

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

July 18, 2023

Rules Coordinator  
Washington Department of Fish and Wildlife  
P.O. Box 43200  
Olympia, WA 98504-3200

Washington Fish & Wildlife Commission  
600 Capitol Way N.  
Olympia, WA 98501

Cc: Director Kelly Susewind  
Washington Department of Fish and Wildlife  
600 Capitol Way N.  
Olympia, WA 98501

Ruth Musgrave  
Senior Policy Advisor to Governor Jay Inslee  
Office of the Governor  
P.O. Box 40002  
Olympia, WA 98504-0002

**Re: Petition to amend the Washington Administrative Code to bring clarity, accountability, and transparency to Washington's wolf management decisions**

Dear Commissioners and WDFW Rules Coordinator:

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

**I. Introduction**

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

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

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

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

## **II. Background**

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

---

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

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

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

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

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

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

---

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

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

<sup>5</sup> *Id.*

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

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

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

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

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

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

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

### **III. Wolf Management Since the 2020 Petition**

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

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

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

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

---

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

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

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

- In June 2022, the Department killed two members of the Togo pack in an area it had identified as a possible wolf den site.<sup>14</sup> The Department had previously killed another member of the Togo pack in 2018, and since then has issued a new kill order against the pack every year—although it was unable to kill Togo wolves in 2019,<sup>15</sup> 2020, or 2021.<sup>16</sup> These repeated kill orders came despite the continued failure of the producers involved to use effective non-lethal measures to prevent conflict, such as effectively and consistently using range riders, keeping cattle away from wolf rendezvous and denning sites, and allowing the Department to deploy RAG boxes, fladry, and/or fox lights.<sup>17</sup> Predictably, killing Togo wolves without addressing this underlying problem has not eliminated livestock-wolf conflict, as the Department reported another confirmed wolf predation on June 27, 2023.<sup>18</sup>

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

---

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

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

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

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

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

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

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

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

- After the Department killed two Leadpoint pack wolves on September 27-28, Director Susewind issued a new order on October 9 that authorized the killing of another Leadpoint wolf. Days later, the Department rescinded this authorization,<sup>20</sup> after Washington Wildlife First inquired about reports that the Department had found unburied cattle carcasses in a pasture in the vicinity of the reported predations.<sup>21</sup> This carcass pile was drawing wolves into the area where the cattle were grazing and creating livestock-wolf conflict. In addition, this discovery showed the Department had failed to conduct any due diligence in advance of its previous report that the affected producers had been properly disposing of carcasses—one of the factors the Department had used to justify its killing of two Leadpoint wolves.<sup>22</sup>
- In executing the Smackout pack kill order, the Department accidentally killed a five-month-old pup from the Dirty Shirt pack that had wandered into the sights of agency sharpshooters.<sup>23</sup> The Department suspended the Smackout pack kill order on September 8 following this error,<sup>24</sup> but then resumed its killing operations on October 7 following additional predations. The Department killed a yearling female from the Smackout pack on October 10.<sup>25</sup> The 2022 kill order was the Department’s fourth in five years against the Smackout pack, as the affected producers have repeatedly failed to take appropriate proactive measures to protect their cattle.<sup>26</sup> The Smackout pack territory is adjacent to the Leadpoint pack territory, and both wolf packs were implicated in predations of cattle belonging to the same producer. As a result, it seems likely that the Smackout wolves had been lured into conflict by the same carcass pile that the Department failed to report until after it had already killed four wolves. However, although Washington Wildlife First submitted a public disclosure request for information on the Smackout pack kill order more than 10 months ago, the Department has failed to provide even the most basic information in

---

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

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

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

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

<sup>24</sup> *Id.*

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

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



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

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

In October 2022, the Department confirmed that six wolves had been illegally poisoned in northeastern Washington in February of that year.<sup>28</sup> The Department’s 2022 annual report confirmed that three more wolves had been illegally killed during 2022.<sup>29</sup> Almost all these deaths occurred in areas which have experienced chronic livestock conflicts.

As the Department notes in its annual reports, the vast majority of wolf packs are not involved in any conflicts with livestock. In fact, over the past 12 years that the Department has issued annual reports, while the wolf population has grown from 19 wolves in three packs<sup>30</sup> to 216 wolves in 37 packs, on average each year 81% of Washington’s packs are not involved in livestock conflicts.<sup>31</sup> Nevertheless, repeated conflicts continue in the same areas in northeast Washington, where livestock producers are not taking adequate steps to protect livestock grazing in prime wolf country. As Governor Inslee predicted, under the current framework, such conflicts will persist, and the Department will continue to regularly kill wolves in the same area. Even worse, the Department’s current approach will make conflict more likely in other areas of the state as wolves disperse and establish territories in new locations.

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

---

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

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

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

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

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

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

Such rules will also reaffirm the state's commitment to wolf recovery and combat the intolerance that is leading to more illegal killings, such as the horrific poisoning of wolves in February 2022.<sup>32</sup> With no scientific substantiation at all, representatives from wildlife agencies managing wolves at both the state and federal levels often claim that killing of wolves by agency staff or private individuals for livestock conflicts, or via government-sanctioned wolf hunting seasons, promotes tolerance for wolves. In fact, the body of peer-reviewed published research on this subject reaches the opposite conclusion: *such killing increases social intolerance of wolves and illegal killing of wolves.*<sup>33</sup>

#### IV. “Caught in the Act” History and Killings

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

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

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

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

---

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

<sup>33</sup> *Id.*

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

<sup>35</sup> *Id.* at pp. 233-34.

<sup>36</sup> *Id.* at page 87, Table 9.



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

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

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

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

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

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

---

<sup>37</sup> H.B. 1191 (Wash. 2013); S.B. 5197 (Wash. 2013).

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

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

## V. Our Proposed Rule Changes

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

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

---

<sup>38</sup> Wolf Management Plan at page 89.

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

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

---

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

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

## VI. Conclusion

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

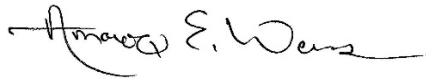
Sincerely,



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



Sophia Ressler  
Staff Attorney  
Center for Biological Diversity



Amaroq Weiss  
Senior Wolf Advocate  
Center for Biological Diversity



Patrick Kelly  
Montana/Washington State Director  
Western Watersheds Project



Lizzy Pennock  
Carnivore Coexistence Attorney  
WildEarth Guardians



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



Lynn Mason  
Grassroots Organizer  
Coexisting with Cougars in Klickitat County



Bethany Cotton  
Conservation Director  
Cascadia Wildlands



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



Tim Coleman  
Executive Director  
Kettle Range Conservation Group



John Rosapepe  
Pacific Northwest Representative  
Endangered Species Coalition