a CR-101 in May of 2014 to initiate the rulemaking process. The conservation representatives on the WAG at the time requested that the Department not move forward with the rulemaking until a mediated process was completed to develop the draft rule. Based on this request, the Department never proposed rule language

to the Commission and instead decided to hire a facilitator in hopes of having these negotiations in the WAG instead of as part of a formal rulemaking process.

On June 6, 2014 the same group of petitioners who filed the 2013 petition filed a more narrowly tailored petition for rulemaking that focused specifically on lethal removal criteria and areas of chronic conflict. On August 1, 2014, the Commission denied the petition on the following basis, outlined in a letter sent to petitioners August 6: “1) determining the need to use lethal control to stop repeated depredations is a complicated issue; 2) limiting the flexibility articulated in the Wolf Conservation and Management Plan reduces the ability to address each case-specific wolf-livestock conflict; 3) establishing a new advisory group undermines the existing advisory body composed of diverse groups to provide technical advice and policy counsel to implement the Wolf Conservation and Management Plan.” The Commission then directed the Department to hire an independent facilitator to “revisit the role and responsibilities of the Wolf Advisory Group, along with a facilitated discussion on the necessity of a rule.”

Petitioners appealed, and in September 2014 Governor Inslee denied the appeal explaining that in the specific circumstances, where the petition requested a brand new rule entirely, appeal to the Governor was improper. The Department has not proposed any rules or language to the Commission on this subject as of the time this petition was filed.

D. WAG Creates an Interaction Protocol

The incident with the Huckleberry pack in summer 2014, as well as the Department’s prior actions, instigated a meeting in fall of 2014 with conservation groups, the Department and the Governor’s staff. In that meeting, the conservation groups requested that the Department engage in a mediated process, bringing together stakeholders to develop rulemaking language that would dictate when wolves could be killed for livestock conflict.

The Department never undertook a rulemaking process, but instead engaged the WAG and adopted a document titled *Protocol for consideration and implementation of lethal removal of gray wolves during recovery to stop wolf depredations on livestock*, issued on May 31, 2016 (“2016 Protocol”). The protocol attempted to describe when the Department “considers lethal removal of gray wolves during recovery to stop repeated wolf depredations on livestock and the implementation of lethal removals.” The 2016 Protocol set forth expectations, but no enforceable requirements, for measures to be taken by livestock operators. The 2016 Protocol highlighted the expectation that operators haul away animal carcasses to prevent attracting predators and implement one additional non-lethal deterrent. The protocol also set forth parameters instructing that the Department follow, telling them not to undertake lethal removal of wolves unless there have been four or more confirmed predation events within one calendar year (Jan 1-Dec 31) or six or more confirmed predation events in two consecutive calendar years.

In response to the removal of the Profanity Peak pack in 2016 the WAG reworked the 2016 protocol into a new document titled the *Wolf-Livestock Interaction Protocol* (“2017 Protocol”). The stated purpose of this new document was “to influence/change wolf pack behavior to reduce the potential for recurrent wolf depredations on livestock while continuing to promote wolf recovery.” The new version of the protocol explicitly shifted away from the goals of the Plan, choosing instead to focus on the goal of changing pack behavior in an attempt to prevent livestock-wolf conflict. The 2017 Protocol included only a few notable changes from the 2016 version: (1) it stated an expectation that livestock operators employ two proactive non-lethal conflict deterrent measures instead of just one; (2) it changed the parameters for when wolves

could be killed to four predations in 10 months or three predations in 30 days; and (3) it allowed for “probable” wolf predations in addition to “confirmed” wolf predations to be counted for purposes of lethal removal. The new protocol was in place for the start of the 2017 grazing season, but did not seem to solve any of the problems with proper implementation of non-lethal deterrents or conflicts with Diamond M livestock.

E. Litigation Filed to Address Issues with Wolf Management

In the fall of 2017, the Center for Biological Diversity and Cascadia Wildlands sued the Department for violations of the State Environmental Policy Act (“SEPA”) and the Administrative Procedure Act (“APA”) for the destruction of the Sherman pack. The court declined to hear the merits of the case and dismissed it as moot. When the Department killed one member of the two-member Sherman pack, there was no pack left for which the court could provide a remedy. However, the court got the Department to agree that until the merits could be heard on any subsequent case filed making the same SEPA and APA claims, the Department must give the public eight court hours’ notice before beginning kill operations to allow for members of the public to seek a temporary restraining order.

The next season, plaintiffs filed a new lawsuit alleging violations of SEPA and the APA regarding lethal actions taken against the Togo pack, and subsequently the OPT pack and the Smackout pack.

The court granted a 2018 motion for a temporary restraining order to stop removal of Togo pack wolves, but subsequently denied a preliminary injunction, which resulted in the Department killing the breeding male. In the following two months, the Department killed two OPT wolves and one Smackout pack wolf on behalf of Diamond M.

It was later revealed that, during all of this controversy, there was evidence of alleged fraud by range riders contracted by the state. Department records revealed at least two range riders had been paid for hours of range riding they claimed to have done when they were elsewhere, such as shopping or at a casino. During the dates that the range riders should have been monitoring cattle but weren’t, conflicts arose between livestock and wolves and the Department ultimately killed wolves based on these conflicts. Additional Department records revealed its staff acknowledging quality range riding has never been done in the areas of the Diamond M grazing allotment where the Department keeps killing wolves following repeated conflicts with cattle. A criminal investigation based on these allegations has been underway since October 2018.

In response to the conflicts with Diamond M cattle and the OPT pack, in which the livestock operator refused to use range riding as a deterrent, a group of private citizens filed a lawsuit in King County, Washington alleging violations of SEPA and the APA. On the morning of a court hearing to determine whether a restraining order would be issued to halt the killing of additional pack members, the Department’s marksmen were already in the field and killed the remaining four wolves before the court hearing start time of 9:00 a.m.

After another summer of public outcry and more dead wolves, on September 30, 2019, Governor Jay Inslee sent a letter to the Department. The letter directed the Department to reduce its reliance on lethal removal as a tool and stated that the continued killing of wolves in northeast Washington was “simply unacceptable.” The Department’s response outlined several actions that had already been

taken and will continue, but largely failed to address new solutions to meaningfully resolve the issue of repeated conflict and the accompanying recurring lethal removals.

IV. WOLF–LIVESTOCK CONFLICTS AND THE CRITICAL ROLE OF NON-LETHAL MANAGEMENT TOOLS

While wolves rarely prey on livestock, conflicts do occur and, at times, result in losses to livestock operators. The Plan considered this issue by providing information about wolf predations on livestock, the background of management measures available for reducing wolf predations, an analysis of predicted livestock losses in Washington due to wolves, a description of management tools to be used for managing livestock-wolf conflicts in Washington, and steps to expand the use of proactive/non-lethal measures for reducing conflicts in Washington. Plan at 72.

In its discussion of the efficacy of killing wolves to resolve livestock-wolf conflicts, the Plan notes that “[t]wo recent analyses of long-term lethal control of wolves found that removals generally have limited or no effect in reducing the recurrence of depredation (Harper et al. 2008, Muhly et al. 2010a),” that “excessive levels of lethal removal can preclude the recovery of wolf populations, as noted with the Mexican gray wolf in New Mexico and Arizona (USFWS 2005),” and that to minimize negative impacts on recolonizing wolf populations, “constraints on lethal control have recently been recommended by Brainerd et al. 2008. . . .” Plan at 81.

Emerging science published since the creation of the Plan is concluding that killing wolves is the wrong approach to deterring conflicts. It can result in the remaining wolves moving to neighboring ranches and having conflicts with livestock there (Santiago-Avila et al. 2013). There are currently no scientific studies that have been conducted according to “gold” scientific standards that test the hypothesis that killing wolves prevents livestock-wolf conflict (Treves et al. 2016). However, the Department continues to state in its public outreach and internal and external advisory groups, that killing wolves is an effective means to deter conflicts with livestock.

Studies which concluded that killing entire wolf packs stopped conflicts either fail to mention – or specifically note – that once terrain is filled by a new pack in subsequent years the conflicts begin again (Bradley et al. 2015, Musiani et al. 2005, Muhly et al. 2010). This suggests that killing entire packs is a short-term solution to a problem which deserves innovative thinking and long-term results. The Department’s experience in the Kettle River Range has proven as much.

Additional recently published studies have compared the use of lethal and non-lethal deterrents in preventing livestock-wolf conflict and found that non-lethal deterrents are more effective at preventing conflict and also more cost-efficient in the long term (McManus et al. 2014, Imbert et al. 2016). A recent paper which analyzed the results of 140 different studies worldwide concluded that the only methods which have scientifically been shown to deter conflicts between livestock and wolves are non-lethal methods (van Eden et al. 2018).

Many of the most basic conflict-prevention tools and strategies are common-sense solutions that have been used in other parts of the world where humans have been raising livestock in close proximity to wolves for centuries:

- One of the most constructive ways to avoid livestock-wolf conflict is by separating wolves and livestock, including the following methods;

- Moving cattle to alternate grazing allotments when the usual allotment would interfere with a den or rendezvous site or waiting to move cattle onto an allotment until wolves have relocated.
- Range riding on the open range on a consistent basis in order to monitor cattle and prevent conflict. Additional human presence can be a supplemental measure, but not a replacement for range riding.
 - Human presence can involve watching for predators and hazing them away when they get near livestock. It can also allow livestock operators to know whether any of the herd is sick or injured and whether animals should be removed preventatively.
 - Range riding requires constant presence around livestock to make wolves aware and wary of the presence of humans. It requires time spent in the forest, off roads, near to the animals themselves with a deep knowledge of where livestock are present as well as where wolves are present.
 - Both human presence and range riding should be standardized by experts in the field so that all parties understand what constitutes effective human presence and range riding.
- Putting GPS ear tags on livestock to track them can inform livestock operators and range riders when livestock have strayed from the herd. GPS tags can also inform livestock operators when cattle are on allotments past grazing season.
- Removing attractants, such as carcasses or bone piles of dead livestock or injured or sick livestock that draw in predators and scavengers, as well as not having newborn calves or lambs on the range to attract wolves, are essential components of avoiding livestock-wolf conflict.
- Using guard dogs in the herds to alert herders, range riders and livestock operators to the presence of wolves provides an early warning system.
- During lambing and calving season, fencing with night pens provides a protective barrier. Fencing can also be fortified with a scare device such as fladry or turbo-fladry.
- Scare devices such as radio-activated guard boxes (“RAG-box”) can be used to administer loud sounds to wolves wearing radio-collars when approaching livestock to scare wolves away.
- Specific animal husbandry practices and deliberate breed choices, such as creating coordinated breeding and birthing periods, or experimenting with larger and/or more aggressive breeds of cattle.
- In addition to the methods and strategies described here, new innovations are being developed and tested on an ongoing basis. In locations where humans, livestock and wolves

are sharing the landscape, experience indicates that using several of these methods and tools in combination is most effective. Which ones will work best in any given circumstance is case-specific.

In Washington, non-lethal strategies and tools can and should be used before, if ever, resorting to killing wolves to prevent or to resolve conflicts. Modern-day research compels this conclusion. Just as importantly, the Plan that was carefully crafted over a five-year process with substantial public involvement supports an approach that emphasizes nonlethal methods of preventing and resolving conflicts.

V. A CODIFIED RULE IS REQUIRED TO PROPERLY IMPLEMENT THE PLAN

The years of controversy, as highlighted above, show that the Department's management of livestock-wolf conflicts needs to be governed by rules developed through a transparent, public process. While the WAG may serve an important advisory role, the Department's reliance on the WAG lacks the accountability and transparency that can be achieved through rulemaking.

The current system in place, based on the protocol under which the Department is operating, has several serious deficiencies a rule will meaningfully address. Firstly, the protocol does not require that livestock operators use non-lethal deterrents that are appropriate for their specific circumstances. The Department instead treats the policy of having two non-lethal deterrents in place, as outlined in the protocol, as boxes that must be checked in order to kill wolves, without giving any weight to the efficacy of the deterrents for the given situation. Non-lethal deterrents should be specifically tailored to factors such as the nature of the livestock operation in question, the specific landscape and habitat related to that operation and the time of year. Because of this, when the Department claims it is following the protocol, it is oftentimes because it is allowing livestock producers to employ non-lethal deterrents that are not effective or are being used completely improperly, but still allow for the Department to state that two or more non-lethal deterrents were in place before it went in and killed wolves.

Further, the protocol gives no direction for a situation in which a livestock operator refuses to use non-lethal measures or such measures do not seem to be working in a certain area. This is the situation the Department has come across again and again, yet it has no policy in place to guide it in these situations. Formalized language will give the Department requirements for how to act in these circumstances, providing guidelines for when lethal removal may be considered and requiring additional safeguards in areas of chronic conflict. This will take the uncertainty out of the oftentimes emotionally-heightened decision-making process it currently undergoes.

Chronic conflict areas have been a consistent issue in Washington. The proposed rule language seeks to provide proactive measures to undertake within these areas. Requiring these enhanced measures will not only assure the public that the Department is not simply repeating the same actions over and over again expecting different results, but will instead require proper analysis of the specific situation to determine a best path forward.

Codifying regulatory language addresses these concerns. A rule will help to bring greater certainty to all communities involved and allow for more accountability and transparency with the end goal of minimizing controversy. Pursuant to the Plan, we request the Commission to promulgate the following language amending the Washington Administrative Code.

VI. PROPOSED AMENDMENTS TO RULE LANGUAGE

Petitioners developed the following language for the proposed amendments by drawing from multiple sources, including the most effective elements of the Department's own Protocol and Plan¹. We also incorporate successful strategies implemented in Oregon, as outlined in the Phase I Rules for Oregon's Wolf Plan². Other language comes from Washington's WAG meetings. Synthesis of these multiple sources as well as supplemental ideas have led us to propose rule language that addresses the state's most pressing issues regarding livestock and wolf conflict management.

Petitioners suggest this rule language with the knowledge that the WAG is currently undergoing a process to revise the protocol in hopes of having an updated document for the 2020 grazing season. There have been several iterations of a protocol, all devised by the WAG, and all with the same result. Every grazing season the state kills endangered wolves, in some cases wiping out entire packs, and public outrage ensues. It's time to break this cycle and the way to do that is through wildlife management rules developed through a transparent, unbiased public rulemaking process.

Petitioners do not agree with killing wolves except in defense of human life or safety, do not support killing wolves for conflict with livestock and do not support any killing of wolves on public land. However, petitioners are acutely aware that the state of Washington may continue to kill wolves regardless of the science recommending against lethal removal of wolves as a means to resolve livestock-wolf conflict and regardless of the ethical questions posed by the killing of wolves. With the rules language we hereby propose, petitioners therefore seek to promote accountability, enforceability and transparency within the existing paradigm of wolf management by the state. The Department must continue to follow the requirements of the Wolf Plan and prioritize the use of appropriate non-lethal techniques and kill wolves only as a measure of last resort, understanding that killing wolves to deter conflicts with livestock contravenes best available science. The rules language we propose thus seeks to significantly improve the current system until the Department chooses to end the senseless killing of wolves.

Revised Section – Amending WAC 220-440-040 to add a new section as follows:

WAC 220-440-040 Wildlife/human interaction and conflict resolution for private property damage

(7) The provisions of WAC 220-440-080 also apply for all applicable situations dealing with gray wolves (*Canis lupus*).

Revised Section – Amending WAC 220-440-080 to add language to the existing section and add a new section as follows:

WAC 220-440-080 - Killing wolves attacking domestic animals

¹ Washington Department of Fish and Wildlife, Wolf-Livestock Interaction Protocol, §§ 3-6. June 1, 2017; Washington Department of Fish and Wildlife, Wolf Conservation and Management Plan, §4(B). December 2011.

² Or. Admin. R. 635-11-0010(7) (2019).

(3) In addition to the provisions of subsection (1) of this section, the director may authorize additional removals to address repeated wolf predations of livestock in very specific situations.

- (a) The Washington Department of Fish and Wildlife is required to use non-lethal techniques as the primary response in protecting property against damage from wolves.
- (b) The department must work with livestock operators to identify and plan the proactive deployment of the best suitable non-lethal techniques. Following a confirmed or probable predation, the department must work with operators to assess on-the-ground conditions and determine which additional responsive techniques should be deployed.
- (c) Non-lethal techniques to consider should include, but are not limited to:
 - (i) Range riding; (b) monitoring livestock; (c) protecting calving/lambing areas; (d) using scare devices; (f) guardian or herding dogs; (g) human presence (including hazing, herding and other experimental tactics); (h) permanent and portable fencing (fladry, electrified turbo fladry, calf panels); (i) any other likely effective techniques.
 - (ii) In considering non-lethal techniques, the department must work with livestock operators to determine what methods are likely to be most effective at preventing and mitigating livestock-wolf conflict on a case-by-case basis considering best available science, the nature of the livestock operations, habitat, landscape conditions, time of year or period of livestock production, history of predations with that particular operation and in that locality as well as any other relevant information.
- (a) The department must work with livestock operators to delay turnout to forested/upland grazing pastures until calves reach at least 200 lbs. and after wild ungulates are born in mid-June.
- (b) The department must work with livestock operators to offer assistance and ensure sanitation is being conducted. Sanitation is the removal, burying, burning, liming, or fencing off of livestock carcasses to prevent the carcasses from being an attractant to wolves and other predators.
- (c) Before the department may find that range riding has been properly implemented as an appropriate non-lethal technique it must determine:

- (i) An adequate number of range riders have been assigned to the areas where their proactive and responsive actions are most likely to prevent livestock-wolf conflict, and that they are spending enough hours in the field to reasonably deter such conflict, including nighttime hours as appropriate.
- (ii) Range riders have taken appropriate responsive actions, both proactively and reactively, to prevent livestock-wolf conflict, including relocating cattle as necessary, locating cattle that have strayed from the herd and bunching up cattle, and locating and removing sick, injured, or dead livestock. All range riders counted as a non-lethal technique for purposes of section 4(d) must be equipped with a department-issued GPS unit used at all times while performing their duties. Department-contracted range riders must also prepare and submit to the department on a quarterly basis daily logs detailing the date, number of hours spent in the field and all observations of livestock and wolves and their behaviors.
- (a) To address the heightened risk of conflict from cattle presence near wolf den and rendezvous sites, the department must:
 - (i) Confirm the presence of any den or rendezvous site; and
 - (ii) In conformance with all applicable rules and policies regarding sharing of sensitive information, instruct livestock operators to move salt blocks away from the den or rendezvous site(s), clean up the area around the salt block, and move and keep cattle at least one mile away from the known den or rendezvous site(s) until the department can confirm those sites are no longer being used.
- (4) Prior to confirming a livestock predation as counting for purposes of lethal removal, the department must make available on its website a public document detailing the livestock operator's use of non-lethal techniques, including (a) the techniques employed; (b) the time period employed; (c) the specific area employed; (d) any other information relevant to its efficacy; (e) a finding as to whether the technique was appropriate for that circumstance and; (f) whether an additional technique could deter additional conflict.
- (a) The department must make available on its website, at least two business days before taking lethal action against any wolves, a written finding that all of the following requirements have been met:

- (b) All requirements of WAC 220-40-080 (3) have been met.
- (c) Pursuant to department predation investigation protocol, trained and authorized department staff have found wolves responsible for three confirmed predation events all of which resulted in livestock mortality within a 30-day rolling window or four confirmed predation events all of which resulted in livestock mortality within a six-month rolling window.
- (d) Pursuant to WAC 220-40-080(3)(c), there were at least two department approved appropriate non-lethal techniques in place, the non-lethal techniques were applied to the specific group of livestock involved in the conflict and used for at least two weeks prior to the conflict occurring.
- (e) Sanitation as defined in WAC 220-40-080(3)(e) was carried out at all times, separate from the use of non-lethal techniques.
- (f) Range riding was used as one of the non-lethal measures where the qualifying predations took place if the predations occurred on public land.
- (g) If the qualifying predations took place on public land, the range riding required by subsection (f) of this rule was properly implemented pursuant to the requirements in WAC 220-40-080(3)(f).
- (h) The department does not reasonably believe other available non-lethal techniques exist that could be employed in the specific situation which would likely mitigate further conflict.
- (i) Predations are likely to occur again.
- (j) The wolf or wolves identified for removal are those the department reasonably believes to be associated with the qualifying livestock predations, the removal of which the department reasonably believes will decrease the risk of repeated predation in the affected locale.
- (k) The lethal removal of wolves is not expected to harm or delay the wolf population's ability to reach recovery objectives statewide or within individual wolf recovery regions.
- (l) Lethal removal will not orphan or jeopardize the survival of any pups under a year and a half old.
- (m) Livestock operators are operating pursuant to all relevant applicable laws, all terms and conditions of any applicable federal or state grazing permits, and all notification, investigation and reporting requirements of the department.

- (5) Livestock killed within 1000 yards of a known den or rendezvous site on public lands will not count toward the lethal removal thresholds of subparagraph (4)(c).
- (6) Conflicts which have occurred between livestock and wolves for at least two consecutive years, or two out of five years, in the same area or with the same livestock operator, pose a unique problem. In these situations of chronic conflict, the following requirements apply:
- (a) In areas of chronic conflict, as defined above in (6), producers will be required to GPS track their livestock to prevent unnecessary contact with gray wolves and further mitigate conflict and predation.
- (b) If lethal removal of wolves occurs over two consecutive years or two out of five years in the same area or with the same livestock operator, the department must, in coordination with affected landowners, livestock operators and other relevant interests, prepare and publicly disclose an area-specific livestock-wolf conflict deterrence plan. The plan shall outline prior conflicts in the area and examine the non-lethal techniques in place and why those may have failed to deter conflict. The plan will also identify appropriate non-lethal techniques for the upcoming year, considering the nature of the livestock operation, habitat, and landscape conditions, as well as particular times of the year or period of livestock production. The department, in conjunction with the other involved parties, must update an area-specific conflict deterrence plan as new data becomes available or after each year with an additional predation.
- (c) No lethal action will be taken against wolves on public lands grazing allotments or for livestock predations which occurred on public lands grazing allotments if there have been repeated livestock-wolf conflicts and wolf lethal removals on that same allotment for two consecutive years or in two out of five years.
- (7) Take authority issued pursuant to a written lethal removal order expires when the wolf or wolves identified in the order have been killed or after 30 days, whichever comes first. No more than two wolves will be lethally removed in any given removal action to allow time to assess the impacts of removal.

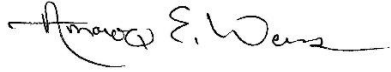
[Statutory Authority: RCW 77.04.12, 77.04.013, 77.04.020, 77.04.055, 77.12.047, RCW 77.12.240, RCW 77.36.030]



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Wolves Killed by Washington State Department of Fish and Wildlife 2012-2022

Washington taxpayers have paid to kill 41 endangered wolves over 10 yearsⁱ

*About 79% of the wolves that WDFW killed were for a single livestock company;
88% were as a result of predations in public forests.*

2012: Wedge Wolf Pack. *Pack destroyed.* The Washington Department of Fish and Wildlife (WDFW) killed 7 wolves on behalf of Diamond M Ranchⁱⁱ as a result of predations on cattle left to graze in the northeast section of the Colville National Forest (CNF).¹

2014: Huckleberry Wolf Pack. WDFW killed 1 wolf for another livestock owner as a result of predations on private and state-owned lands.²

2016: Profanity Peak Wolf Pack. *Pack destroyed.* WDFW killed 7 wolves on behalf of Diamond M because of predations in the Kettle River Range within CNF (all predations except one were on Diamond M cattle).³

2017: Sherman Wolf Pack. *Pack destroyed.* WDFW killed 1 wolf on behalf of Diamond M as a result of predations in the Kettle River Range within CNF.⁴

2017: Smackout Wolf Pack. WDFW killed 2 wolves on behalf of another livestock owner as a result of predations on private land near CNF and predations in the eastern region of CNF.⁵

2018: Togo Wolf Pack. WDFW killed 1 wolf on behalf of another livestock owner as a result of predations in the Kettle River Range within CNF.⁶

2018: OPT Wolf Pack. WDFW killed 2 wolves on behalf of Diamond M as a result of predations in the Kettle River Range within CNF.⁷

ⁱ In 2021, the Department issued a permit for a livestock owner to kill an additional wolf from the Columbia County pack.

ⁱⁱ Out of respect for WDFW's confidentiality policy, Washington Wildlife First does not name livestock owners, unless they identify themselves publicly, as Diamond M Ranch has repeatedly done in news articles.



Wolves Killed by Washington State Department of Fish and Wildlife 2012-2022

2018 Smackout Wolf Pack. WDFW killed 1 wolf on behalf of Diamond M as a result of predations on private land near the eastern region of CNF.⁸

2019: OPT Wolf Pack. *Pack destroyed.* WDFW killed 8 wolves on behalf of Diamond M for predations in the Kettle River Range within CNF.⁹

2019: Grouse Flats Wolf Pack. WDFW killed 1 wolf as a result of predations of cattle on private lands and state land.¹⁰

2020: New Wedge Wolf Pack. WDFW killed 3 wolves as a result of predations on public and private land in and around the CNF. Vast majority of predations were on Diamond M cattle.¹¹

2021: Columbia County Wolf Pack. WDFW killed 1 wolf due to predations on private lands, and issued a permit allowing a private landowner to shoot 1 wolf.¹²

2022: Togo Wolf Pack. WDFW killed 2 wolves as a result of predations on cattle in and around the Kettle River Range of CNF.¹³

2022: Dirty Shirt Pack. WDFW accidentally killed 1 wolf pup from the wrong pack after it attributed predations on public and private lands to the Smackout pack. Most of these predations were on cattle owned by the family that operates Diamond M Ranch.¹⁴

2022: Smackout Wolf Pack. WDFW killed 1 wolf as a result of predations on public and private lands. Most of these predations were on cattle owned by the family that operates Diamond M Ranch.¹⁵

2022: Leadpoint Wolf Pack. WDFW killed 2 wolves as a result of predations on private lands. Most of these predations were on cattle owned by the family that operates Diamond M Ranch.¹⁶



Wolves Killed by Washington State Department of Fish and Wildlife 2012-2022

Materials Referenced *Available Upon Request*

¹ See Matthew Weaver, Ranchers live in the shadow of the wolves, *Capital Press*, Sept. 22, 2019; Deposition of Donald Martorello, Wolf Policy Lead (Mar. 27, 2018), Ctr. for Biological Diversity and Cascadia Wildlands v. Wash. Dep't of Fish and Wildlife (Wash. Super. Ct.), at page 153-54; and Wedge, Washington Department of Fish and Wildlife, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/packs/wedge> (last viewed Jul. 13, 2023).

² See Craig Welch, As wolves return so do tensions with ranchers, *The Seattle Times*, Oct. 4, 2014.

³ See Lynda V. Mapes, A War Over Wolves, *The Seattle Times*, 2017.

⁴ See Sherman Wolf Pack: 2017 Lethal removal action, Washington Department of Fish and Wildlife, (Dec. 15, 2017); Deposition of Donald Martorello, Wolf Policy Lead (Mar. 27, 2018), Ctr. for Biological Diversity and Cascadia Wildlands v. Wash. Dep't of Fish and Wildlife (Wash. Super. Ct.).

⁵ See Smackout wolf pack: 2017 lethal removal action report, Washington Department of Fish and Wildlife, Sept. 21, 2017, available at: <https://wdfw.wa.gov/publications/01929> (last viewed Jul. 12, 2023); Smackout, Washington Department of Fish and Wildlife, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/packs/smackout> (last viewed Jul. 12, 2023).

⁶ See Adult male wolf from Togo pack killed in lethal removal action, Washington Department of Fish and Wildlife, Sept. 2, 2018, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/adult-male-wolf-togo-pack-killed-lethal> (last viewed Jul. 12, 2023).

⁷ See WDFW removes second wolf from OPT pack, initiates evaluation, Washington Department of Fish and Wildlife, Sept. 18, 2018, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/wdfw-removes-second-wolf-opt-pack> (last viewed Jul. 12, 2023).

⁸ See WDFW removes wolf from Smackout pack, initiates evaluation, Washington Department of Fish and Wildlife, Nov. 15, 2018, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/wdfw-removes-wolf-smackout-pack> (last viewed Jul. 12, 2023).

⁹ See WDFW removes depredating OPT wolf pack, Washington Department of Fish and Wildlife, Aug. 17, 2019, available at: <https://wdfw.wa.gov/news/wdfw-removes-depredating-opt-wolf-pack> (last viewed Jul. 12, 2023); and Don Jenkins, Rancher: Non-lethal methods not working against wolves, *Capital Press*, Jul. 23, 2019.

¹⁰ See Grouse Flats pack update, Washington Department of Fish and Wildlife, Oct. 4, 2019, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/grouse-flats-pack-update-1> (last viewed Jul. 12, 2023).

¹¹ See Laurel Demkovich, WDFW kills last two wolves in Wedge pack territory, *The Spokesman Review*, Aug. 17, 2020; and Letter from Joey J. McCanna, Wildlife Conflict Supervisor and the District One Team, to Stephen Pozzanghera, Regional Director, Washington Department of Fish and Wildlife (Aug. 20, 2020).



Wolves Killed by Washington State Department of Fish and Wildlife 2012-2022

¹² See Email from Stephen Pozzanghera, Regional Director, Washington Department of Fish and Wildlife, to Kelly Susewind, Director, Washington Department of Fish and Wildlife (Nov. 8, 2021); and Monthly Wolf Report - December 2021, Washington Department of Fish and Wildlife, Jan. 10, 2022, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/monthly-wolf-report-december-2021> (last viewed Jul. 12, 2023).

¹³ See District 1 Team meeting minutes: Togo Pack Recommendation, Washington Department of Fish and Wildlife, Olympia, Washington (May 17, 2022); and Togo pack update, Washington Department of Fish and Wildlife, Oct. 18, 2019, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/togo-pack-update-10> (last viewed Jul. 12, 2023).

¹⁴ See RaeLynn Ricarte, WDFW Authorizes Second Hunt for Smackout Wolves After Continued Cattle Killings, *Capital Press*, Oct. 9, 2022; and Smackout pack report Oct. 13, 2022, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/smackout-pack-update-4> (last viewed Jul. 11, 2023).

¹⁵ See Smackout pack update Oct. 13, 2022, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/smackout-pack-update-4> (last viewed Jul. 11, 2023).

¹⁶ See Leadpoint pack update, Washington Department of Fish and Wildlife, Oct. 13, 2022, available at: <https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/leadpoint-pack-update-6> (last viewed Jul. 11, 2023); RaeLynn Ricarte, WDFW Authorizes Second Hunt for Smackout Wolves After Continued Cattle Killings, *Capital Press*, Oct. 9, 2022



Washington State Department of Fish & Wildlife Enforcement

INCIDENT REPORT

Officer [11f]
Region 1 Office
2315 North Discovery Place
Spokane Valley, WA 99216-1566
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WDFW Incident #: WA-17-005159

On 07/01/17, while on patrol in Stevens County, in full uniform and fully marked patrol vehicle, I received a call from Washington Department of Fish and Wildlife (WDFW) Natural Resource Technician [11f] regarding a dead gray wolf in north Stevens County; more specifically in [11f]. Technician [11f] stated it was his belief the animal was shot based on the approximate location that he was given in relation to the dirt roadway. He provided me with the contact information of [11e], [11f], the cattleman of the grazing allotments in the area, further advising [11e], [11f] was waiting at the cattle stables approximately [11f].

At approximately 1535 hours, I arrived at a small camp area off of [11f]. [11f] The camp, which was situated approximately 50 yards west of the dirt roadway, consisted of several vehicles, a travel trailer, fire pit, and a small, temporary outhouse. This appeared to be the main camp area for the [11e], [11f] cattle grazing operation. The area in question had always been described to me as [11f] and consisted of several large grass fields which were predominantly surrounded by timber. A group of cattle were bunched up in the field behind the travel trailer.

Camp location: [11f]

Upon walking into camp, I immediately identified myself as a Fish and Wildlife Officer, and met with [11e], [11f]. They stated they owned the cattle in the field, further advising they grazed them on the Forest Service allotments in the immediate area. Also present were [11e], [11f] (DOB [11e], [11f]), [11e], [11f], and [11e], [11f]; they stated they worked as range riders for the cattle operation. I advised I had been given the information from Technician [11f] and wanted to follow-up on the death of the wolf. [11e], [11f] stated the carcass was discovered earlier in the day, adding there had been several incidents and sightings throughout the week. [11e], [11f] stated she had observed two wolves in the field chasing the cattle and then added something to the extent of, 'There was nothing else I could do.' I asked [11e], [11f] if she would explain what she meant by that. She stated she didn't want to talk about it without counsel. I told the group I was just on a fact finding mission, adding that I felt we were a long way away from anyone needing counsel, but that was her legal right. I explained the process for me to determine what happened was easiest with everyone's



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cooperation and input. [REDACTED] stated she wanted to speak to counsel or someone with the Cattleman's Association before saying anything else. I told her I respected her decision, adding I still needed to investigate the incident.

[REDACTED] and [REDACTED] stated they would like to show me the grazing area, adding a couple confrontations had occurred within the last week or so involving one or more wolves. [REDACTED] stated the wolf's collar data had also indicated the pack, or members of the pack, had been hanging around the area. Additionally, they stated they would show me where the wolf was located in the timber west of the field and creek. I asked if anyone had been to the wolf's location. [REDACTED] indicated [REDACTED] had been to the carcass location and subsequently provided me with GPS coordinates. **(*Due to the fact the GPS coordinates given to me were in a different format than the Garmin GPS system I was using, I was unable to upload the location.)**

Prior to walking into the field, [REDACTED], [REDACTED], and [REDACTED] all indicated they knew and had previously been advised as to their legal rights in regards to killing, or attempting to kill, a wolf in the act of a depredation to their property.

While walking into the field, [REDACTED] pointed out an area where the grass had been tamped down to the point dirt had been exposed. The grass surrounding this area was much longer and had not sustained much damage. Based on my training and experience, domestic cattle will often bunch together when faced with a possible threat. This strength by numbers tactic also shields the younger and weaker animals. [REDACTED] indicated he only suspected wolves to be involved, adding no one observed the incident in which the area had been tamped. While walking west from the camp area toward the creek, [REDACTED] and [REDACTED] showed me several areas where the wire fence had been broken by the cattle. They indicated once again they did not know what had caused the cattle to run through the fence, presuming wolves may have been involved.

I asked [REDACTED] and [REDACTED] to explain some of the incidents they were referring to. [REDACTED] mentioned confirmed wolf-caused depredations from previous years, also indicating they had tried all of the hazing techniques recommended by WDFW. He stated the wolves' behavior had not changed much in regards to their aggression toward the cattle, even with hazing techniques being implemented. [REDACTED] stated [REDACTED] had observed a large black wolf in the field on Thursday (06/29) morning. He stated that right at the break of daylight on Thursday, [REDACTED] observed the wolf with a spotlight, adding it only barked at her before running off through the field into the timber.



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When asked how many cattle were currently being grazed in the field, [11e], [11f] stated approximately 80, with approximately 40 of those being calves. I asked if they knew of any missing or injured cattle. Both stated no, adding a couple were walking 'lame' or hobbling, likely sustaining injuries when grouping together.

Cattle location:

[11f]

[11e], [11f], and I continued to a small grassy area which was located west of the grazing field and lying between [11f] and heavy timber. At this location, [11e], [11f] indicated the tamped grass was due to the cattle 'circling up' in defense from a predator. Upon entering the timber, I released my Karelian Bear Dog (KBD) Jax to see if he could locate the wolf carcass.

Upon hiking in the timber, Jax alerted to the wolf carcass in an area of several blow down trees. I observed a collared, adult female black wolf lying on the ground, facing west. The animal had a red 'WDFW' ear tag in both ears; #58. I located what appeared to be one gunshot wound to the abdomen on the animal's left side. After flipping the carcass over, I located an entrance/exit wound on the animals' right side in a location opposite to the location on the left side. Due to the amount of bird and bug activity that had already been on the carcass, I was unable to discern with absolute certainty what side the bullet entered the carcass and what side it exited. I photographed the location and injuries on the animal, then placed it into a plastic bag with collar and ear tags still attached.

Wolf location:

[11f]

While hiking back to camp, I asked [11e], [11f] if [11e], [11f] had shot the wolf. He stated yes, adding she did so to protect the cattle from an attack. I explained to [11e], [11f] that everything I knew, based on observations and interviews, to that point in the investigation supported [11e], [11f] actions, and they appeared to be legal under current laws and regulations. He stated the entire family wanted to remain out of sight and out of mind, adding they were worried for their safety when the information gets out that a wolf was killed while they were protecting their cattle. I explained I had to write a report based on everything I saw and heard, adding it would be much easier with her statement. [11e], [11f] stated he understood.



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[REDACTED] stated he also wanted to show me another location just northwest of camp where the cattle had severely tamped the soil. He stated this was most likely another location where the cattle had grouped together. I photographed this location.

Upon returning to camp, I loaded the wolf carcass into my patrol vehicle. I sat down with [REDACTED], [REDACTED], and [REDACTED]. Also present were [REDACTED] wife, [REDACTED], as well as [REDACTED] and [REDACTED]. I asked [REDACTED] if she would explain the last couple of days, adding I still wanted to try to piece the puzzle together. [REDACTED] stated before daybreak on Thursday (06/29) morning, she stepped out of the trailer at the sound of the cattle making a bunch of noise, and while using a spotlight, observed one 'big' black wolf standing approximately 75 yards away in the field just south of the trailer. She continued to say the wolf barked at her and ran west into the timber. [REDACTED] stated she continued after it on foot in an effort not to scare the cattle and fired four to five times to haze the wolf from the area. When asked if she observed any injuries to the cattle, she stated no.

I asked her to explain what happened on Friday (06/30) morning. [REDACTED] stated at approximately 0700 hours, she had observed two black wolves, one of which was collared and the second she described as being bigger, in the field chasing the cattle. She continued to say the cattle were running toward the trailer up from the creek and had started to scatter, or split up. [REDACTED] then explained she 'did what she did' and the wolves ran down the hill toward the creek and out of sight. [REDACTED] explained she was just trying to haze the wolves from the field, adding she didn't think she hit either of them. I asked her what she did next. [REDACTED] stated she walked back to the trailer and retrieved her shotgun so she could continue to haze. I explained to [REDACTED] that I had heard her explain how she always used the shotgun to haze the wolves from the area, further explaining that if she was trying to haze them as they were chasing the cattle, why she hadn't taken the shotgun out there originally? She stated she didn't want to talk about that part of the incident.

[REDACTED] stated the cows crowded back into the upper field just below the trailer. When asked if she had observed any bites or wounds to any of the cattle, she stated no. [REDACTED] stated upon pulling up the collared data uploads on Saturday (07/01) morning, she observed a 'cluster' of coordinates; this would indicate the collared wolf had spent some time in the immediate area – usually indicating a possible kill site. She continued to add that she checked the area and located the



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dead wolf, subsequently advising WDFW Wildlife Conflict Specialist [REDACTED] via text message of the dead wolf. I asked [REDACTED] why she had not indicated to [REDACTED] the details behind the dead collared wolf. She stated she did not want to put too much information into the text message due to the Freedom of Information Act and the ability of people to get the messages. I asked [REDACTED] if she knew, at the time, it was the collared wolf when she did what she had to do. She explained that she felt the collared female had been more aggressive in the last couple years, adding she knew it was the collared wolf at the time.

[REDACTED] and [REDACTED] explained there had been a great deal of wolf activity in the immediate area in the last week or so. I asked if they had any other incidents in the last week, other than the sighting and possible depredation. They stated no, adding the collar data indicated the wolf had been close by.

I explained to the group, and to [REDACTED], I needed to finish my investigation. I continued to say it would be much easier to get her statement as to what happened at the moment she did not want to talk about. [REDACTED] stated she wanted to speak with someone first before going into any more detail. I passed along my contact information to the group, adding they could get ahold of me if they had any questions or concerns. I continued to say, that at face value and what I knew to that point, I had no problems with how the incident took place. I advised the group I would be in touch with them.

I cleared the area at approximately 1823 hours.

Upon speaking to Wildlife Conflict Specialist [REDACTED] and Natural Resource Technician [REDACTED] regarding previous wolf activity in the area of the Smackout pack, they both stated and confirmed recent activity in the [REDACTED] grazing area by members of the pack. Technician [REDACTED] stated he had good relations with the [REDACTED], adding they had been attempting to alleviate the amount of wolf activity near the cattle by using methods recommended by WDFW.

Upon putting the GPS coordinates into my laptop computer, I confirmed:

- The location of the dead wolf was approximately two-tenths of a mile from the camp trailer's location.

- The location of the dead wolf was approximately 900 feet from where the cattle had been grazing during the time I was on scene.



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Based on statements and evidence collected at the scene, it is my belief the wolf was shot in accordance with WAC 220-440-080, and that no illegal actions had occurred. Upon discovering the dead wolf, WDFW personnel were advised and the carcass was collected.

Pertinent WACs

WAC 220-440-080 Killing wolves attacking domestic animals.

The commission is authorized, pursuant to RCW [77.36.030](#), to establish the limitations and conditions on killing or trapping wildlife that is causing damage on private property. The department may authorize, pursuant to RCW [77.12.240](#) the killing of wildlife destroying or injuring property. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles [77](#) RCW and 220 WAC.

(1) An owner of domestic animals, the owner's immediate family member, the agent of an owner, or the owner's documented employee may kill one gray wolf (*Canis lupus*) without a permit issued by the director, regardless of its state classification, if the wolf is attacking their domestic animals.

(a) This section applies to the area of the state where the gray wolf is not listed as endangered or threatened under the federal Endangered Species Act.

(b) Any wolf killed under this authority must be reported to the department within twenty-four hours.

(c) The wolf carcass must be surrendered to the department.

(d) The owner of the domestic animal must grant or assist the department in gaining access to the property where the wolf was killed for the purposes of data collection or incident investigation.

(2) If the department finds that a private citizen killed a gray wolf that was not attacking a domestic animal, or that the killing was not consistent with this rule, then that person may be prosecuted for unlawful taking of endangered wildlife under RCW [77.15.120](#).

(3) In addition to the provisions of subsection (1) of this section, the director may authorize additional removals by permit under the authority of RCW [77.12.240](#).



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INCIDENT REPORT

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Photographs



-Adult female collared wolf with single gunshot to the stomach; animal facing west.



-Gunshot wound on the animal's left side.



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-Gunshot wound on the animal's right side. Wound almost directly opposite to the wound on the other side.



-Location in thick timber where wolf was located.



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-Cattle in the field between the trailer and timber.



-Tamped area in the field southwest of the camp trailer.



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INCIDENT REPORT

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-Tamped area between [REDACTED] and the timber.



-Tamped area northwest of the camp trailer.

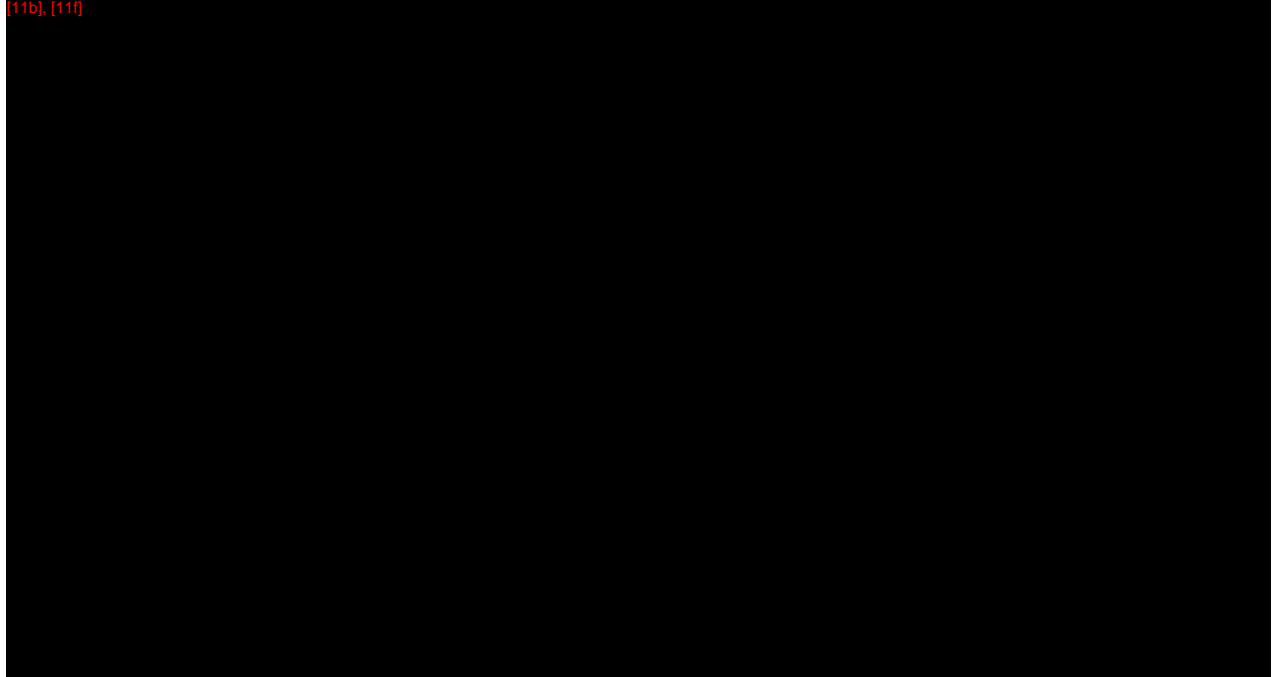


Washington State Department of Fish & Wildlife Enforcement

INCIDENT REPORT

Officer [11]
Region 1 Office
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[11b], [11f]



-Aerial map of the area. 'X' mark in orange is the approximate location of the camp trailer. 'X' mark in gray is the approximate location of the dead wolf. Field where the cattle were observed on my visit and where [11e], [11f] described them as being chased is directly between the two X's.

I Certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. I also certify under penalty of perjury that this report is signed by me, in **Stevens** County, on the date listed below.

Officer [11] – Badge number [11] _____ Date _____



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number WA-17-009779		Related Case Number	
Incident Type ESA/PROTECTED SPECIES VIOLATION		Incident Occurred On/Between 10/27/2017	
Area		Area 2	
Address [11e], [11f]		Address 2 / X-Street	
City CURLEW	State WA	County FERRY	Zip Code 99188
INVOLVED PERSON(S)			
Involvement OWNER / LANDOWNER		Names (Last, First Middle) [11e], [11f]	
Driver's License [11e], [11f]	St WA	DOB [11e], [11f]	Age [11e]
Address [11e], [11f]		Address 2	
Race [11e], [11f]	Sex [11e], [11f]	Height [11e], [11f]	Weight [11e], [11f]
Hair [11e], [11f]	Eyes [11e], [11f]		
Comment			
WDFW OFFICERS			
Officer 11F		Work Address / Phone DEPARTMENT OF FISH & WILDLIFE 2315 N DISCOVERY PLACE SPOKANE VALLEY, WA 99216-1566 11F	
Officer 11F		Work Address / Phone DEPARTMENT OF FISH & WILDLIFE 2315 N DISCOVERY PLACE SPOKANE VALLEY, WA 99216-1566 11F	
Officer 11F		Work Address / Phone DEPARTMENT OF FISH & WILDLIFE 2315 N DISCOVERY PLACE SPOKANE VALLEY, WA 99216-1566 11F	
PROPERTY			
Tag # WA-015685	Date Submitted 10/28/2017	Submitted By 11F	Property Description EVIDENCE
Owned by (Last, First Middle)		Received from (Last, First Middle)	
Brand	Model	Color	Serial #
Amount	Units	Additional Description FEMALE GRAY WOLF	
Est. Value	Actual Value	WITNESS: SGT. [11f]	



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number

WA-17-009779

Related Case Number

CASE NOTES

Created by:

11F

Date Created: **10/28/2017**

From: D4 North Wildlife [mailto:D4-NORTH-WILDLIFE@LISTSERV.WSP.WA.GOV] **On Behalf Of** 20087419@SP

Sent: Friday, October 27, 2017 7:12 PM

To: D4-NORTH-WILDLIFE@LISTSERV.WSP.WA.GOV

Subject: D4 North Wildlife Incident (DO NOT REPLY)

Importance: High

7:12:20 PM 10/27/2017 This is an automated email from WSP's CAD system to notify you of an incident. If you have questions, please call your local WSP Communications Center. DO NOT REPLY TO THIS EMAIL.

----- INCIDENT DETAILS Inc Type: FAW Created:

7:12:19 PM 10/27/2017 Inc #: 00002484 ----- Location: S21

REPUBLIC **11F** Loc Name: **11F** Notes: FARMER SHOT WOLF** City:

REPUBLIC Area: 409 ----- Caller: FERRY COUNTY Phone:

----- UNITS DISPATCHED: -----

COMMENTS: WOLF WAS CHASING FARMERS CATTLE, FARMER SHOT THE WOLF. REPUBLIC
UNIT ENR -----

ADMONITION

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Officer Signature

Badge #

Location

Date



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number

WA-17-009779

Related Case Number

NARRATIVE

Created by: **11F**

Date Created: **10/28/2017**

On 10/27/2017 at approximately 1910 hours, I received a phone call from Ferry Co Sheriff's Office regarding a report that a wolf had been shot and killed by a rancher protecting his livestock near the **11F**.

At about 2015 hours I met up with Officer **11F** in the Kettle Falls area and we traveled to the location together. We arrived on scene at approximately 2115 hours and meet with the cattle producers F and M. Also on scene were two representatives from the Ferry County Sheriff's Office. Throughout this report producer F is referred to as a female and Producer M is referred to as a Male this is to protect them and their family.

When we first arrived on scene I spoke privately with Producer F who said they owned the cattle. Producer F said they were riding in the vehicle together on **11F** at about 1645 hours. Producer F said they were transporting a load of cows from their grazing allotment to a holding pasture when Producer F saw a black animal chasing after their cows near the western fence line, uphill from their location. At first, Producer F said they thought it was a bear and was excited to harvest it as they had an unfilled 2017 bear tag in their possession. Producer F said she aimed the rifle at the black animal and looked through the scope. Producer F said what she saw was not a bear and said to Producer M it appeared to be a canine of some sort. Producer F said she handed the rifle to Producer M who looked through the scope and fired at the canine one time, hitting it. Producer F said the shot knocked the canine down, but then it got up and headed in a southerly direction, and then tumbled down out of sight from where Producer M shot. Producer F said the canine was actively chasing their cows and was about 30 feet behind a yellow calf and another adult cow when they first saw the animal. When I asked Producer F to describe its behavior right before it was shot Producer F said it was definitely in pursuit of a cow and calf and seemed to be focusing on the yellow calf specifically.

Producer F said once Producer M located the canine and determined it was a wolf; Producer M called the Ferry County Sheriff's Office. Producer F said the cows were all bunched up at the bottom of the pasture near the entrance to the pasture. Producer F said the bunching behavior was abnormal for cows and they should be spread out and grazing throughout the 100 plus acre holding pasture. Producer F described the bunching behavior as a defense behavior commonly seen in prey such as fish.

I next spoke to Producer M, privately, and asked him about the incident and to describe what happened. Producer M said they were transporting a load of cows down from their grazing allotment when they saw a black animal chasing the cows. At first, Producer M thought it was a bear and suggested Producer F shoot it. Producer M said Producer F looked at the animal through the scope on the rifle and told Producer M it was not a bear. Producer M said they could not recall exactly what Producer F said it looked like, but Producer F said it was not a bear. Producer M said Producer F handed them the rifle and then they looked at the animal through the rifle scope and saw it was a dark colored canine. Producer M said they shot it to protect their livestock from being attacked by the canine. At the time Producer M shot the canine, he said it was about 50-60 feet from the yellow calf it had been chasing. Producer M said they used a .270 Win Short Mag to shoot the wolf with. Producer M said when he shot it, the wolf immediately went down, then got up and continued to run in a southerly direction, but veered away from the cows to the west. Producer M said when it fell again, they saw it tumble down the hill towards their location and when it tumbled they saw a large furry tail. Producer M said they had been seeing a large black/brown domestic dog running loose in the area recently and they thought it might have



Washington Department of Fish & Wildlife Police Incident Report Form

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WA-17-009779

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NARRATIVE

been that dog as it looked similar to it from their location. After dropping off the cows they were transporting in that same pasture Producer M went up and located the canine and determined it was a black wolf. Producer M said when they realized it was a wolf they called the Ferry County Sheriff's Office.

Officer **11F** and I then followed Producer M out to where the wolf lay. When we arrived at the wolf's location Officer **11H** and I observed a black wolf with a small white chest blaze. I photographed the wolf as it lay. Producer M told me it had not been touched or moved since they located it. We turned the wolf over and I photographed it again. We located an entrance wound on its left side behind the front leg in the chest area and the exit wound on the opposite side near the top of the back. The entrance and exit wounds would match up to Producer M's account of events as the bullet was traveling in an upwardly direction and an entrance wound near the middle of the chest and exiting closer to the top of the back would support the shooters story of shooting from **11F**. We removed the wolf from its location and it was put into the back of my patrol vehicle. Later on 10/27/2017, it was entered into evidence and placed into the freezer at the Colville Office.

I explained to the Producers that under state law they were allowed to kill one wolf caught in the act of attacking their livestock. Both Producers said they only saw one wolf in the pasture. I asked them if they had inspected the calf the wolf was focused on and both Producers said it did not appear it was injured, but would check in morning when there was daylight.

A major concern that both Producer F and M brought up was the safety for them and their families. I spoke to them at length on recent events and advised them I would do the best I could in regards to the public disclosure act law to protect their families safety. Producer M showed me the rifle they had used and I documented the make and serial number. Producer M also gave me the brass, a .270 Win Short Mag, from the round that killed the wolf.

At about 2215 hours, Producer M showed us approximately where they had shot from along the county road. At about 2230 hours, we cleared the investigation.

On 10/28/2017 Sgt. **11H** and I met with the producers once more. Both producers said they had checked their cows and found none with any injuries. We viewed the area in daylight and again concluded that the Producers accounts of the events matched up with the physical evidence at the scene. Both producers were cooperative and willing to answer our questions. My investigation, along with Officer **11F** and Sergeant **11H** findings does not lead me to believe that any crime had occurred.



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NARRATIVE

ADMONITION

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Officer Signature

Badge #

Location

Date

<https://wdfw.wa.gov/species-habitats/at-risk/species-recovery/gray-wolf/updates/wolf-killed-adams-county-caught-act>

Wolf killed in Adams County in “caught-in-the-act” incident

February 7, 2019

On the evening of Feb. 4, WDFW staff were informed that a ranch employee checking on cattle killed a wolf in northeastern Adams County in a “caught-in-the-act” scenario. The ranch employee noticed cattle running, then saw three wolves chasing the cattle. When the employee yelled at the wolves, two retreated. The remaining wolf paused, then continued to pursue a cow. The ranch employee shot and killed the wolf from approximately 120 yards away.

Department staff were on scene within two hours and WDFW law enforcement performed an on-site investigation. Based on the preliminary findings, WDFW law enforcement indicated that the shooting was lawful and consistent with state regulations. In areas of Washington where wolves are not listed under the federal Endangered Species Act, [WAC 220-440-080](#) states the owner of domestic animals (or an immediate family member, agent, or employee) may kill one gray wolf without a permit issued by the WDFW director if the wolf is attacking their domestic animals. The incident occurred outside any known pack territories, and the wolf killed was an unmarked, adult female. The breeding status of the female is unknown.

WDFW conflict staff are working with the livestock producer to mitigate future conflict. Staff are also investigating wolf activity in the vicinity to determine if there is a new wolf pack in the area.

Last Updated: Feb. 7, 2019 3:27 PM

From: Martorello, Donny (DFW)
Sent: Thursday, February 7, 2019 1:08 PM
To: Smith, Julia B (DFW) <Julia.Smith@dfw.wa.gov>
Subject: FW: Reported caught-in-the-act wolf kill

From: Martorello, Donny (DFW)
Sent: Thursday, February 07, 2019 1:08 PM
To: Jewell, Michael W (DFW) <Michael.Jewell@dfw.wa.gov>
Cc: Gardner, Eric S (DFW) <Eric.Gardner@dfw.wa.gov>
Subject: RE: Reported caught-in-the-act wolf kill

Hi Mike,

We've had this issue before where WDFW announces that the person that shot the wolf did so lawfully, but we announced that before the LE report was completed. I just heard from a reporter on this, so the story is out. We typically try to get out with the facts first. Are you okay with us posting announcement at COB today? What's your anticipated timeline on the completion of the enforcement report?

Thanks,
Donny

From: Smith, Julia B (DFW) <Julia.Smith@dfw.wa.gov>
Sent: Wednesday, February 06, 2019 4:58 PM
To: Brown, James S (DFW) <Jim.Brown@dfw.wa.gov>; Martorello, Donny (DFW) <Donny.Martorello@dfw.wa.gov>; Gardner, Eric S (DFW) <Eric.Gardner@dfw.wa.gov>; Monda, Matthew J (DFW) <Matthew.Monda@dfw.wa.gov>; Jewell, Michael W (DFW) <Michael.Jewell@dfw.wa.gov>; Susewind, Kelly (DFW) <Kelly.Susewind@dfw.wa.gov>; McCausland, Carrie A (DFW) <Carrie.McCausland@dfw.wa.gov>; Busching, Christopher F (DFW) <Christopher.Busching@dfw.wa.gov>; Dougherty, Sean Q (DFW) <Sean.Dougherty@dfw.wa.gov>; Bridges, Joseph A (DFW) <Joseph.Bridges@dfw.wa.gov>; Rickel, Michael J (DFW) <Michael.Rickel@dfw.wa.gov>
Cc: Simek, Stephanie L (DFW) <Stephanie.Simek@dfw.wa.gov>; Maletzke, Benjamin T (DFW) <Benjamin.Maletzke@dfw.wa.gov>; Bartlett, Craig A (DFW) <Craig.Bartlett@dfw.wa.gov>; Aoude, Anis (DFW) <Anis.Aoude@dfw.wa.gov>; Brinson, Dan W (DFW) <Dan.Brinson@dfw.wa.gov>; Pozzanghera, Stephen (DFW) <Stephen.Pozzanghera@dfw.wa.gov>; Lehman, Staci E (DFW) <Staci.Lehman@dfw.wa.gov>
Subject: RE: Reported caught-in-the-act wolf kill

Hi all,

Please find the DRAFT web update detailing this incident available in the following location:

S:\All Agency\Shared Projects\Wolf\Wolf Coordinator DRAFTS FOR REVIEW\Draft updates for review

Please make your edits/comments in track changes directly in the document on the S Drive.

Regional and enforcement staff, please advise Donny and I when we should plan to post this web update.

Thank you!

Sincerely,

JULIA B. SMITH | WOLF COORDINATOR

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

MOBILE: 360.790.1029

OFFICE: 360.902.2477

E-MAIL: Julia.Smith@dfw.wa.gov

wdfw.wa.gov | 600 Capitol Way North, Olympia, WA 98501

From: Brown, James S (DFW) <Jim.Brown@dfw.wa.gov>

Sent: Tuesday, February 5, 2019 1:11 PM

To: Martorello, Donny (DFW) <Donny.Martorello@dfw.wa.gov>; Gardner, Eric S (DFW) <Eric.Gardner@dfw.wa.gov>; Monda, Matthew J (DFW) <Matthew.Monda@dfw.wa.gov>; Jewell, Michael W (DFW) <Michael.Jewell@dfw.wa.gov>; Susewind, Kelly (DFW) <Kelly.Susewind@dfw.wa.gov>; McCausland, Carrie A (DFW) <Carrie.McCausland@dfw.wa.gov>; Smith, Julia B (DFW) <Julia.Smith@dfw.wa.gov>

Cc: Simek, Stephanie L (DFW) <Stephanie.Simek@dfw.wa.gov>; Maletzke, Benjamin T (DFW) <Benjamin.Maletzke@dfw.wa.gov>; Bartlett, Craig A (DFW) <Craig.Bartlett@dfw.wa.gov>; Aoude, Anis (DFW) <Anis.Aoude@dfw.wa.gov>; Brinson, Dan W (DFW) <Dan.Brinson@dfw.wa.gov>; Pozzanghera, Stephen (DFW) <Stephen.Pozzanghera@dfw.wa.gov>

Subject: RE: Reported caught-in-the-act wolf kill

Adams County Sheriff office Sergeant (Sheriff out) and the local Adams County Commissioner have been notified (message left to call me, at work and mobile).

Also, it is right near the Reg 1 boundary so we may have interest from both sides of that line. FYI only.

Jim

From: Martorello, Donny (DFW) <Donny.Martorello@dfw.wa.gov>

Sent: Tuesday, February 05, 2019 12:55 PM

To: Gardner, Eric S (DFW) <Eric.Gardner@dfw.wa.gov>; Monda, Matthew J (DFW) <Matthew.Monda@dfw.wa.gov>; Brown, James S (DFW) <Jim.Brown@dfw.wa.gov>; Jewell, Michael W (DFW) <Michael.Jewell@dfw.wa.gov>; Susewind, Kelly (DFW) <Kelly.Susewind@dfw.wa.gov>; McCausland, Carrie A (DFW) <Carrie.McCausland@dfw.wa.gov>; Smith, Julia B (DFW) <Julia.Smith@dfw.wa.gov>

Cc: Simek, Stephanie L (DFW) <Stephanie.Simek@dfw.wa.gov>; Maletzke, Benjamin T (DFW) <Benjamin.Maletzke@dfw.wa.gov>; Bartlett, Craig A (DFW) <Craig.Bartlett@dfw.wa.gov>; Aoude, Anis (DFW) <Anis.Aoude@dfw.wa.gov>; Brinson, Dan W (DFW) <Dan.Brinson@dfw.wa.gov>

Subject: Reported caught-in-the-act wolf kill

Hi All,

A wolf was killed in Adams county last night in a caught-in-the-act situation with cattle.

Julia...please work with local staff to develop talking points/public announcement in coordination with Public Affairs. Also, check in with Captain Jewell to make sure we are not ahead of enforcement.

The investigation was just this morning, so this is NOT meant to sound any sort of alarm, just and FYI so we have the right folks cued up and not caught off guard by a potential media call. Calm and collect!

Thank you,
Donny

-----Original Message-----

From: Westerman, Kile W (DFW) <Kile.Westerman@dfw.wa.gov>

Sent: Monday, February 4, 2019 6:25 PM

To: Bridges, Joseph A (DFW) <Joseph.Bridges@dfw.wa.gov>

Subject: Wolf shot in act

Hi Joe,

I received a call from Jill Swannack a little while ago about a client of hers that reported shooting a wolf caught in the act near Sprague. It is in Adams county and officer Wood is supposed to contact the officer there to follow up on it. I can give you more info. Just wanted to give you a heads up and let you know.

Thanks

Kile Westerman

509-209-7541

Sent from my iPhone



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number WA-19-003111		Related Case Number	
Incident Type DANGEROUS WILDLIFE REPORT		Incident Occurred On/Between 4/29/2019	
Area PRIVATE LANDS		Area 2	
Address 11F		Address 2 / X-Street	
City 11F	State WA	County OKANOGAN	Zip Code 11F
INVOLVED PERSON(S)			
Involvement OWNER / LANDOWNER		Names (Last, First Middle) 11F	
Driver's License 7HDo+QW3caKt0fyv0nNa	St WA	DOB 11F	Age 11F
Address 11F		Address 2	
Race	Sex	Height	Weight
Hair		Eyes	
Comment			
Involvement REPORTING PARTY		Names (Last, First Middle) 11F	
Driver's License BcgYLmp8yncUe8ZTv8Cn	St WA	DOB 11F	Age 11F
Address 11F		Address 2	
Race	Sex	Height	Weight
Hair		Eyes	
Comment			
WDFW OFFICERS			
Officer 11F		Work Address / Phone DEPARTMENT OF FISH & WILDLIFE 1550 ALDER ST NW EPHRATA, WA 98823-9695	
		11F	



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number

WA-19-003111

Related Case Number

CASE NOTES

Created by: 11F

Date Created: 04/29/2019

From: Demme, Philip A (DFW) <Philip.Demme@dfw.wa.gov>

Sent: Monday, April 29, 2019 9:49 AM

To: Trautman, Justin E (DFW) <Justin.Trautman@dfw.wa.gov>; 11F (DFW)

<11F@dfw.wa.gov>; Fosse, Nicholas E (DFW) <Nicholas.Fosse@dfw.wa.gov>; Day, Jason L (DFW)

<Jason.Day@dfw.wa.gov>; 11F (DFW) <11F@dfw.wa.gov>

Cc: 11F (DFW) <11F@dfw.wa.gov>

Subject: RP believes it was a wolf they shot early this morning going after their cattle - 11F

RP: 11F

Number: 11F

Location: 11F

Notes: Report reports they shot and killed what they think is a wolf that was going after some new born calves this morning. They have not gone up to the carcass to determine if it was a wolf but said it is colored differently and did not look like the coyotes they have locally. RP was advised to leave the area alone until an Officer could contact her to let her know what the Officer would like them to do. RP said they had calves born yesterday that the wolf was going toward this morning when they shot it.

Please call

Thank you

Phil
WILDCOMM

ADMONITION

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Officer Signature

Badge #

Location

Date



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number

WA-19-003111

Related Case Number

NARRATIVE

Created by: **11F**

Date Created: **04/29/2019**

Sergeant **11F** Conflict Specialist **11F** and I responded to a ranch outside of **11F** after the homeowner reported shooting a large canine coming in on cow calf pairs. I advised Deputy Yarnell, Okanogan County Sheriff's Office, while en route. Deputy Yarnell was already on scene when we arrived. On scene the owner pointed to a field west of the house. I could see something in the freshly plowed field but could not identify it.

The RP stated that this morning between 8 and 9 pm he was home alone with the two small children. He saw an animal which at first he thought was a coyote, coming from the southeast, passing above the house and moving at an angle toward a pasture where he has about 25 head of cows and some calves. The pasture directly borders the lawn of the house.

The RP did not have his glasses on at the time. He grabbed his rifle and looked at the animal through the scope. He felt it was too big for a coyote. He attempted to yell at it to scare it off but the animal continued moving toward the cows. The RP reacquired the animal in the scope and fired one shot. The animal stumbled off a short distance and went down. The RP showed us the rifle he used, a Ruger 22-250 with Bushnell Scope and green carbon stock. He said he only shot once because he only had the one round in the rifle.

The RP said his shot was over the top of one of the cows. He would have also shot past the children's jungle gym in the back yard. He left the animal and did not go out to avoid disturbing the area. The GPS coordinates for the animal, as recorded by Sergeant **11F** using his Motorola portable radio was recorded. Later the location was entered into a GIS map and a measurement was taken from the carcass to the house. The distance was approximately 280 yards. A second measurement to the fence line containing the cattle was approximately 56 yards.

We went out to the animal laying in the field. My initial observation was that this was likely a grey wolf, *Canis lupus*. **11F** advised it was a young male, less than two years of age based on teeth and testicle size.

The field around the animal was freshly plowed and there were no human tracks to the animal. I saw one canine track in the dirt but most of the area immediately surrounding the carcass was disturbed by ravens. No entry wounds were visible on the up facing side of the carcass. I rolled the carcass over and observed one entrance wound near the heart and lungs. Sergeant **11F** photographed the animal prior to removal.

While talking with the property owners I was reminded that they had reported possible wolf activity last year (see below). The landowner said the last known incident was in the fall when they heard howling during archery season.

Based on the information provided by the RP and the evidence at the scene, it appears that the wolf was headed toward the cattle and was in close proximity to the residence. The RP's belief was that the animal was moving in a predatory fashion and his attempts to yell at it did not deter it from continuing to move toward



Washington Department of Fish & Wildlife Police Incident Report Form

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NARRATIVE

the cattle. Once in with the cattle it may be difficult to shoot the animal actively attacking a calf.

I later checked my email and found that in August of 2018 the landowner had reported a possible wolf on a trail camera and a second hand report of two wolf pups playing in the road. An email from September 10 from the area biologist indicated he had also spoke with the homeowner but never saw the photo. I located an email dated September 10th from me to the area biologist with an attachment. The attachment was a trailcamera photo of a canine and appeared consistent with a wolf.

Per WAC 220-440-080: Killing wolves attacking domestic animals.

The commission is authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing damage on private property. The department may authorize, pursuant to RCW 77.12.240 the killing of wildlife destroying or injuring property. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 220 WAC.

(1) An owner of domestic animals, the owner's immediate family member, the agent of an owner, or the owner's documented employee may kill one gray wolf (*Canis lupus*) without a permit issued by the director, regardless of its state classification, if the wolf is attacking their domestic animals.

I collected the animal and bagged it for removal from the property. The events appeared within the spirit of the law under WAC 220-440-080 Killing Wolves Attacking Domestic Animals. No charges were filed against the RP. Incident Closed.

ADMONITION

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Officer Signature

Badge #

Location

Date



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number

WA-19-003111

Related Case Number

SUPPLEMENTAL

Created by: **11F**

Date Created: **04/29/2019**

Supplemental for Sergeant **11F**

On April 29th, 2019 I received a voicemail message and also an email message from our Wildcomm Dispatch of a possible wolf shot near **11F**. I was at the office on another phone call and had Officer **11F** at our desks and **11F** the WDFW Conflict Specialist for our area. I called **11F** on her cell phone and she told me that **11F** had possibly shot a wolf that was coming towards their newborn calves. She told me that they had not went to the animal and were waiting for our response.

I have previously spoken to **11F** about the presence of wolves in the area of their family ranch. She called on August 31, 2018, IRF WA-18-009727, about wolf activity observed near their home. I called her on 9-1-2018 upon returning from vacation and we discussed the presence of wolves in the area. We have had reports of wolf presence and activity in the **11B**, **11B**, and **11B** area. This pack is not collared, but we have had reported sightings for several years. I discussed with **11F** the law, rules, and policies involving human and wildlife interactions. The **11F** family are a multi-generation ranching family that have lived in the "North-Half" most likely since it was opened to homestead upon purchase from the Colville Confederated Tribe in 1890 and the Dawes Act. I am very familiar with this area, the issues having worked in this county as law enforcement for 25 plus years and also as a multi-generation resident of Okanogan County.

Our Agency Director Kelly Susewind had issued a memorandum on April 24, 2019 regarding Wildlife Conflict & Dangerous Wildlife Response - Guiding Principles. In this memorandum he made clear our priorities, expectations and guiding principles.

I am very familiar with Article 1 Section 3 of the Washington State Constitution, State v. Burk 114 Wash.370 (1921), State v. Vander Houwen 177 P.3d 93 (2008), U.S. v. McKittrick 142 F.3d 1170 (1988), WAC 220-440-080, and our Agency Policy 5401 Controlling Dangerous Wildlife.

This property is located East of Highway 97 within the State Protection area for wolves under the Endangered Species Act. Wolves are listed as protected under RCW 77.12.020 and WAC 220-610-010 Species Gray Wolf (*Canis lupus*). Under Policy 5401, "Dangerous Wildlife: Black bear, grizzly bear, gray wolf, cougar, coyote, and moose that attack humans; *pose concerns for human safety, pets or livestock depredations*; or that involve sightings of these species where there is potential for a wildlife-human conflict." The policy further defines immediate threat as, "There is a presence of dangerous wildlife and a likelihood of human injury or pet/livestock depredation based upon the totality of the circumstances, such as *close proximity* to people or pets/livestock or abnormal behaviors."

Prior to our arrival Deputy Dave Yarnell of the Okanogan County Sheriff's Office had raised great concern to the homeowners to how WDFW would treat them upon reporting of the incident. The three of us arrived at the residence and spoke with **11F** and **11F**. I could tell **11F** was very tense and I assured them that we were present to document what had occurred and we were there to advocate for his personal and property rights as much as the rights of wildlife.



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number

WA-19-003111

Related Case Number

SUPPLEMENTAL

11F told us that he was home alone with the two kids, very young children, while **11F** took their dog to the veterinarian in town. They have about 150 head of cattle that they separate into different pastures based upon their closeness to birthing. They had three baby calves during the night and the three calves were lying along the fence line roughly south and west of the residence. This particular pasture they move the cows to be close to home to be able to protect and monitor them and to protect them from predation. **11F** and **11F** told me that they had about 40 cows close to the house. Once the calves are big enough to move around they move them to a pasture North and East of the residence. They have another pasture that the cows stay in until they are closer to birthing that is further east and downhill out of sight from the residence. The residence is a home, barn and several outbuildings and is surrounded by cultivated fields and fencing delineating the property.

11F told me that he looked up and could see a large dog (canid) coming towards the three calves, he was not sure immediately if it was a coyote, dog, or a wolf. This was about 8 am to 9am. As it got closer to the calves he obtained his 22-250 rifle with one round and he yelled at the animal that to him appeared it might be a wolf. The animal continued towards the calves and he fired one shot over the back of one of his cows striking the animal. The animal staggered back towards the way it came and fell to the ground. They did not approach the wolf and **11F** who had returned home called the Sheriff's Office to obtain the Wildcomm dispatch number to report the incident. **11F** reminded me of the previous report details and showed me a trail camera picture of a wolf from around August of 2018 near their horse barn. A UPS driver (Lorz) had also reported seeing two pups on the property around the same time while delivering a package. I asked **11F** if we could get some information on the rifle and he retrieved the rifle and Officer **11F** recorded the information while **11F** held his rifle. We did not take the rifle.

We then drove up through the electric wire and a 4 strand barbed wire fence. We walked up towards the dead animal and I could see tracks in the freshly tilled soil going from the fence line area towards its location. The animal appeared to be a young wolf. **11F** who is an expert on wolves said it was a wolf. I photographed the wolf and the surrounding area to include pictures looking towards the residence to show proximity. I also located the tracks of the wolf going through the field towards the pasture and fence line which matched the description **11F** had provided us. The wolf was collected by Officer **11F** and I used my Motorola portable radio to records the GPS location. I also later obtained the GPS reading of the back porch using the same radio **11B** (degrees Minutes.minutes). Officer **11F** later determined the location of the wolf to the residence was 280 yards and the location of the wolf was 56 yards from the pasture adjoining the residence.

While walking back **11F** told me about how her late archery deer hunt was interrupted by the howls of wolves that made the deer leave the area she was hunting above the house.

Based upon my observations of the scene, proximity to the residence, cattle and calves the action of **11F** appeared to meet the reasonable and necessary components of self-defense of his property and human safety. In accordance with the agency determination that the species of gray wolf is dangerous and meeting the definition of immediate threat due to its presence, proximity, and likelihood of human, pet/livestock injury in addition to agency policy definitions of abnormal behaviors as, "A pattern of wildlife-related events associated with people, buildings, or yard boundaries; proximity to houses, people, barns, or corrals; or aggressive behaviors, absence of fear of humans, or



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number

WA-19-003111

Related Case Number

SUPPLEMENTAL

reliance on food derived from humans.”

As police officers we are well versed in the legal jurisprudence of self-defense and have to look at this from the eyes of a reasonable farmer/rancher. His actions appeared to be justified. Our recently issued guiding principles from our Director to maintain public safety as a priority, to demonstrate the empathy, compassion, and to increase trust I wanted to make prompt decisions to alleviate any fear the family had. They had reported the incident immediately, allowed our agency entry and assistance to investigate the scene. I informed **11F** and **11F** that it was a justified act and did not want them to stress about a delayed finding or decision.

We cleared the scene and I informed my Captain who requested that I update Regional Director Jim Brown as soon as I could.

11F called me on 5-4-19 and informed me in detail about what Deputy Yarnell had told them prior to our agency arrival. **11F** had called to report a Border Patrol agent had been shown the pictures and details by a deputy sheriff who told a family member. **11F** was concerned and wanted to confirm that we had not discussed the incident with the Border Patrol. I contacted Sheriff Hawley and discussed the issue with him. I also contacted Agent-In-Charge Moser.

End of Report **11F**

ADMONITION

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Officer Signature

Badge #

Location

Date



WASHINGTON FISH AND WILDLIFE

WA-19-006490

7/24/2019

Incident Report Form

ESA/PROTECTED SPECIES VIOLATIO

Primary Officer: 11F - 11F

<input type="checkbox"/> Juvenile Involved	<input type="checkbox"/> Investigation	<input type="checkbox"/> Video Available	<input type="checkbox"/> Gang Related	<input type="checkbox"/> Paperless
<input type="checkbox"/> Domestic Related	<input type="checkbox"/> Suspects	<input type="checkbox"/> Bias Crime	<input type="checkbox"/> Accident	<input type="checkbox"/> Administrative
<input type="checkbox"/> Alcohol Involved	<input type="checkbox"/> Arrests Made	<input type="checkbox"/> Drugs Involved	<input checked="" type="checkbox"/> Ready for DA / Prosecutor	<input type="checkbox"/> Alarm Activated

Log Number WA-19-006490	Incident Number	File Number	Case Number	UCR
Incident Type ESAPRO ESA/PROTECTED SPECIES VIOLATIO	Dispatcher	Source EMAIL	District 10	Status 101

Incident Date / Times						Incident Occurred At or Between	
Date Received 7/24/2019	Day Rec'd Wednesday	Rcvd 1040	Disp	Arrv	Clrd	Earliest Date and Time 7/24/2019 (Wednesday)	Latest Date and Time

Disposition 1CALL CALL FOR SERVICE - RESPONDED T	Cleared by Exception	<input type="checkbox"/> Suspended			
UCR Clearance	UCR Occur Date	UCR Clear Date	UCR Count	UCR Human Traffic Code	UCR HT Count

Location		<input type="checkbox"/> Intersection	
11F 11F WA 11F		Cross Street	
Municipality:		GPS Loc X	GPS Loc Y
Business Name	Premise Code GRAYW GRAY WOLF	Arson Value	
Gang	Weather		

Modus Operandi Coding	Victim:
Entry:	Property: NO LANDOWNER / NOT APPLICABLE NONE
Exit:	Area: CONFIRMED DEPREDAATION CONF1
Method: ON FOOT FOOT	Time of Day:

WEAPON USED:

Caller / Complainant Type Normal ☐ Anonymous ☐ Hangup ☐ Refused ☐

INVOLVED PERSONS

OWNER / LANDOWNER

CODE: OWNER

Name (Last, First, Middle) - Address	Juvenile <input type="checkbox"/>	Date of Birth 11F	Age	Race	Sex	Ethnic	Social Security Number
11F		Weight	Height	Hair	Eyes	Phone Number 11F	
		Driver License Number	State	Class	Expiration Date		
		ID Provided	ID Detail				

Link Comments

RESPONDING / INVOLVED UNITS, OFFICERS, TIMES

Division	Supervisor / ID	
Unit Number	Officer / ID (Ofcr1 / Ofcr2)	Officer / ID (Ofcr3 / Ofcr4)
	11F	11F

COMMENTS / NARRATIVES

WA-19-006490 7/24/2019

☐ APPROVED BY:
APPROVED ON:

WASHINGTON FISH AND WILDLIFE

WA-19-006490

7/24/2019

Incident Report Form

ESA/PROTECTED SPECIES VIOLATIO

Title

NARRATIVE

Narrative Created By / Creation Date

11F

07/24/2019

Narrative Updated By / Update On

11F

07/24/2019

Narrative Approved By / Approved Date

On 7/24/2019 at about 1040 hours, I received a call from County Wildlife Specialist Jeff Flood who said Mr. 11F had just witnessed a wolf take down one of his cows and he shot it. He said this occurred on 11F off 11F Road. I notified Bio 11F and 11F and we all headed towards the location of incident from the Colville District Office. We arrived at 11F at about 1200 hours and meet with the cattle owner.

Mr. 11F said he was checking his cows when his wife saw a cow near a creek and water trough. Mrs. 11F said the cow looked to be humped up like it was urinating when she first saw it. Mr. 11F said he backed up and they saw a wolf tugging on the cow that now appeared to be laying down. Mr. 11F said he could see bright red blood on the cow, so it appeared it was very fresh. Mr. 11F said he shot the wolf once with a .270 caliber rifle. Mr. 11F said he was certain he hit the wolf as it humped up when he shot and then it started walking away from him and the cow in a South East direction. Mr. 11F said the wolf appeared to be injured. He said the wolf was black in color.

We all walked over to the calf and Bio 11F and 11F conducted the depredation investigation.

Jeff Flood and I tried tracking and locating the wolf. We followed a blood trail in a South Easterly direction, but were unable to locate the wolf as the blood trail became too sparse. We ended the search for the wolf at about 1500 hours.

WA-19-006490 7/24/2019

IRF 1.6



APPROVED BY:

APPROVED ON: