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Re: Petition to amend the Washington Administrative Code to codify certain portions of the Washington Wolf Conservation and Management Plan

On December 3, 2011, the Washington Fish and Wildlife Commission ("Commission") approved the state's Wolf Conservation and Management Plan ("Plan"). The Plan provides guidance to the Washington Department of Fish and Wildlife ("WDFW") on a wide array of wolf management issues, including recovery, control, compensation, and delisting. The Plan is a far-reaching document assembled over several years and incorporates the views of literally thousands of stakeholders and scientists. It is central to the state's efforts to recover wolves in Washington in a manner that minimizes conflicts, especially with commercial livestock operators often opposed to recovery.

As of December 31, 2013, there were thirteen wolf packs in Eastern Washington and the North Cascades, with 52 confirmed wolves. After rapid initial population growth in Washington due to wolf immigration from neighboring states and British Columbia, wolf population numbers now appear to be stalled. Tragically, one pack of wolves, the Wedge Pack, was destroyed by the State of Washington in 2012 in response to allegations of depredation of livestock. The actions by the state did not prevent future depredations in the area. That decision-making process and aerial hunt was fraught with controversy that still has repercussions today.

To avoid such future controversies, to bring greater certainty, accountability, and transparency to wolf management in the future, and because various statutes, rules and the Plan itself all

contemplate as much, the Commission should place a provision concerning the state's use of lethal control on wolves involved in livestock depredations into the Washington Administrative Code ("WAC"). The Washington Department of Fish and Wildlife has filed a Preproposal Statement of Inquiry concerning wolf-livestock conflict and the use of lethal control. This petition provides specific rule language consistent with the Washington Wolf Conservation and Management Plan.

The Center for Biological Diversity, Cascadia Wildands, Western Environmental Law Center, Gifford Pinchot Task Force, Kettle Range Conservation Group, The Lands Council, Wildlands Network and Washington State Chapter of the Sierra Club ("Petitioners"), hereby petition the Commission and WDFW, under RCW § 34.05.330, to amend various sections of WAC Title 232, Chapter 36 to codify the lethal control provision of the Wolf Conservation and Management Plan, as described below. Each of these groups has worked for years to restore and protect Washington wolves, and together represent tens of thousands of Washington citizens as members and supporters. This petition now initiates a process requiring a detailed response within 60 days upon receipt. RCW § 34.05.330(1). If this petition is denied at that time, the Petitioners will 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). We look forward to a timely response to this petition and remain available to answer questions and otherwise work constructively towards wolf recovery with WDFW throughout this process.

After Petitioners initially filed a similar petition with the Department, the groups were promised a negotiated process to develop such a rule with the relevant and interested parties. An attempt to use the Washington Wolf Advisory Group (WAG) for this negotiated process failed because organizations on the WAG agreed the group should not be used for negotiation purposes. Petitioners and members of the WAG have requested a separate, independently mediated process to negotiate a lethal control rule at issue in this petition. The Department has been unresponsive.

I. BACKGROUND HISTORY OF WOLVES IN WASHNGTON

A devastatingly successful campaign to extirpate wolves in the United States, beginning at least as early as the 1600's, was waged across the entire country well into the twentieth century. Though an estimated two million wolves once existed across North America, by the late nineteenth and early twentieth centuries, wolves had largely been driven to extinction in most of the Lower 48 States. Subsequent to this national policy of wolf eradication, 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, in the late 1990's-early 2000's, 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. WAC 232-12-014.

Like elsewhere across the country, wolf populations that once had historically ranged across the state of Washington were extirpated through bounties, hunting, and government-sponsored predator-eradication campaigns to benefit a livestock industry that was unwilling to coexist with wolves. Robust populations of wolves had once occupied nearly all of Washington, but extreme persecution led to the near-extirpation of wolves from the State by the early 1900's. Sightings of individual animals, pairs, and tracks, as well as reports of howl vocalizations, occasionally cropped up, generally in the Cascade Mountains and in some northeastern parts of Washington. In the absence of any evidence that Washington had a resident breeding population at the time, likely these were dispersing animals from British Columbia or other states. In 2002, a radio-collared female wolf from Montana who, along with her pups, had been relocated by federal agency staff to northern Idaho, crossed the border into northeastern Washington. She remained there for several weeks before disappearing north into British Columbia. This was the first confirmed instance of any wolves moving westward into Washington from the northern Rockies population of wolves, but it would not be the last, as lone wolf sightings in northeastern Washington continued to be reported in the ensuing years. Breeding pairs and packs gradually formed and established territories, and as of March 2014, the state wildlife agency reported at least thirteen confirmed packs in Washington, with three confirmed in the North Cascades, and ten confirmed packs in the northeastern part of the State. Washington's total wolf population is confirmed at 52 animals.

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

The gray wolf was classified as "endangered" under Washington law in 1980. WDFW regulations codified in 1990 required that WDFW prepare a recovery and management plan for the gray wolf by 1995. WAC 232-12-297 § 11.2.1. Despite this requirement, WDFW did not begin the recovery and management plan process for the gray wolf for seventeen years. Finally, in 2007, WDFW initiated development of a draft Environmental Impact Statement and simultaneously convened a stakeholders group, representing diverse interests, to assist the agency in developing the Washington Wolf Conservation and Management Plan. The 17 members of the stakeholders 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. In December of 2011, the Commission formally adopted the Plan. The Plan incorporates science as well as social and economic considerations, and represents five years of negotiated compromises arrived at by stakeholders whose views regarding wolves spanned the widest possible range. It also represents 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 WDFW). According to these surveys, more than 74% of Washingtonians support the return of wolves to the State, view wolves as an important part of Washington's natural and cultural heritage, and wish to see wolves conserved and managed in ways that reflect those values.

B. New trouble for wolves in Washington.

From 2002 onward, and while the Plan development process was underway, more wolves dispersed into Washington from Idaho and British Columbia. In 2008, the State's first two packs since the 1930's were confirmed. Setting up their territory in Pend Oreille County in the northeastern part of the State, one pair, named the Diamond Pack, was first documented in 2008 and confirmed to have pups in 2009 and 2010. Simultaneously, confirmation was made of the Lookout Pack, which had a litter in 2008 and 2009 (and probably in 2007). Then, this sentinel pack of Washington's returning wolf population became the victim of a violent crime that went viral in media stories and shocked the conscience of wildlife aficionados across the nation. Three members of a family living near Twisp surreptitiously shot and killed nearly the entire pack, violating both state and federal endangered species protection laws and destroying the pack's structure. The crime was brought to light after the pelts of the dead wolves -- which the family was attempting to secretly mail through a private shipping company to a friend in Alberta -- leaked blood through the mailing boxes, alarming a shipping company employee, who then alerted authorities. The killers were prosecuted, convicted, and ultimately sentenced to varying terms that included home detention, combined fines of $50,000 to state and federal agencies, and forfeiture of the gun used to kill the wolves. This horrific incident raised awareness of the need to have a state wolf plan that would ensure the recovery and conservation of this species against a backdrop of the not uncommon attitude that the only good wolf is a dead wolf.

In the fall of 2012, the Plan and WDFW were put to the test when a pack in northeastern Washington, the Wedge Pack, was implicated in livestock conflicts and was ultimately eradicated by marksmen in helicopters following through on an order by WDFW to kill the entire pack. The Wedge Pack, which is believed to have had eight members, was first documented in July of 2012, becoming Washington's eighth confirmed pack since 2008. The Wedge Pack's range included an area in northern Stevens County that is bordered by Canada and the Columbia and Kettle rivers, creating a wedge-shaped territory from which the name is derived. Beginning in July, and continuing into August, both WDFW and a rancher who had lost livestock attributed livestock losses in this area to the Wedge Pack, despite conflicting opinions given to WDFW by different experts as to whether the initial livestock injuries and deaths were in fact caused by wolves.

Largely ignoring the requirements of the Plan, WDFW killed one pack member in early August 2012 and, after livestock injuries and deaths continued, over a three-day period in September 2012, the agency killed the six remaining locatable members of the pack, including the alpha male and female. During the months these events took place, the owner of the livestock in question had refused to cooperate in implementing adequate nonlethal conflict-prevention measures, as required by the Plan, and in public statements to the media, made clear his disdain for wolves, government agencies, and conservation efforts.

A number of conservation groups, including Petitioners, became increasingly concerned as it became clear that the Plan's emphasis on the use of nonlethal methods to prevent and resolve wolf-livestock conflicts was being thwarted, and that the agency's decisions were not well-founded. In late August 2012, several conservation groups sent a letter expressing their concerns to WDFW Director Anderson, pointing out the requirements of the Plan that WDFW had not met prior to employing lethal control to manage wolf-livestock conflict related to the Wedge Pack. WDFW never responded to this letter.

In late August 2012, Senator Kevin Ranker, the Chair of the Washington State Senate Committee on Energy, Natural Resources and Marine Waters, sent a letter of inquiry to WDFW while the Wedge Pack scenario was unfolding, stating that "[w]hen it comes to the serious action of lethally removing state-endangered wolves, straying from the Plan's very specific intent will only heighten controversy and ultimately delay wolf recovery and delisting." Yet, regardless of the rancher's refusal to cooperate, and the conflicting expert opinions over the causes of the livestock losses, the agency elected to kill the entire pack, resulting in a firestorm of public controversy. An investigation of WDFW's handling of the matter was then called for by Senator Ranker, who termed WDFW's decision to kill the Wedge pack "a serious failure." Further, depredations in the Wedge Pack area continued through the following year, and WDFW nearly moved to lethally control wolves in the Wedge Pack area again indicating that the lethal control did not have the desired result.

Due to the tragic handling of lethal control of the Wedge Pack in late 2012, and in response to alterations of the wolf management framework made by the Commission in April 2013 and proposed alterations put forward by the Department during summer 2013 – both of which dramatically expand under what circumstances wolves can be killed -- on July 19, 2013, Petitioners filed a petition requesting the Commission initiate rule-making, to make enforceable key provisions of the Washington Wolf Conservation and Management Plan.

An ensuing meeting between petitioners and the Department resulted in withdrawal of the petition. Petitioners agreed to withdraw the petition in exchange for the Department's express promise that petitioners could present their petition and proposed rules language to the Wolf Advisory Committee (WAG), and that the WAG members would proceed with negotiations regarding petitioners' proposed rules to arrive at mutually-agreed-upon rules language. Petitioners emphasized to the Department that the primary concern was rules language pertaining to agency lethal control of wolves for repeated livestock depredations and to the required use of nonlethal methods for prevention of wolf-livestock conflict. Petitioners also reserved the right to refile the petition, if mutually agreed-upon rules language did not materialize through the WAG process. Petitioners memorialized this agreement with the Department in a letter dated August 15, 2013 (see attached).

At the September 18, 2013 meeting of the WAG in Olympia, petitioners presented their concept for making key provisions of the wolf plan enforceable. At the December 19, 2013 meeting of the WAG in Ellensburg, petitioners introduced specific proposed rules language drafted by petitioners. The Department did not, as promised, have the WAG members discuss petitioners' proposed rule language. Instead, when agricultural representatives on the WAG refused to discuss petitioner's proposed rules language, the Department facilitated discussion only of the Department's own proposed rules language.

Conservation group members of the WAG have repeatedly advised the Department, verbally and in writing, that they do not support the Department's proposed rule language for lethal control and do not support the Department's lethal control protocol guidelines document. They have submitted multiple comment letters to the Department, including a letter joined in by the conservation community at-large, dated February 6, 2014 (see attached).

The Department has attempted to use the WAG as a negotiating body, all the while advising WAG members that the WAG is advisory only. The Commission has also repeatedly stated that the WAG is advisory only. Clearly, the WAG is not an appropriate forum for negotiating petitioners' proposed rules language, as petitioners were led to believe by the Department. Petitioners are therefore now refiling our petition, narrowly tailored at this time to address rules for nonlethal means of resolving wolf-livestock conflict and for lethal control by the Department in instances of repeated livestock depredations.

The fate of Washington's wolves now rests with the State and, at least for the time being, partially with the federal government. In 2011, federal protections for wolves in the eastern third of Washington were removed. 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 reestablishment of wolves in Washington is still in its earliest stages and the population exists at numbers of magnitude far lower than historical wolf numbers in the State. While current human population density, development, and road density would not permit the state wolf population to again exist at historic numbers or to occupy all places wolves once lived, at this time, the species needs ongoing, adequate protections and certainty in management actions to recover and to conserve a sustainable wolf population here.

II. WOLF ECOLOGY, STATUS, AND IMPORTANT ECOLOGICAL ROLE

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 biodiversity in those environments.

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 who 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)[1]. 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 in wild ungulates (Wild et al. 2005). By no means the efficient "killing machines" that folk tales make them out to be, in the majority of their hunts, wolves are, in fact, unsuccessful. 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.

[1] Scientific literature citations from this section can be found at the end of this petition.

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 and Beschta 2004; Hebblewhite et al. 2005). Wolves also put food on the ground for other species. Wolf-killed elk carcasses in Yellowstone National Park have been observed to be visited by multiple scavenger species ranging from coyotes, bears, and eagles, to magpies, ravens, and even hundreds of species of beetles (Smith et al. 2003, Wilmers et al. 2003).

The effect of wolf presence on other, smaller predators also has ripple effects. Wolves view coyotes as territorial competitors and frequently kill coyotes within their range. Upon the wolf's restoration to Yellowstone, wolves killed 50% of the coyotes in the northern Range of the Park and up to 90% of the coyotes in core, wolf-occupied areas (Crabtree and Sheldon 1999, Smith, et al. 2003). This decrease in the coyote population resulted in higher survival rates for the fawns of pronghorn antelope, which had previously suffered high mortality due to coyote predation (Smith et al. 2003). The reduced coyote population could lead to increases in the populations of other, mid-size carnivores, like fox, which compete more closely with coyotes.

These ecological effects of wolves are the result of vital relationships and processes 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. (Ripple et al. 2014; Estes et al. 2011).

In the Lower 48 States, though recovery efforts for the gray wolf have been made by the federal government in a small handful of locations, today the species exists at only one percent of its historical numbers, living in only five percent of its historical range. While changes on the landscape have occurred over time, there are still regions in the U.S. that have good habit for wolves and Washington is one of those places.

Washington's ecosystems deserve to benefit from a recovered wolf population, at ecologically effective population numbers and distribution. The fact that wolves are returning to Washington results in an opportunity for the State to ensure they are recovered and conserved, as intended by the Plan.

III. WOLF–LIVESTOCK CONFLICTS AND THE CRITICAL ROLE OF NON-LETHAL MANGEMENT TOOLS

While wolves rarely prey on livestock, wolf-livestock conflicts do occur and, at times, result in losses to livestock producers. The Plan considered this issue seriously and thoughtfully and a substantial amount of the Plan addresses concerns expressed by livestock-producer stakeholders. It does so by explicitly providing information about wolf depredations on livestock, the

background of management measures available for reducing wolf depredations, background on wolf compensation programs in other states, an analysis of predicted livestock losses in Washington due to wolves, a description of management tools to be used for managing wolf-livestock conflicts in Washington, steps to expand the use of proactive/nonlethal measures for reducing conflicts in Washington, and a recommended compensation program for wolf-caused losses in Washington. Plan at 72.

The Plan also acknowledges that the primary cause for the rapid decline of wolf populations in Washington during the last half of the nineteenth century "was the killing of wolves by European-American settlers as ranching and farming activities expanded" and that "[h]uman caused mortality, particularly illegal killing and legal control actions to resolve conflicts, is the largest source of mortality for the species in the northwestern United States and illegal killing has already been documented in Washington." Plan at 8. In its discussion of the efficacy of killing wolves to resolve wolf-livestock 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. Finally, the Plan acknowledges that "managers should assess the potential negative impacts of wolf removal on pack structure and persistence and the potential for creating unstable pack dynamics if sink habitats are created by depredation control, especially in recovering populations (Gehering et al. 2003)." Plan at 81.

During the nearly 20 years that have elapsed since wolves were reintroduced to the northern Rockies, because of the on-the-ground efforts of non-governmental organizations ("NGOs"), ranchers and agencies working collaboratively, there has been a substantial increase in awareness regarding the availability and effectiveness of non-lethal, wolf-livestock conflict-prevention and conflict-reduction strategies and tools. Though predator conflict-management practices of the past routinely resorted to simply killing predators – which, in the case of wolves, resulted in their near-extinction in this country – evolving understanding, views, values, and scientific evidence point to solutions that are instead proactive and nonlethal. The Plan acknowledges these modern understandings and is emphatic that nonlethal methods will be the first choice for conflict prevention and resolution: "Non-lethal management techniques will be emphasized throughout the recovery period and beyond." Plan at 85.

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

> - Human presence is one of the most effective measures. This means having range riders out with the livestock herds, on the open range, on a consistent basis, rather than simply turning cattle or sheep loose for a grazing season and then returning weeks or months later to check on these animals. Human presence provides the opportunity to be watchful for predators and haze them away. It allows ranchers to know immediately whether any of the herd is sick or injured and thus more vulnerable to attack by wolves or other

predators, and whether those animals should therefore be removed preventatively to safety and for veterinary treatment. And it enables livestock to be kept bunched up by the range riders, reducing the vulnerability of individual animals.

- Removing attractants, such as carcasses or bone piles of dead livestock or injured or sick livestock that draw in predators and scavengers, is a common-sense solution. Removing, burning, or deeply burying bone piles gets rid of an attractant that could otherwise draw predators in to closer proximity of live cattle and sheep. In Oregon, when agency staff detected that radio-collared wolves were frequenting certain locations and the agency showed the locations on a map to local ranchers, the ranchers said those spots were all places that bone piles had been accumulating. The agency worked with ranchers to get those attractants removed or buried, and the wolves stopped visiting those locations.

- Using guard dogs in the herds to alert herders, range riders and the livestock operators to the presence of wolves provides an early warning system. In response to the dogs' barking, humans can step in and take measures to haze wolves away. A number of dog breeds from European countries have been used in the U.S. for this purpose, including Great White Pyrenees, Maremmas from Italy, and the Akbash which originates from western Turkey. Other dog breeds are being tested for their effectiveness, as well.

- During lambing and calving season, fencing with night pens provides a protective barrier. Fencing can also be fortified with a scare device that consists of simple strips of flagging hung at intervals along the fenceline. An import from its use in Poland, "fladry," as it is called, provides a psychological barrier that wolves are loathe to cross, and can be effective for a month or more at a time. If the fence on which the fladry has been fastened is an electric fence, this so-called "turbo-fladry" provides an extra layer of protection; as wolves gradually get used to the flagging and attempt to go through the fence, they will get zapped with enough electricity to frighten them off.

- Another scare device is effective with wolves that are wearing radio-collars and is called the radio-activated guard box, or "RAG-box." This is a small box which can be attached to a fence-line, and inside the box is an electronic detection system that is triggered by the radio-frequency of an approaching radio-collared wolf. The detection system can be set to trigger when a wolf comes within a certain distance. When the system goes off, its attached sound-system speakers ring out with the pre-recorded sounds of explosives, helicopters, canons, alarms and other frightening noises. The loud sounds scare wolves away. The detection equipment also serves as a data collector because it records which radio-collared wolf set it off, what time the wolf arrived, and whether that same wolf made any other attempts to return.

- Other effective strategies involve specific animal husbandry practices and deliberate breed choices. In some locations, ranchers have aimed at creating a "birth pulse," that is, coordinating their breeding and birthing periods so that there is only one pulse of time in which there are young, more vulnerable animals on the landscape instead of having a constantly ongoing birthing period over several months or year-round. Some livestock

operators are experimenting with different breeds of cattle that are larger and/or more aggressive in protecting themselves and their calves.

- Having alternate grazing allotment options has proven extremely effective. In the southwestern U.S., where attempts to recover Mexican gray wolves are under way, federal agencies have helped identify alternative grazing allotments, if the allotment normally used by a livestock producer happens to be where a wolf pack decided to den that season. There, and in the northern Rockies, agencies, NGOs, and ranchers have also worked together to keep cattle in certain locations longer, provide them with supplemental hay, and wait to move them onto an allotment until after denning wolf pups have gotten old enough that their parents have relocated them to a rendezvous site elsewhere.

- In addition to the methods and strategies described here, new innovations are being developed and tested on an ongoing basis in collaborative efforts and at individual livestock operations in different states. 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, though some general principles of effectiveness of one type over another are also being identified. For instance, vast open range versus smaller acreage, or whether the livestock in question are cattle versus sheep can affect utility.

In Washington, all of these nonlethal strategies and tools can and should be used before, if ever, resorting to killing wolves to prevent or to resolve conflicts. Modern-day research supports this conclusion. The majority of the public expects state agencies to keep up with evolving science and understanding about animal behavior and the ecologically-valuable role of apex predators like wolves, as well as values that emphasize stewardship of other species with which we share the planet. Just as importantly, the Plan that was carefully crafted over a five-year process with substantial public involvement supports this approach.

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

While the development of the Wolf Conservation and Management Plan represents a significant advancement for wolf management in the state, a further, logical step is needed. As the Washington Department of Fish and Wildlife has now recognized, a rule is needed in order for the state to lethally control wolves. *See* RCW § 77.15.120.

V. PROPOSED RULE LANGUAGE

This petition seeks to codify the lethal control section of the Washington Wolf Conservation and Management Plan with enough specificity to prevent future conflict and disagreement over state action in response to depredations.

New Section

WAC 232-36-041 Preventing wolf-livestock conflicts.

The Department is the primary source for livestock operators seeking to determine legal and effective remedies for addressing wolf interactions. Protection of property using nonlethal techniques is the primary response encouraged by the Department. Harassment and lethal removal may also be techniques available to protect property. The following criteria describe the actions available to protect property from damage by wolves:

(1) The Department may make agreements with livestock operators to prevent property damage. These agreements may include the use of:

(a) Best management practices to reduce risk of property damage; (b) Scaring or hazing materials; (c) Fencing materials; (d) Volunteers or contractors referred by the Department or Department staff for hazing, fence repair, etc.

(2) Livestock operators must properly employ appropriate nonlethal conflict prevention techniques for a meaningful period of time prior to requesting compensation from the department or before a depredation counts for purposes of WAC **232-36-053**.

(a) The use of those nonlethal techniques must be documented by the Department and must be consistent with procedures and requirements established by the Department such as a livestock/wolf mitigation measures checklist; wolf location agreements; and protocols for lethal removals.

(b) The nonlethal techniques required prior to lethal removal include:

(i) Sanitation and management of livestock carcasses so they are unavailable to wolves and removal of any other unnatural attractants;
(ii) Keep non-ambulatory, sick, and injured livestock safe and unavailable to wolves;
(iii) Protect lambing and calving areas from wolves;
(iv) Protect young lambs and calves on pastures and allotments;
(v) Haze wolves away from livestock when encountered; and
(vi) All other actions required in writing by the Department.

(c) Livestock operators must comply with notification, investigation, and reporting requirements of the department.

(3) The Department will establish written procedures for assisting livestock operators consistent with this rule. The procedures will include training, conditions, agreement requirements, permits, and incentives to help prevent wolf interactions.

New Section

WAC 232-36-053 Lethal control of wolves to resolve repeated livestock depredations.

Managing wolf-livestock conflicts is essential to wolf recovery. Managing conflicts means giving livestock owners the tools to minimize losses while, at the same time, not harming the recovery of wolves. Lethal control of wolves may be necessary to resolve repeated wolf depredations of livestock and is performed to remove wolves involved in repeated confirmed depredations only. This tool may be used to stop repeated depredations if it is documented by the Department that livestock have clearly been killed by wolves, appropriate non-lethal methods have been properly employed for a meaningful period of time but were unable to prevent or to resolve the conflict, the Department has found that depredations are likely to continue, and there is no evidence of intentional feeding or unnatural attraction of wolves.

(1) Lethal Action by the Department will be considered only when all of the following criteria have been met:

(a) Wolves have been documented by trained and authorized Department staff to have been responsible for four separate incidents of confirmed depredations of lawfully present livestock on four separate days within a four-month period;

(b) Each of the confirmed depredation incidents resulted in livestock mortality;

(c) Each of the confirmed depredation incidents has been documented and classified by the Department as involving livestock that have been clearly killed by wolves;

(d) For each incident, appropriate non-lethal measures consistent with this chapter have been properly employed for a meaningful period of time, documented by the Department, and that continued use of non-lethal means has been found by the Department to be unable to stop depredations;

(e) The Department has made a written finding that depredations are likely to continue; and

(f) The Department has documented that there is no evidence that wolves have been intentionally fed or were unnaturally attracted to the area.

(2) The Department will establish written procedures or protocols for conducting lethal removal actions consistent with this chapter (e.g. protocols for lethal removal of wolves). The procedures must be documented in writing prior to use of lethal control of wolves and be available to the public.

(3) Any lethal action taken pursuant to this section shall be accompanied by a written order that evidences the agency's compliance with these rule provisions. The department shall make this order and all documentation pursuant to this section publicly available before any lethal action is taken. Written lethal control orders expire after the wolf or wolves identified in the order have been killed or after 45 days.

VIII. CONCLUSION

While the Washington Wolf Conservation and Management Plan lays out an important framework for accomplishing wolf recovery in Washington, a lethal control rule is needed. This petition now initiates a process requiring a detailed response within 60 days upon receipt. § 34.05.330(1). If this petition is denied at that time, the Petitioners will exercise their right to a review of this petition by the Governor for a final executive determination on the appropriateness of this request. § 34.05.330(3). We look forward to a timely response to this petition and thank you for your efforts to promote the critically important goal of restoring wolves to the State of Washington.

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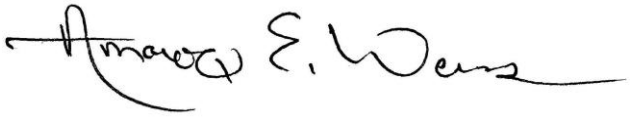

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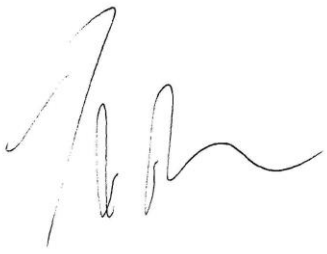

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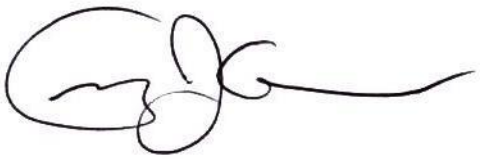

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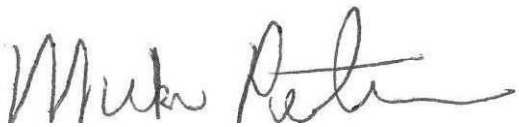

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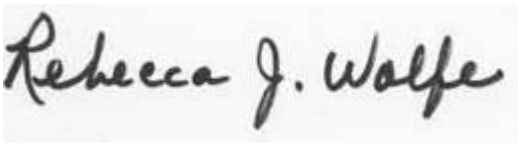

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