

SETTLEMENT AGREEMENT

This agreement sets forth the terms of a settlement entered into on the 23rd day of May, 2013, between Cascadia Wildlands and Oregon Wild, the Oregon Cattlemen's Association ("OCA"), and the Oregon Department of Fish and Wildlife ("ODFW").

RECITALS

1. In 2005, ODFW adopted OAR 635-110-0010, relating to harassment and take of gray wolves during Phase I (Conservation) of the Oregon Wolf Conservation and Management Plan. That rule was subsequently amended in 2010.
2. Wolves are an endangered species under Oregon law. The stated goal of the Wolf Conservation and Management Plan is to "ensure the conservation of gray wolves as required by Oregon law while protecting the social and economic interests of all Oregonians."
3. Prior to September 23, 2011, a wolf or wolves from the pack known to ODFW as the Imnaha pack engaged in acts of depredation resulting in the loss of domestic livestock; on September 23, 2011, ODFW announced its intention to kill two members of the pack under the provisions of the rule referred to in paragraph 1.
4. On October 5, 2011, Cascadia Wildlands, Oregon Wild, and the Center for Biological Diversity (collectively, "the petitioners") filed a rule challenge under ORS 183.400, alleging that the lethal take provisions of OAR 635-110-0010, specifically sections (6) to (8) of that rule, were beyond the statutory authority of ODFW and the Oregon Fish and Wildlife Commission. ODFW and the Commission were named respondents in that action. The Court of Appeals assigned Case No. CA A149672, and that case is now pending.
5. Contemporaneously with the filing of the rule challenge, the petitioners filed a motion to stay enforcement and implementation of OAR 635-110-0010(6)–(8). The Court of Appeals, through Appellate Commissioner James W. Nass, granted a temporary stay.
6. On October 26, 2011, the Oregon Cattlemen's Association filed a motion to intervene and a motion to reconsider the order granting emergency stay. The motion to intervene was granted on October 31, 2011.

7. On November 15, 2011, the Court of Appeals, through Commissioner Nass, issued an Order Staying Enforcement of the Rule Pending Judicial Review. That order provided:

Petitioner's motion to stay enforcement or implementation of OAR 635-110-0010(6)–(8) is granted, conditioned on petitioners providing security in the amount of \$5000.

8. Petitioners provided the required security, and the stay imposed by the court remains in effect.

9. The Court of Appeals expedited the briefing schedule in the case. Beginning in January, 2012, the parties began to meet in an effort to reach an agreement on the issues in dispute between them. Early in 2013, the Center for Biological Diversity notified the remaining parties that it no longer desired to participate in those negotiations. The Center for Biological Diversity is not a party to this agreement. The Fish and Wildlife Commission did not participate in settlement discussions and is not a party to this agreement.

10. During the pendency of the litigation, while the stay of enforcement of OAR 635-110-0010(6)–(8) has been in effect, wolves from the Imnaha Pack have been responsible for depredations on livestock, including on January 28, 2013, April 22, 2013, and May 15, 2013.

11. The 2013 Legislative Assembly is presently in session, and members of the assembly have expressed a willingness to assist the settling parties with legislation to implement the terms of this agreement. Presently pending is HB 3452, relating to wolves, which provides a platform for legislation to effectuate the agreement of the settling parties.

12. The parties acknowledge the substantial assistance of Brett Brownscombe of the Governor's Office and of Judge Pamela Abernethy of the Appellate Court Settlement Program in reaching this agreement.

NOW, THEREFORE, Cascadia Wildlands, Oregon Wild, the Oregon Department of Fish and Wildlife, and the Oregon Cattlemen's Association agree as follows:

AGREEMENT

1. The parties agree that OAR 635-010-0010 shall be amended as set forth in Attachment A to this agreement. Immediately following execution of this agreement by all parties, ODFW will adopt the amended rule as set forth in Attachment A as a temporary rule and shall begin the process for permanent rulemaking by the Oregon Fish and Wildlife Commission. The settling parties acknowledge that the permanent rule must be adopted by the Commission, and, except as authorized pursuant to the temporary rule attached as Attachment C, that ODFW will not use lethal force on a wolf or wolves in response to chronic depredation unless the Commission adopts the agreed-upon rule attached as Attachment A. ODFW will present the rule agreed to by the parties, Attachment A, to the Commission for adoption at its July 13, 2013, meeting. The settling parties agree to support the rule when it comes before the Commission.
2. HB 3452 shall be amended substantially as set forth in Attachment B. The parties acknowledge that the drafting of that legislation is the responsibility of Legislative Counsel, and that the language of that bill may be revised according to the drafting conventions used by Legislative Counsel. The settling parties agree to support this legislation. The parties intend and expect that HB 3452 will be passed by both houses of the Legislative Assembly before *sine die* 2013, which is expected to occur not later than July 13, 2013. When HB 3452 is forwarded to the Governor for signature, the Governor will hold that legislation on his desk until the Commission adopts the rule attached as Attachment A.
3. Immediately following the execution of this agreement by all parties, ODFW will adopt a temporary rule as set forth in Attachment C to this agreement. No permanent rulemaking will be commenced on that temporary rule. The parties agree that there have been three confirmed depredations by the Innaha Pack between January 28, 2013 and May 15, 2013, as set forth in paragraph 10 of the Recitals above. The parties agree that ODFW is authorized to exercise lethal take of the wolf or wolves responsible for these depredations if done so according to the temporary rule attached as Attachment C until November 15, 2013.
4. The attorney fee claims asserted by Cascadia Wildlands and Oregon Wild have been resolved.
5. As soon as practicable after the execution of this agreement by all parties, Cascadia Wildlands, Oregon Wild, ODFW and OCA will ask the Court of Appeals to abate this matter to and including August 31, 2013, in order to allow the

permanent rule and legislation referred to in this agreement to be adopted and take effect. It is the intent of the parties that no Court of Appeals opinion issue in Court of Appeals Case No. CA A149672.

6. The parties intend that the combined effect of the adoption of the permanent rule as set forth in Attachment A and the legislation set forth in Attachment B will be to moot the pending litigation, Court of Appeals Case No. CA A149672. Immediately after the Governor signs HB 3452 into law, ODFW will move to dismiss Case No. A149672. Cascadia Wildlands, Oregon Wild, and the OCA agree not to oppose that motion.

7. Until the litigation is dismissed as moot, Petitioners Cascadia and Oregon Wild agree that the \$5000 in security posted following issuance of the Order Staying Enforcement of Rule Pending Judicial Review Conditioned on Providing Security, will be used to compensate livestock producers for their losses upon meeting the following criteria:

- a) Payment is for the fair market value (as set by the county compensation committee);
- b) Payment is for livestock that are killed or injured by a wolf/wolves, as confirmed by ODFW;
- c) Judicial review is pending (judicial review should be considered to be in progress while the case is stayed);
- d) ODFW would have issued a lethal take order under OAR 635-110-0010(6)-(8) (the form of the rule at issue in the petition for judicial review) for the wolf/wolves involved in the depredation; and
- e) The livestock producer/claimant has not received and is not eligible to receive compensation from any other source.

8. The agreements, understandings, undertakings, and obligations made in this agreement are not independent. Should the legislature fail to pass HB 3452 substantially in the form agreed by the parties; or should the Fish and Wildlife Commission fail to adopt the rule set forth in Attachment A in the form agreed; or should the Governor omit to sign HB 3452 into law; or should the temporary rule attached as Attachment C be enjoined or invalidated; or should Cascadia Wildlands or Oregon Wild oppose dismissal of Case No. A149672 pursuant to the terms of

this agreement; or should ODFW fail to pay attorney fees as agreed, this agreement is null and void.

9. This agreement may be executed in two or more counterparts, each of which will be deemed to be an original, and all of which together will be deemed one and the same instrument, notwithstanding that all parties are not signatories to the same counterpart.

10. This agreement, together with the exhibits attached hereto, constitute the entire agreement of the parties and merges all prior and contemporaneous agreements, covenants, representations, and warranties, expressed or implied, oral or written, concerning the subject matter of this agreement.

11. Each of the parties and their counsel have reviewed, revised, and negotiated or had the opportunity to negotiate the terms, conditions, and language of this agreement. The rule of construction that ambiguities are to be resolved against the drafting party will not be applied in interpreting this agreement.

12. No amendment of this agreement is valid unless it is in writing, signed by all parties.

Nick Cady
Cascadia Wildlands

Date: _____

Daniel Kruse
Oregon Wild

Date: _____

Curtis Martin, President
Oregon Cattlemen's Association

Date: _____

Curt Melcher
Oregon Dept. of Fish & Wildlife

Date: _____

DEPARTMENT OF FISH AND WILDLIFE

DIVISION 110

OREGON WOLF CONSERVATION AND MANAGEMENT PLAN

635-110-0000

Wolf Conservation and Management Plan

635-110-0010

Harassment and Take of Wolves during Phase I (Conservation)

(6) **Lethal take to address chronic livestock depredation.** ODFW may authorize its personnel or authorized agents to use lethal force on a wolf or wolves it reasonably believes are responsible for chronic depredation upon livestock where each of the conditions in subsections (7) through (10) of this rule is satisfied. ODFW shall limit lethal force to the wolf or wolves it deems necessary to address the chronic depredation situation

(7) **Conditions for Lethal Take by ODFW.** ODFW's discretionary authority for use of lethal force pursuant to this rule may be exercised if ODFW:

(a) Designates an Area of Known Wolf Activity, the boundary of which may be adjusted as new data or information become available;

(b) Upon the designation of an Area of Known Wolf Activity, coordinates in a timely manner with potentially affected livestock producers and other relevant interests to provide information on:

(A) The provisions of the Oregon Wolf Conservation & Management Plan and associated rules,

(B) The current state of knowledge of wolf behavior, management, and conservation,

(C) Procedures for documenting and reporting wolf activity to ODFW, including depredations upon livestock, and

(D) Non-lethal measures, incentives and available assistance aimed at minimizing conflicts between wolves and livestock or domestic animals in the area of known wolf activity;

(c) Confirms an incident of depredation of livestock by a wolf or wolves;

(d) Within 14 working days of ODFW's confirmation of the first incident of depredation in an area:

(A) Designates an Area of Depredating Wolves, the boundary of which may be adjusted as new data or information become available;

(B) Concurrent with the designation of an Area of Depredating Wolves, prepares and publicly discloses an area-specific wolf-livestock conflict deterrence plan in coordination with potentially affected landowners, livestock producers and other relevant interests. The Plan shall identify appropriate non-lethal measures according to which measures are likely to be most effective in a given circumstance, including the nature of the livestock operations, habitat, and landscape conditions specific to the area, as well as particular times of the year or period of livestock production. The Plan shall be based on information compiled by ODFW before and/or during the planning effort on potentially successful conflict deterrence techniques, scientific research, and available financial resources and/or partnerships that may aid in the successful implementation of the plan. ODFW may update an area-specific conflict deterrence plan as new data become available.

(e) Confirms a total of at least 4 qualifying incidents of depredation of livestock within the previous 6 months by the same wolf or wolves.

(f) Issues and makes publicly available, prior to the exercise of lethal force, a written determination by the ODFW Director or director's designee to use lethal force to address a specified situation of chronic depredation, along with supporting findings that:

(A) The conditions of Sections 7, 8, and 9 of this rule have been satisfied;

(B) Livestock producers in the Area of Depredating Wolves have worked to reduce wolf-livestock conflict and are in compliance with wolf protection laws and the conditions of any harassment or take permits.

(C) The situation of wolf depredation upon livestock in the Area of Depredating Wolves is likely to remain chronic despite the use of additional non-lethal conflict deterrence measures; and

(D) The wolf or wolves identified for removal are those ODFW believes to be associated with the qualifying depredations, the removal of which ODFW believes will decrease the risk of chronic depredation in the Area of Depredating Wolves.

(8) Qualifying Contingencies and Counting Incidents:

(a) An incident of depredation is a single event resulting in the injury or death of one or more lawfully present livestock that is reported to ODFW for investigation, and upon investigation by ODFW or its agent(s), ODFW confirms to have been caused by a wolf or group of wolves.

(b) A qualifying incident of depredation is a confirmed incident of depredation for the purposes of this rule if:

(A) The depredation is outside of an Area of Known Wolf Activity or Area of Depredating Wolves. Only the first confirmed depredation by a wolf or wolves may

count as a qualifying depredation,

(B) In an Area of Known Wolf Activity, the landowner or lawful occupant of the land where the depredation occurred had:

(i) At least seven days prior to the incident of depredation, removed, treated or disposed of all intentionally placed or known and reasonably accessible unnatural attractants of potential wolf-livestock conflict, such as bone or carcass piles or disposal sites, and

(ii) Prior to and on the day of the incident of depredation, been using at least one measure ODFW deems most appropriate from non-lethal deterrence measures identified pursuant to section (7)(b)(D) to protect calving operations, nursing cattle, sheep operations, or other reasonably protectable situations, not including open range situations. Once a confirmed depredation has occurred in an Area of Known Wolf Activity and while ODFW is in the process of designating an Area of Depredating Wolves and creating an area-specific conflict deterrence plan, only one additional confirmed depredation in an area may count as a qualifying depredation under this subsection.

(C) In an Area of Depredating Wolves, the landowner or lawful occupant of the land where the depredation occurred had:

(i) Complied with subsection (B) of this section, and

(ii) Prior to and on the day of the incident of depredation was implementing at least one non-lethal measure identified in the area-specific conflict deterrence plan developed under subsection (7)(d)(C) that is specific to the location, type of livestock operation, time of the year, and/or period of livestock production associated with the depredation. The conflict deterrence plan measure implemented by a landowner or lawful occupant must address wolf-livestock conflict in open range situations when that situation exists.

(c) Human presence, when used as a non-lethal measure under this rule, is presence which could reasonably be expected to deter wolf-livestock conflict under the circumstances and, regardless of the temporal requirements of sections 7(b)(B) and (C) of this rule, may be considered an appropriate non-lethal measure if it:

(A) Occurs at a proximate time prior to and in an area proximate to a confirmed depredation as determined by ODFW, and

(B) Indicates a timely response to wolf location information in situations of potential wolf-livestock conflict.

(9) Transparency and Public Disclosure.

(a) Except as provided in section (c) below, prior to using lethal force to address chronic wolf depredation, and in a timely fashion, ODFW shall document and make publicly available on at least its website:

(A) The determinations and supporting findings referenced in section (7)(f) of this rule;

(B) Information including but not limited to summaries of confirmed incidents of depredation and associated depredation investigation reports, maps of areas of known wolf activity and areas of depredating wolves, including changes and amendments to those maps, and area specific conflict deterrence plans; and

(C) Documentation of measures implemented pursuant to Section 8 of this rule. In documenting the removal of unnatural attractants and implementation of conflict deterrence measures, ODFW may rely upon documented personal observation and/or written statements by the owner or lawful occupant of the land where qualifying incidents of depredation have occurred that confirm the non-lethal deterrence measures being utilized prior to and at the time of the qualifying depredation.

(b) In any signed statements and other information publicly disclosed pursuant to this section, ODFW shall redact from public disclosure the personal information of landowners, lawful occupants, or other relevant individuals consistent with the Oregon public records law, ORS Chapter 192.

(c) In the case where the conditions in Section 7(f) of this rule have been met but strict compliance with the public disclosure requirements of this section cannot be accomplished without a delay that impedes ODFW's ability to pursue an immediately available opportunity to remove the wolf or wolves it reasonably believes responsible for chronic depredation prior to another depredation event on livestock, this section is deemed satisfied if, prior to the use of lethal force, ODFW:

(A) Provides email or phone notification from the ODFW Director or designee to a list of interested stakeholders communicating the findings in Section 7(f) of this rule and ODFW's intent to pursue immediate lethal action based on those findings,

(B) Has previously documented and disclosed, on at least ODFW's website, the information referenced in subsections (a)(A)-(C) of this section with respect to all but the most recent qualifying depredation that resulted in ODFW's determination to pursue lethal action, and

(C) Provides the remaining information referenced in subsections (a)(A)-(C) of this rule in a timely manner with respect to the most recent qualifying incident that ODFW pursues with immediate lethal action.

(10) Duration of chronic depredation lethal take authority. Take authority issued pursuant to subsection (7) expires:

(a) When the wolf or wolves identified for lethal removal have been removed by ODFW or any other party.

(b) ODFW may reinstate its take authority if ODFW confirms one additional qualifying incident of depredation within two months after the last confirmed qualifying depredation by what it believes to be a member or members of the same wolf pack and non-lethal efforts specified in Section 8 have continued to be implemented by the owner or lawful occupant of land where the additional depredation occurs;

(c) 45 days after issuance of the take authority and determination referenced in Section 7(f), unless ODFW confirms, within that time period, another qualifying incident of depredation on livestock by what it believes to be the same wolf or wolves identified for lethal removal and non-lethal efforts specified in Section 8 have continued to be implemented by the owner or lawful occupant of land where the additional depredation occurs; or

(d) If ODFW determines the wolf or wolves identified for lethal removal have left the Area of Depredating Wolves. To support this determination, data must show more than just a short-term or seasonal movement outside the area's boundary.

(e) Except as allowed under subsections (b) and (c) of this Section, any subsequent authorization or reinstatement of take authority by ODFW must comply with Sections 7 through 9 of this rule, and must be based upon at least one additional qualifying depredation.

(11) Lethal take in the case of extreme circumstances. Notwithstanding sections (7) and (8) of this rule, ODFW may authorize the use of lethal force in extreme circumstances.

(a) Extreme circumstances means:

(A) Four or more confirmed incidents of depredation of livestock by what ODFW reasonably believes to be the same wolf or wolves within seven days;

(B) ODFW determines, based on evidence it makes publicly available, that there were no intentionally placed or known and reasonably accessible unnatural attractants such as bone or carcass piles or disposal sites that contributed to the incidents of depredation, and that non-lethal measures are and will likely remain ineffective; and

(C) ODFW finds that depredation has rapidly escalated beyond the reasonable, available means of ODFW and affected livestock owners to stop additional livestock losses from occurring.

(b) A decision to utilize lethal force authority due to extreme circumstances shall be made by the ODFW director or director's designee, accompanied by the findings and determinations required in section 11(a) made publically available on ODFW's website, and exercised within 14 days of the determination to exercise lethal force authority under this section, or of the last confirmed depredation, whichever comes later.

635-110-0020

Harassment and Take of Wolves During Phase II (Management)

(1) This rule describes the types of harassment and take of wolves allowed by persons outside ODFW (or ODFW or Wildlife Services acting as their agent) during Phase II — (Management: 5-7 breeding pairs) as called for in chapter III of the Oregon Wolf Conservation and Management Plan. Other chapters of the Plan authorize ODFW to take wolves for other specified wildlife management purposes.

(2) Non-injurious harassment of wolves is allowed under the same conditions as in Phase I (OAR 635-110-0010(2)).

(3) Non-lethal injurious harassment.

(a) Non-lethal injurious harassment is allowed without a permit on private land by livestock producers or their agents on land they own or lawfully occupy. Livestock producers are encouraged to use non-injurious techniques first. There must be no identified circumstance that attracts wolf-livestock conflict, and the harassment must be reported to ODFW within 48 hours.

(b) Non-lethal injurious harassment is allowed by permit on public land by grazing permittees who are legally using public land under valid livestock grazing allotments and upon the following conditions:

(A) ODFW confirms wolf depredation on livestock or other wolf-livestock conflict in the area. “Other wolf-livestock conflict” means loitering near, testing, chasing, or otherwise disrupting livestock;

(B) ODFW considers the location of known wolf sites;

(C) There is no identified circumstance at the site which attracts wolf/livestock conflict; and

(D) The harassment is reported to ODFW within 48 hours.

(c) As to non-lethal injurious harassment on either private or public land, pursuing wolves is allowed.

(4) Relocation of wolves will be considered under the same circumstances as in Phase I (OAR 635-110-0010(4)).

(5) Lethal take of wolves in the act of attacking livestock is allowed under the same conditions as in Phase I (OAR 635-110-0010(5)).

NOTE: the Oregon Wolf Conservation and Management Plan calls for allowing lethal take of wolves in this situation *without a permit on private or public land*. However, the Plan recognizes that because current statute requires a permit, implementing this portion of the Plan depends

upon amendment of the statute by the legislature. Should the legislature make that statutory change, the Commission will amend this rule to allow for take without permit.

(6) Lethal take to deal with chronic depredation.

(a) ODFW may authorize its personnel, authorized agents, or Wildlife Services, to use lethal force on wolves at a property owner or permittee's request if:

(A) ODFW confirms either:

(i) Two confirmed depredations by wolves on livestock in the area; or

(ii) One confirmed depredation followed by three attempted depredations (testing or stalking) in the area;

(B) The requester documents unsuccessful attempts to solve the situation through non-lethal means;

(C) No identified circumstance exists that attracts wolf-livestock conflict; and

(D) The requester has complied with applicable laws and the conditions of any harassment or take permit.

(b) Subject to the conditions specified in paragraph (c) and with a limited duration permit from ODFW, the following persons may use lethal force to deal with chronic depredation:

(A) Livestock producers (or their agents) on land they own or lawfully occupy; or

(B) Grazing permittees legally using public land.

(c) ODFW will issue a permit to use lethal force to deal with chronic depredation only if:

(A) ODFW confirms that the area has had at least two depredations by wolves on livestock;

(B) ODFW determines that wolves are routinely present on that property and present a significant risk to livestock;

(C) There is no identified circumstance at the site which attracts wolf/livestock conflict;

(D) The applicant is in compliance with applicable laws and the terms of any previous wolf permit;

(E) The applicant documents use of non-lethal methods; and

(F) Any wolf taken is considered property of the state and reported to ODFW within 48 hours.

(7) “Identified circumstance” means a condition which:

(a) ODFW determines, based upon its investigation of the situation, attracts wolves and fosters conflict between wolves and livestock; and

(b) ODFW advises the landowner, livestock producer or grazing permittee to remedy; but

(c) The landowner, livestock producer or grazing permittee fails to remedy.

(8) “In the area” means where ODFW has determined the presence of the depredating wolves.

A BILL FOR AN ACT

Relating to wolves; creating new provisions; amending ORS 498.012; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 498.

SECTION 2. (1) As used in this section, “livestock” and “working dog” have the meanings given those terms in ORS 610.150.

(2) As used in this section, “chronic depredation” means at least four confirmed depredations by wolves upon livestock within a consecutive six-month period during Phase 1 of the Oregon Wolf Conservation and Management Plan, and thereafter as defined by the Commission in rule.

(3) Nothing in the wildlife laws is intended to prevent the State Fish and Wildlife Commission or the Department of Fish and Wildlife from taking a wolf or wolves to address chronic depredation if such taking is consistent with and authorized pursuant to terms set forth in temporary rules adopted by the Commission on [***DATE***], any subsequent rulemaking by the Commission to formalize that rule language, and any subsequent revisions to those rules during the 2015 calendar year or beyond as part of the Commission’s review of the Oregon Wolf Conservation and Management Plan.

(4) Pursuant to rules adopted by the commission, a person who owns or lawfully occupies land may take gray wolves on the land that is owned or lawfully occupied by the person, without a permit issued by the commission, if:

(a) The person has not used bait to attract gray wolves or taken any other intentional act to attract gray wolves other than engaging in regular and ordinary livestock management practices;

(b) The taking is allowed under the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.); and

(c) The gray wolves are:

(A) Caught in the act of biting, wounding, or killing livestock or working dogs; or

(B) Caught in the act of chasing livestock or working dogs as defined by the Commission. Authorization for such taking during Phase 1 of the Oregon Wolf Conservation and Management Plan only exists if:

(i) the person has first undertaken non-lethal actions to

deter wolf-livestock conflict as specified by the Department, and

(ii)

(iii) the taking occurs during the time period in which the Department has determined a situation of chronic depredation to exist.

(5) A person who is a landowner or a lawful occupant of land may authorize another person to enter the land for the purpose of taking gray wolves under subsection (4) of this section on behalf of the landowner or occupant. The authorization must be in writing, issued in advance of the taking, and include:

(a) The date of issuance of the authorization;

(b) The name, address, telephone number and signature of the person granting the authorization;

(c) The name, address and telephone number of the person to whom the authorization is granted; and

(d) The expiration date of the authorization, which may not be later than one year from the date of issuance of the authorization.

(6) The person taking gray wolves on behalf of a landowner or lawful occupant under subsection (5) of this section must be carrying the written authorization when gray wolves are taken.

(7) If a person takes gray wolves under the provisions of this section, the person shall report the taking to the department within 24 hours and make all reasonable efforts to preserve, and to keep undisturbed, the scene of the taking. The department and Oregon State Police shall immediately investigate the report of the taking to determine compliance with the provisions of this section.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Upon filing of this temporary rule, and regardless of any other provisions and future amendments to Oregon Administrative Rules chapter 635, division 0110-0010, ODFW confirmed depredations from January 28, 2013 through May 15, 2013 may be considered qualifying depredations for purposes of lethal take authority for a period of 6 months from the date of confirmation, up to a maximum of three qualifying depredations.

For any pack of wolves responsible for three or more depredations between January 28, 2013 and May 15, 2013, any additional ODFW confirmed depredation(s) may qualify provided the following have been met:

- (a) the owner or legal occupant of the land on which a depredation occurred has removed, treated or disposed of all intentionally placed or known and reasonably accessible unnatural attractants of potential wolf-livestock conflict, such as bone or carcass piles or disposals sites; and
- (b) the owner or legal occupant of the land has been implementing at least one non-lethal measure that is specific to the location, type of livestock operation, time of year, and/or period of livestock production associated with the depredation.

Upon determining that the above requirements have been met, ODFW may implement lethal take authority on or before November 15, 2013, provided that there have been 4 qualifying depredations within the previous 6 months by the same wolf or wolves.