Cascadia Wildlands
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January 16, 2014

Roger Woodruff, State Director
USDA APHIS Wildlife Services
720 O'Leary St NW
Olympia, WA 98502

Re: Environmental Assessment, Wildlife Services Gray Wolf Damage Management in Washington

Dear Mr. Woodruff:

Please consider these comments from Cascadia Wildlands, Western Environmental Law Center, Center for Biological Diversity, The Lands Council, Kettle Range Conservation Group, Predator Defense, Project Coyote, and WildEarth Guardians on the Pre-Decisional Environmental Assessment for Wildlife Services' Gray Wolf Damage Management in Washington. Combined, our groups represent more than 650,000 members and supporters across the country who support our efforts to recover wolves in Washington.

Restoring gray wolves to the landscapes of Cascadia has been a conservation priority of the signatory organizations well before wolves began to return to Washington. Many of our organizations have been involved in the creation of the Wolf Conservation and Management Plan for Washington (WCMPW) and have also been involved in the ongoing rule-making and legislation concerning wolf conservation in Washington.

Wildlife Services claims that this analysis will assist the Washington Department of Fish and Wildlife with wolf conservation in Washington; however, the majority of the agency's efforts in the Pacific Northwest and nationwide have only served to create public turmoil. Illegal attempts to kill federally-endangered wolves in Oregon in 2010 without fulfilling National Environmental Policy Act duties, questionable handling of livestock depredation investigations in eastern Oregon and Washington in the recent past, and Wildlife Services' involvement as hired consultants in the killing of the Wedge Pack makes clear to us that Wildlife Services cannot serve an unbiased role in wolf management in Washington – or anywhere – and that its involvement thus far has greatly undermined gray wolf recovery throughout its historic range.

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On a broader level, Wildlife Services has lost the trust of the American public and wildlife scientists over its controversial animal damage control activities to benefit agribusiness interests. The Wildlife Services program has been marked by secrecy, controversy, public opposition, stale and deficient environmental reviews, and indiscriminate killings of large numbers of animals, with over 46.5 million animals reportedly killed since 1996, including more than 52,000 reported unintentional killings in the last 10 years.[1] The absence of any binding regulatory framework to govern its activities, a 2012 *Sacramento Bee* exposé, the scathing *New York Times* Editorial, a critical policy perspective last year, and the recently-announced investigation by the U.S. Department of Agriculture into Wildlife Services prove that the agency has lost touch with American values and is entrenched in a culture of killing native carnivores at the expense of American wildlife.[2]

Given the repeated criticisms, investigations, and Congressional inquiries into the functions of this agency, Wildlife Services should be suspending – not continuing – all predator control activities, at the very least until the USDA Office of Inspector General completes the current investigation. Indeed, suspension of this program should also occur pending completion of a rulemaking for the program under the Administrative Procedure Act, as petitioned by the Center for Biological Diversity on Dec. 2, 2013. The many recent Wildlife Services scandals show an agency that is out of control, and one that fails to use the best available information or to serve the interests of the public-at-large, rather than the interests of a narrow constituency of special interests. These scandals only underscore why we have no reason to believe Wildlife Service's involvement in killing of wolves in Washington will be anything but detrimental to the recovery of the endangered gray wolf and other carnivore species there.

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[1] *See* Center for Biological Diversity, *Data Compilation of Annual Animal Killings by APHIS-Wildlife Services* (2013) (hereinafter "Data Compilation") (Center for Biological Diversity compilation of agency program data reports documenting the number of native and invasive animals taken each Fiscal Year from 1996 through 2012); Center for Biological Diversity *et al*., PETITION FOR RULEMAKING PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 553(e), TO THE U.S. DEPARTMENT OF AGRICULTURE FOR PROMULGATION OF A REGULATORY SCHEME TO GOVERN THE WILDLIFE SERVICES PROGRAM (Dec. 2, 2013).

[2] Editorial, Agriculture's Misnamed Agency, *New York Times* (July 19, 2013); Bergstrom, J.B., Arias, L.C., Davidson, A.D., Ferguson, A.W., Randa, L.A. & Sheffield, S.R., 2013, License to kill: reforming federal wildlife control to restore biodiversity and ecosystem function, *Conservation Letters*, v. 6, p. 1-12.

Please consider the following comments prior to making a decision on gray wolf damage management in Washington.

1. The EA Fails to Establish a Purpose and Need for the Proposed Action

Wildlife Services proposes to assist Washington Department of Fish and Wildlife (WDFW), U.S. Fish and Wildlife Service (FWS) and the tribes in the management of gray wolves. Such management would purportedly be in accordance with the WCMPW and tribal management authority. Yet, currently, Wildlife Services is not providing such assistance to WDFW, and WDFW and the tribes have stated that they would carry out such activities regardless of whether Wildlife Services assisted them. Even assuming that the proposed action alternative would occur regardless of the assistance of Wildlife Services, then there is no valid purpose and need for the proposed action under NEPA.

To the extent that Wildlife Services' involvement in these activities is necessary in order to effectuate the purposes of the WCMPW or tribal management objectives, the EA does not explain or substantiate this bald assertion. The EA simply states that Wildlife Services' purpose and need for its involvement in removing "problem animals" is to promote public tolerance for wolf recovery (or reduce livestock depredations) and ensure public safety. As an initial point, the agency has provided *no underlying data or support* that wolves jeopardize public safety whatsoever. Under NEPA, an agency needs to provide underlying data or support for the factual assertions, assumptions, or principles on which it relies to justify its proposed action.[3] This is a fundamental assumption for the proposed action. In fact, the public safety portion of the EA just discusses the risk activities of the agency – for example, aerial shooting, trapping, and poisoning – could have on humans, not the public safety risks of wolves.[4]

Second, Wildlife Services provides little to no factual support that killing wolves promotes public tolerance for wolves or reduces depredation levels. This is discussed in greater detail below, but the EA cites "Wiles et al. 2011." This study or summary of the WA wolf experience, however, does not support this contention. Studies that have been specifically designed to address this issue, on the other hand, have found that killing wolves – especially when this killing does not account for pack structure – either has no effect on depredation levels

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[3] *Neighbors of Cuddy Mountain v. U.S. Forest Serv.,* 137 F.3d 1372, 1379 (9th Cir. 1998) ("Some quantified or detailed information is required. Without such information, neither the courts nor the public, in reviewing the [the agency's] decisions, can be assured that the [agency] provided the hard look that it is required to provide.").

[4] EA at 56.

or can actually lead to an overall increase in depredation levels.[5] Even assuming that increasing depredations reduces public tolerance, the proposed actions by Wildlife Services will only increase depredation levels, thereby undermining public tolerance for the wolf.

The EA also suggests that Wildlife Services' involvement renders wolf management activities to be more efficient and effective than in the absence of the agency's involvement. The

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[5] Brainerd SA, Andrén H, Bangs EE, Bradley EH, Fontaine JA, et al. (2008) The effects of breeder loss on wolves. J Wildl Manage 72: 89–98.
http://onlinelibrary.wiley.com/doi/10.2193/2006-305/abstract

Bull, Joseph, et al. "Survival on the border: a population model to evaluate management options for Norway's wolves Canis lupus." Wildlife Biology 15.4 (2009): 412-424.
http://www.bioone.org/doi/abs/10.2981/08-010

Creel, Scott, and Jay J. Rotella. "Meta-analysis of relationships between human offtake, total mortality and population dynamics of gray wolves (Canis lupus)." PLoS One 5.9 (2010): e12918.
http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0012918

Gehring TM, Kohn BE, Gehring JL, Anderson EM (2003) Limits to plasticity in gray wolf, pack structure: conservation implications for recovering populations. Can Field-Nat 117: 419–423.

Haber GC (1996) Biological, Conservation, and Ethical Implications of Exploiting and Controlling Wolves. Conserv Biol 10: 1068–1081. doi: 10.1046/j.1523-1739.1997.95366.x
http://onlinelibrary.wiley.com/doi/10.1046/j.1523-1739.1997.95366.x/abstract;jsessionid=6772F96C7EE96572972D5516F1D0C1D1.f02t01

Knowlton FF, Gese EM, Jaeger MM (1999) Coyote depredation control: and interface between biology and management. J Range Manage 52: 398–412.

Rutledge, Linda Y., et al. (2010) Protection from harvesting restores the natural social structure of eastern wolf packs. Biological Conservation 143.2: 332-339.
http://www.sciencedirect.com/science/article/pii/S0006320709004583

Rutledge, Linda Y., et al. "Intense harvesting of eastern wolves facilitated hybridization with coyotes." Ecology and evolution 2.1 (2012): 19-33.
http://onlinelibrary.wiley.com/doi/10.1002/ece3.61/full

Sparkman, Amanda M., Lisette P. Waits, and Dennis L. Murray. "Social and demographic effects of anthropogenic mortality: A test of the compensatory mortality hypothesis in the red wolf." PloS one 6.6 (2011): e20868.
http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0020868

Wallach AD, Ritchie EG, Read J, O'Neill AJ (2009) More than Mere Numbers: The Impact of Lethal Control on the Social Stability of a Top-Order Predator. PLoS ONE 4(9): e6861. doi:10.1371/journal.pone.0006861 http://dx.plos.org/10.1371/journal.pone.0006861

EA cites to Wildlife Service's personnel expertise in removing wolves, and the ability to use its aircraft and pilot crews.[6] This is supported by the fact that Wildlife Services was a paid consult on the killing of the Wedge pack. However, Wildlife Service purports that its killing activities would be carried out in the same way by WDFW regardless of Wildlife Services' involvement. *Wildlife Services cannot have it both ways*. Either the agency has the expertise, personnel, and equipment that would assist and make more efficient and effective the killing of wolves (thereby providing some purpose and need for this EA) or the agency does not, and its involvement in Washington is unnecessary given that the State of Washington could and would conduct the activities anyway.

It bears noting that WDFW claims that without Wildlife Services' lethal control measures, WDFW would have to divert funding from other, non-lethal management activities in order to address chronic depredations. This statement flatly contradicts one of the EA's core assertions – *i.e.*, that lethal control contributes to wolf recovery. It also ignores the fact that to the extent compatible with the Washington ESA, WDFW has killed seven wolves in Washington and there is no evidence that the agency has had to divert resources from non-lethal management activities in order to do so. It also must be noted that WDFW has no discretion to divert its resources from one set of management activities (non-lethal control measures) to another (lethal control measures). Much of WDFW's funding is earmarked for specific non-lethal activities, and this funding and personnel time cannot simply be shifted to killing wolves. Additionally, during this early phase of wolf recovery in Washington, pursuant to the wolf plan, conservation and non-lethal measures are prioritized over lethal control. Thus, the EA is not accurate to the extent it relies on these assertions in order to justify Wildlife Services involvement in wolf management in Washington.

2. Failure to Consider Reasonable Alternative: Not Conducting Lethal Control on Public Lands

Wildlife Services should evaluate an alternative that would preclude lethal control measures on public lands. There are many public lands areas in the eastern third of Washington, where wolves are no longer listed as endangered under the ESA (due to a 2011 Congressional appropriations rider that delisted the Northern Rocky Mountains gray wolf population from the ESA). Developing an alternative that would not allow for any lethal control of wolves on public lands – particularly at the behest of private livestock interests who seek to utilize those lands for grazing – is eminently reasonable. These public lands belong to the American people – not the few who seek to use them for their own private interests – and Wildlife Services should not be engaging in wolf control in such areas, which provide some of the best and potentially lowest-

[6] EA at 2.

conflict suitable wolf habitat. The EA is fatally flawed because it does not identify or consider this reasonable alternative.

3. Potential For Federal Delisting

Wildlife Services concedes that this Environmental Analysis is limited in its scope of analysis because wolves are still federally listed in two-thirds of Washington to the potential impacts of wolf damage management on lands where wolves are not protected under the federal ESA.[7] Currently, this encompasses the eastern third of Washington.[8] FWS is currently considering proposals to change the areas within Washington where wolves would be federally protected, and could remove federal protections for wolves in the remaining two-thirds of the state.[9] If this occurs, Wildlife Services would be forced to re-evaluate its analysis, and re-initiate consultation with FWS on the effects of Wildlife Services' activities in Washington on other federally-listed species. Yet, the EA does not disclose what activities Wildldife Services would undertake if delisting occurs. Delisting is highly controversial and is opposed by most Americans and the scientific community; if FWS finalizes this proposal, the matter will be challenged in federal court. It would make sense and reflect a prudent use of taxpayers' dollars for Wildlife Services to delay reaching a decision on its involvement with wolves in Washington, until a decision is reached by FWS and finalized.

4. Killing Wolves to Conserve the Species is Unfounded

The EA fails to analyze in detail the ecological effects of wolf removal on the grounds that wolf removal is anticipated to support wolf conservation and that WDFW will just kill the wolves if Wildlife Services does not.[10] First, as discussed previously, the assumption that WDFW will just kill wolves in the absence of involvement by Wildlife Services is not factually supportable given fiscal restrictions and the priorities of the WCMPW.

Second, Wildlife Services merely cites the WCMPW for the contention that killing wolves is expected to support eventual wolf conservation.[11] The WCMPW, however, is not a scientific study, but merely puts forth an opinion on this issue. There has been extensive wolf removal following the delisting of the Northern Rocky Mountain gray wolf population. Wildlife Services fails to provide *any* rationale that killing wolves advances the conservation of wolves, thereby negating any ecological effects the killing of wolves has had.

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[7] *Id*.

[8] EA at *iv*.

[9] EA at 3.

[10] EA at 41.

[11] *Id.*

Meanwhile, scientific studies have been conducted on the ecological effects wolves have on the landscape.[12] Wildlife Services fails to address any of this scientific body of literature, and fails to take into account the effects of wolf removal on the ecological systems at issue. Wildlife Services must not only discuss the ecological effects of wolf removal, but should also conduct studies on the ecological effects of wolf removal that it has conducted in the past. Wildlife Services' assumption that killing wolves will support conservation of the species is improper because it fails to take into account existing science regarding wolf ecology, and fails to put forward any studies and scientific evidence in support of its position. Additionally, Wildlife Services must address the cumulative impacts of its lethal control programs in nearby states on wolf populations, and the resulting effects on ecosystems.

Wildlife Services' killing of wolves may also prevent population growth even to the minimal goals of Washington's wolf plan. In the Southwest, Wildlife Services' removal of Mexican gray wolves has suppressed the population dangerously. Agency removals from the wild, primarily of depredating wolves and their dependent pups, are the biggest factor in the numeric stagnation of the wolf population there, and have accelerated loss of genetic diversity in the population. In addition to lethal control actions, 32 wolves have been captured and never released back into the wild, 18 died as unintended consequences of capture, and 13 wolves have been illegally shot. Killing or removing wolves from the wild in this region has neither improved human tolerance for coexisting with wolves nor enhanced the conservation of this endangered subspecies of gray wolf. Mexican gray wolves were first reintroduced to the Southwest in 1998, but due to killings and removals, this population today stands at only about 75 animals, which is a far cry from the 100 animals projected to be reached by 2006, and not even remotely approaching the projected 18 breeding pairs. (Just three breeding pairs survived last year.)

Washington wolves, at this early stage in their return to the state, are likely to be just as vulnerable, and perhaps even more so given the ubiquity of livestock over much of eastern Washington with few areas of high-quality wolf habitat that do not contain stock. (In the recovery area for the Mexican wolf, approximately 1,000 contiguous square miles are almost entirely without livestock – yet, population-impacting wolf removals continue outside this area.)

5. Killing Wolves to Reduce Depredation Rates Lacks Scientific Backing

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[12] Ripple, William J. and Robert L. Beschta, "Wolves and the Ecology of Fear: Can Predation Risk Structure Ecosystems?" Bioscience, Vol. 54 No. 8 (August 2004). This study found that predation risk may have profound effects on the structure of ecosystems and is an important constituent of native biodiversity.

Wildlife Services claims that the purpose of proposed action is to reduce livestock depredation rates.[13] Incredibly, however, *Wildlife Services cites no studies or science to support the fundamental assumption in this EA that killing wolves reduces depredation rates*. In fact, numerous studies exist which *conflict* with this assertion, raising a scientific controversy surrounding the issue. For instance, a study conducted in Minnesota concluded that "no analysis indicated that trapping wolves substantially reduced the following year's depredations at state or local levels."[14] A study that was conducted through four years and five months of telemetry monitoring of 930 radio-collared calves at two high-risk predation sites occupied by Mexican gray wolves suggested that the most important factors in determining depredations are duration of extent of exposure of stock to predators (including wolves) and husbandry techniques, such as limiting calving to a seasonal endeavor.[15]

Indeed, a look at confirmed depredations in recent years in the Mexican wolf reintroduction program demonstrates, if anything, an overall *positive* correlation between wolf removals for depredations and additional depredations the following year:

Confirmed Fatal Livestock Depredations by Mexican Wolves, 2003-2011, drawn from reintroduction project annual reports:

Year	End-of-year wolf population	Confirmed fatal livestock depredations	Number of wolves removed for depredations
2003	55	4	2
2004	44-48	8	1
2005	35-49	22	6
2006	59	28	14
2007	52	36	16
2008	52	21	0

[13] EA at 4.

[14] Harper, Elizabeth K., William J. Paul, L. David Mech, Sanford Weisberg, "Effectiveness of Legal, Directed Wolf-Depredation Control in Minnesota." *The Journal of Wildlife Management*, 72(3): 778-784 (2008).

[15] Breck, S.W., B.M. Kluever, M. Panasci, J. Oakleaf, T. Johnson, W. Ballard, L. Howery and D.L. Bergman. 2011. "Domestic calf mortality and producer detection rates in the Mexican wolf recovery area: Implications for livestock management and carnivore compensation schemes." *Biological Conservation* 144:930–936 (enclosed and attached).

2009	42	16	0
2010	50	9	0
2011	58	9	0

This could be because livestock owners who oppose the presence of wolves but who are reimbursed for depredations may not be motivated to take practicable measures to protect their stock, knowing that depredations will result in wolf removals.[16]

Further analysis by other researchers in the United States and Canada "does not support the notion that removal of wolves at current intensity reduces depredation, immediately or in the following years."[17] Other studies have shown that "killing carnivores may be a reciprocally self-cancelling action, as reducing wolf populations causes "mesopredator release" and increases coyote predation.[18] Obviously, there are conflicting scientific viewpoints on this issue, but Wildlife Services does not address this conflict.

Instead, Wildlife Services relies on a select few studies that are specific to wolf depredation rates, not depredation rates in general. Yet, the stated the purpose and need is to reduce livestock depredation rates in general, regardless of the predator or cause. The literature cited by Wildlife Services establishes that "the majority of packs which were partially removed (68%) depredated again within the year."[19] Further, "[w]here entire packs were removed, the rate of recolonization was high (70%) and most re-colonization (86%) occurred within a year of removal of the previous pack; most packs (86%) that recolonized the same area were implicated in depredations."[20] The literature cited in the EA establishes that killing wolves creates the perceived need to kill more wolves, but does nothing to prevent actual depredations in the long term.

Wildlife Services relies on a single study to support its proposal, but this study showed only that *wolf depredation* rates were reduced when wolf removal occurred. This study did not address depredation rates as a whole – for example, depredations by other predators – but only addressed depredations by wolves. Therefore, it is unclear whether depredations were in fact reduced by lethal control measures on wolves. Wildlife Services needs to address this issue

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[16] Such a phenomenon was documented in an expose in *High Country News*, in which a ranch hand was quoted boasting about bringing a cow about to give birth to the vicinity of a wolf den and branding her there to create an olfactory lure through the blood attendant to branding. When the wolf and her newborn calf were killed that night by wolves, Wildlife Services then killed a wolf (J. Dougherty. 2007. "Last Chance for the Lobo." *High Country News*, 12/24/2007).

[17] Musiani, Marco, Tyler Muhly, C. Cormack Gates, Carolyn Callaghan, Martin E. Smith, and Elisabetta Tosoni, "Seasonality and reoccurrence of depredation and wolf control in western North America," *Wildlife Society Bulletin*, 33(3): 876-887 (2003); *See also for coyotes* Conner et al. (1998).

[18] Prough et al. 2009.

[19] EA at 49.

[20] *Id.*

directly, and explain why lethal control in Washington will meet the purpose and need of reducing overall depredation rates.

Hence, even the scant support provided by Wildlife Services in the EA does not actually support the contention that killing wolves reduces or prevents wolf depredation. In essence, the study it relies on simply demonstrates that killing wolves to address wolf depredation does not solve the problem, but, rather, perpetuates lethal control. Wildlife Services must therefore prepare an environmental impact statement (EIS), because one of the "significance factors" is whether the proposed action "establish[es] a precedent for future actions with significant effects."[21]

Lethal wolf removal has been occurring for years, and Wildlife Services needs to conduct an analysis on the impacts this removal has had on depredation rates. The lack of science in this context becomes more relevant in light of recent public criticism of Wildlife Services' predator control programs by professional societies including the American Society of Mammologists and The Wildlife Society. Where information is incomplete or unavailable, NEPA regulations require that Wildlife Services explicitly state that such information is lacking in the body of the NEPA analysis.

7. The Cumulative Impacts Analysis Fails to Address Activities in Oregon, Idaho, Montana, and British Columbia.

It is true that agencies generally have the discretion to determine the geographic scope of their NEPA analysis, and here, Wildlife Services has limited the scope of its analysis to the state of Washington, with an emphasis on the eastern third of the state within the Northern Rocky Mountain Distinct Population Segment boundary.[22] Although the scope of this analysis is subject to some discretion, Wildlife Services cannot limit all analysis of impacts to those within the specific project area at issue, particularly when considering cumulative impacts.[23]

The first primary issue driving analysis within this EA is the impacts to wolf populations. Although the project area scope is limited to Washington, the cumulative effects analysis must include, at the very least, an analysis and evaluation of Wildlife Services' involvement in Idaho and Oregon, and should also discuss Wildlife Services' wolf control activities in Montana, as well as lethal control of wolves in British Columbia. Wildlife Services has taken comment on and will presumably reach a decision soon on a very similar EA in Oregon that is not even mentioned in the Washington EA. This EA needs to take into consideration Wildlife Services' actions in neighboring states, and the effects these actions have not only on Washington's wolf

[21] 40 C.F.R. § 1508.27(b)(6).

[22] EA at 2.

[23] *Lands Council v. Powell*, 379 F.3d 738 (9th Cir. 2004).

population, given that these states are source populations for Washington, and on social perspectives surrounding wolves as well. This cumulative impacts analysis should not only analyze the effects of these lethal wolf control activities on Washington's wolf population, but the effect of wolf control in Washington on wolf populations in other states, and the cumulative impacts of lethal wolf control on ecosystem health across the range of the gray wolf, including the result of decreased wolf populations on other species. This should include an extensive discussion of the trophic cascade effect (which is not mentioned once in the EA), and what effect reduced wolf populations would have on other species and the health of ecosystems across the range of the gray wolf.

8. Wildlife Services Failed to Take a Hard Look at the Impacts to Non-target Animals

In its analysis of non-target animals, Wildlife Services concedes that its methods, especially trapping, could result in the trapping and/or killing of other predator/carnivore species.[24] However, again it fails to cite any data concerning non-target animal kill or capture rates. Wildlife Services keeps records of such data and documents extensive non-target animal mortality, yet fails to cite any of it, merely dismissing the potential of effects to non-target animals because of Wildlife Services' self-professed skill.

A recent publication by the American Society of Mammalogists discusses the often very significant and disturbing data around non-target mortality, especially concerning the loss of threatened and endangered species.[25] Wildlife Services concedes that there are federally- and state-listed species that could be affected by trapping operations designed to kill wolves in the state. Not only does this trigger a need to consult with FWS, but also requires analysis, such as generating percentages on the likelihood of incidental take based on data from non-target mortality.

The EA does not even mention the wolverine, for example, a species currently proposed for listing under the ESA and present in Washington. A wolverine was recently caught in a foothold trap in the Eagle Cap Wilderness, an area of known wolf activity in the Pacific

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[24] EA at 30.

[25] A third of badgers killed every year are kill unintentionally; 95% of kit foxes were killed unintentionally; 85% of river otters killed by Wildlife Services were killed unintentionally; and 13 species of carnivores and several species of non-carnivore mammals killed by Wildlife Services are state-listed (as endangered, threatened, rare, or special concern) in one or more U.S. states; and 10 species of mammalian carnivores killed by Wildlife Services are on the federal list of endangered and threatened species. This information can be found at: http://www.mammalsociety.org/uploads/committee_files/ASM-Federal%20wildlife%20control%20letter_0.pdf

Northwest, and the Oregon Department of Fish and Wildlife released a warning to trappers to be mindful of this fact: http://www.dfw.state.or.us/news/2012/February/020312b.asp. Additionally, Canada lynx have been accidentally trapped in Idaho, Montana, and other states. According to the 3rd Edition of the interagency Canada Lynx Conservation Assessment and Strategy (August 2013), Canada Lynx are regularly captured in traps set for other animals, frequently resulting in the death of the lynx. For example, since 2000, 59 lynx are known to have been captured in traps set for other animals resulting in at least six mortalities in the Northeastern United States; since 2001, 23 lynx are known to have been captured in traps set for other animals resulting in at least 13 mortalities in Minnesota; and since 2000, ten lynx are known to have been captured in traps set for other animals resulting in at least four mortalities. The most recent LCAS also notes that lynx capture and mortality in traps set for other animals is likely much higher than reported. The cursory dismissal of effects to non-target animals does not constitute the hard look required under NEPA.

Wildlife Services must disclose in the body of the NEPA analysis the specific effects that its proposed activities in Washington will have not only on wolves, but non-target animals such as Canada lynx, wolverine, fisher, grizzly bear, domestic animals, cougars, and other animals, specifically those that have been accidentally trapped by Wildlife Services and recreational trappers in nearby states. It is not enough to merely state that Wildlife Services has "initiated" consultation with FWS.

The NEPA analysis needs to take a hard look at the impacts of Wildlife Services' proposed action on the above listed species. This analysis should not only include the direct effects of Wildlife Services' activities on those species (whether intentional or unintentional), but also should analyze and discuss the indirect effects of Wildlife Services' proposed activities on those species. The analysis should also explicitly disclose what species of non-target animals have been accidentally trapped by Wildlife Services in the past, as well as their frequency. The draft EA, as written, is both morally and legally deficient.

9. Wildlife Services Must Consult with US Fish and Wildlife Service

The Endangered Species Act requires federal agencies to consult with FWS if there is "reason to believe that an endangered species or a threatened species may be present in the area affected by his project and that implementation of such action will likely affect such species." 16 U.S.C. § 1536(a)(3).

In this instance, the EA concedes that there is potential for Wildlife Services' activities to affect listed species including wolves, grizzlies, and the Canada lynx. Wildlife Services is purportedly going through the consultation process.[26] However, the EA fails to discuss or even

[26] EA at 56.

mention the potential effects to the wolverine, a species that is currently proposed for listing with a final rule expected this fall. Wildlife Services will have to re-initiate consultation upon the listing of the wolverine. All of this information should have occurred in advance of preparation of the EA and should have been used to inform the EA's analysis. These factors also dictate preparation of an EIS.

Also, Wildlife Services must consider the effect of Washington's increasing gray wolf population on lynx habitat, lynx prey, and lynx populations in Washington. Dr. William Ripple of Oregon State University has suggested that a trophic cascade effect could be present that benefits lynx when wolves are on the landscape. The effect of wolves on coyote populations, and the resulting decrease in snowshoe hare predation, is important and should be analyzed by Wildlife Services as it relates to its proposed wolf management activities in Washington.

If Wildlife Services has indeed initiated consultation with FWS, it should include a copy of any Biological Assessment prepared by Wildlife Services or Biological Opinion as an attachment to the EA so that the public, and decision-maker, can properly review its contents and comment on its validity. Any documents received from FWS should also be attached to the EA as attachments in the interest of full public disclosure and transparency.

Finally, FWS has proposed a revised critical habitat designation for the Canada lynx. The NEPA analysis fails to consider what effect this critical habitat designation might have on its proposed action in Washington. This must be disclosed and analyzed in the NEPA analysis.

10. The EA Fails to Consider the Proper Significance Factors Under NEPA

The purpose of an EA is to determine whether the project at issue will have a significant effect on the human environment. NEPA's implementing regulations set forth the significance factors that must be considered when determining whether to prepare an EIS.[27] Wildlife Services does not consider a number of these factors that are relevant here, as discussed throughout our comments. Adequate consideration of these factors counsels that Wildlife Services prepare an Environmental Impact Statement. Accordingly, the agency does not consider the highly controversial nature of its involvement or the degree to which the action establishes a dependency on control actions with significant effects.

Moreover, Wildlife Services failed to consider the highly-uncertain and unknown risks of its proposed action. The analysis also fails to consider the intensity of its proposed wolf control activities in Washington cumulatively with its proposed and approved activities in other states, as well as lethal wolf control in British Columbia. The analysis fails to discuss the fact that wolves are cultural resources to many tribes in Washington, and whether or not Wildlife Services' proposed actions would be highly controversial. Additionally, because wolves are listed under

[27] 40 C.F.R. § 1508.27

the Endangered Species Act in the western two-thirds of Washington, and wolf populations regularly cross this arbitrarily-designated boundary within the state, Wildlife Services must address the significance of its proposed activities on listed populations in the state. Furthermore, NEPA's implementing regulations require that Wildlife Services discuss the effect of its proposed activities on other threatened and endangered species, and should also discuss the effect of its proposed activities on species that are likely to be listed under the Endangered Species Act before this decision is finalized, such as the wolverine. Finally, Wildlife Services fails to consider whether its proposed activities would cause a violation of federal, state or local law. Unauthorized take of wolves in Washington is a violation of state law, unless conducted pursuant to agency rule.[28]

Wildlife Services currently does not have any rules which guide implementation of its lethal control actions, and the Washington wolf plan is also not incorporated as a rule. Wildlife Services is therefore proposing to undertake activities that are unlawful. Compounding this fact, the incidental take of a threatened or endangered species by Wildlife Services through its proposed activities would be a violation of the Endangered Species Act. Finally, Washington state law prohibits the take of any species listed under state law by the Washington Fish and Wildlife Commission as Endangered, Threatened, or Sensitive (WAC 232-12-297; WAC 232.12.014; WAC 232.12.011). Any incidental take of a species listed under WAC 232.12.014 or WAC 232.12.011 would be a violation of state law (RCW 77.15.120, 77.15.130), and the possibility of this should be analyzed in the NEPA analysis.

11. An Environmental Impact Statement is Required

An analysis of the above factors clearly counsels Wildlife Services to prepare a full EIS; a cookie-cutter EA does not suffice. The presence of any one individual significance factor can require the preparation of an EIS. Further, even if several significance factors are present, but in isolation do not raise the significance level to the point of requiring an EIS, cumulatively their significance can require the preparation of an EIS.

The discussion above clearly establishes that the proposed action will have significant affects on the human environment necessitating an Environmental Impact Statement. The lack of analysis on a number of the factors, as discussed throughout the comments, and unsupported assumptions which compromise much of this document are further testaments to the necessity that the agency prepare a full analysis of the environmental effects of this proposed action. Because so many of the NEPA significance factors are present (including degree to which the proposed action affects public health or safety; adverse affect on cultural resources; highly controversial nature of the proposal; highly uncertain or unknown risks of the proposal;

[28] RCW § 77.15.120.

cumulatively significant impacts when Wildlife Services wolf management in other states is considered; adverse effects on federally-listed species; and potential violation of Federal, State, or local law), Wildlife Services must prepare an EIS to adequately discuss, analyze, and consider their import before making a final decision on its proposal for wolf management in Washington.

The extremely-controversial nature of the proposed action and the agency involved counsels strongly in favor of the preparation of an EIS. Killing wolves, in a state where wolves are endangered (cannot be killed under state law unless pursuant to enforceable rule) and where wolf conservation is supported by a vast majority of the population, is controversial. Furthermore, Wildlife Services and its lethal predator control programs – including wolf control – have been under constant criticism for nearly three decades regarding the dubious lack efficacy of these programs, the failure of the programs to adhere to sound science, the unintended consequences of the programs, and the lack of transparency in reporting. Moreover, Wildlife Services' client-like relationship with livestock producers significantly biases how Wildlife Services approaches depredation events and how those events get communicated to the livestock owner and the public.

12. The EA's Discussion of Economics is Not Supported by Data or Analysis

In the EA's discussion of its purpose and need for action, Wildlife Services discusses the economics surrounding depredations and wolves. Wildlife Services concedes that livestock losses to wolves are "minimal" but argues that killing wolves is necessary to keep individual ranchers financially afloat.[29] To justify this proposition, Wildlife Services does not cite *any* data or scientific literature, however, but cites a declaration provided by a rancher who claimed losses of $7,400 from a wolf depredation.[30] This attempt at economic analysis is misleading and unfounded, and raises issues of a controversy surrounding the true economic benefit of wolf management in Washington. FWS has spent around $40 million on wolf recovery in the United States, and wolf watching alone has been estimated to generate $70 million annual economic benefit to the Greater Yellowstone Area.[31] Also, nowhere in the EA is the average cost of lethal removal disclosed, or how much Wildlife Services spends on wolf activities in Washington. It would be beneficial to see these numbers. If Wildlife Services wants to justify economically its killing of wolves, it must include in the EA a full and fair discussion of the numbers surrounding the issue, as opposed to citing a single, biased declaration.

13. The EA Fails to Disclose the Funding Sources for Wildlife Services' Activities

[29] EA at *v*.

[30] EA at 6.

[31] Stark 2006.

Wildlife Services is coming under increasing scrutiny for the agency's lack of transparency. NEPA requires the EA to disclose how the proposed action would be funded, yet the EA fails to provide this information. The EA must be revised to include a full and transparent discussion of the source(s) of funding for the proposed action. For example, Wildlife Services contracted with WDFW to consult with it when WDFW was trying to kill the entire Wedge Pack in northeastern Washington in 2012. There was a contract and payment of funds from WDFW to Wildlife Services. That information should be disclosed and discussed in the NEPA analysis, as well as any information on the rates Wildlife Services charges, the terms of its contracts, as well as what existing contracts exist between the State of Washington and Wildlife Services and their terms. Wildlife Services should explicitly disclose whether any current contracts exist related to gray wolves between Wildlife Services and any agency or department of the State of Washington, as well as whether any such contracts existed in the past. Additionally, Wildlife Services should explicitly disclose whether any current contracts exist for other activities related to any species between Wildlife Services and any agency or department of the State of Washington.

Given the incredible controversy currently surrounding Wildlife Services' management of American wildlife, and the uncertain and highly controversial effects of lethal control of wolves, our organizations urge the agency to develop and select an action alternative which limits the agency's involvement exclusively to non-lethal efforts to reduce conflict between livestock and wolves. Until Wildlife Services can rebuild the trust of the American public and shed its institutional bias toward livestock interests, we believe there is no place for the agency's involvement in lethal control of wolves in Washington.

Please continue to keep us apprised as the NEPA process continues and provide us with the relevant consultation documents. If you believe an in-person meeting to discuss our concerns would be helpful, please feel free to contact us and we would be more than happy to meet with you.

Sincerely,

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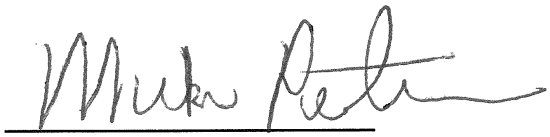

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