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To: WDFW SEPA Desk
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Regarding: Washington Department of Fish and Wildlife Grey Wolf Management Plan.

I. Introduction

The Student Animal Legal Defense Fund (SALDF) respectfully submits this comment to the Washington Department of Fish and Wildlife (WDFW) supporting Alternative 2 as the basis for the final Grey Wolf management plan in Washington State. Alternative 2 is a sufficient option for ensuring the reintroduction and continued existence of wolves in Washington. SALDF commends the agencies involved in the creation of the draft plan. It is balanced and reasonable and significantly furthers the lofty goal of protecting the Grey Wolf. However, while Alternative 2 is adequate incorporating elements from Alternative 3 and reconsidering the appropriateness of direct hostile action towards wolves could improve the proposal. These additions and recalculations would create a plan that would be more effective in meeting Washington's management goals. This hybrid plan would restore a viable wolf population to Washington, and is calculated to do no harm to the interests of other stakeholders that are addressed in the current Preferred Alternative. The addition of SALDF's suggested provisions aiding wolves will not alter the balance of interests struck by the current plan but represent value added at little cost to the proposed status quo.

First, this comment will address the structure proposed for state delisting of the Grey Wolf. Second, this comment will address the use of non-lethal harassment and lethal control measures in managing the wolf population in Washington. Third, this comment will address compensation for livestock producers resulting from wolf depredation. Finally, this

comment will address the reduction of conflict between wolves and ungulate populations (and those who have an interest in ungulate population levels).

II. The Path to Delisting Wolves in Washington

All 3 of the viable proposed plans have the same basic graduated structure leading to the delisting of wolves when their population level reaches 15 successful breeding pairs. However, the plans differ in the distribution of wolves within the state that must be achieved to move wolves from one level of protection down to a lower level. The requirements presented in Alternative 3 are more likely to achieve the goal of restoring wolves in Washington and to create a population that is sustainable over time. Alternative 3 is superior to Alternative 2 because it requires the Pacific Coast region to be considered separately from the Southern Cascades. This difference significantly advances the goal of sustainable populations by increasing the distribution of wolves in the state. This distribution ensures that populations will not lose genetic diversity and will be able to recover even if substantial challenges to wolf survival in one area arise. The preference for Alternative 2 regarding this issue is arbitrary in light of stated goals of the plan. There are clear benefits from increased wolf distribution. Additionally, there are no significant conflicts present if wolves repopulate the Olympic Peninsula because there are negligible ranching interests in that area of the state. The Preferred Alternative states that the Pacific Coastal Region is good wolf habitat. It also claims that the Peninsula may be one of the hardest areas for wolves to reach naturally. Despite these facts Alternative 2 would allow wolves to be delisted even if no wolves were present in the Pacific Coast Region. This could happen if all of the breeding pairs for the combined area (South Cascades and the Pacific Coast) needed to delist wolves were only present in the eastern portion of that territory. This is an unreasonable outcome because there is a possibility that wolf densities will be focused in the eastern portion of the state where ranching interests are strongest and human-wolf conflict will be high and wolves will not be present on the coast where conflict potential is low. Under Alternative 2 it is possible and in fact likely that wolves will be delisted despite the fact that a large area of habitat free from human-wolf conflicts exists and is not being utilized. The only rationale given in Alternative 2 for ignoring this issue is that delisted status could be reached more quickly under that plan than under Alternative 3. Delisting is not synonymous with recovery and restoration if this major area of the state is in effect ignored. Alternative 2 allows this to happen by lumping together the Coast and the South Cascades, two areas that do not share similar conditions.

The Student Animal Legal Defense Fund urges WDFW to include the additional Pacific Coast Region proposed under Alternative Three when finalizing the Grey Wolf Management Plan. Alternative Three mandates that the goals of sustainable wolf populations wholly distributed throughout the state exist before the protection for wolves are removed. This will better ensure the sustained survival of wolves in the State of Washington.

III. Non-Lethal Harassment and Lethal Take of Wolves

A. Non-Lethal Injurious Harassment

The Endangered Species Act prohibits the “take” of endangered species. The term “Take” includes acts that “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [as well as] attempt[s] to engage in any such conduct” (ESA § 3(19); 16 USCA 1532). 50 C.F.R. § 17.3 defines “harass” as acts or omissions, whether intentional or negligent, that annoy wildlife so as “to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.” 50 C.F.R. § 17.3. The harassment proposed by WDFW under this plan will violate the ESA by allowing individuals to shoot at and wound wolves. Additionally, the actions allowed in the Preferred Alternative would violate the definition of “harass” under 50 C.F.R. § 17.3 by disrupting the normal behavioral patterns of the wolves. WDFW should not violate the ESA, Congressional intent, and agency rulemaking or permit others to do likewise under this plan. WDFW has many options other than harassment to prevent livestock conflicts. The proactive non-lethal non-harassment measures proposed by the plan do not violate the Endangered Species Act and 50 C.F.R. § 17.3 and should therefore be the focus of the plan to recover the wolf populations. In summary, Alternatives 1, 2, and 3 allow for the harassment of wolves, at some stage of protection, which is prohibited under the ESA and 50 C.F.R. § 17.3. Thus, WDFW should change the final plan to eliminate the possibility of engaging in or permitting others to harass endangered wolves.

B. Lethal Control: for Livestock Depredations and Attacks on Livestock/Dogs

The Preferred Alternative accurately states that “[i]t is unusual to include lethal management strategies in a plan for recovery of a listed species.” (Wolf Recovery Plan). It is counterproductive to the goals of the recovery plan to shoot any individual animal of the species in recovery. During the time when the ESA clearly prohibits this action, federal law should be followed. Additionally, when Wolves are federally delisted in Washington lethal methods should not be used. With so few wolves in Washington, lethal methods of controlling livestock depredation and attacks are not necessary or reasonable and should not be an option. Livestock conflicts are better remedied through compensation for livestock producers. WDFW should not engage in or permit the killing of wolves, it is unusual in endangered species recovery plans to kill the species that is the focus of the plan and it is unnecessary in context of restoring wolves to Washington.

C. Conclusion

In *Tennessee Valley Authority v. Hill*, the United States Supreme Court stated that “[t]he plain intent of Congress in enacting this statute [ESA] was to halt and reverse the trend toward species extinction, whatever the cost.” *Tennessee Valley Authority v. Hill* 437 U.S. 153, 184. The “cost” of wolf recovery in Washington should be limited to education, outreach, compensation, and proactive non-lethal and non-harassing methods to reduce depredation and attacks. The “costs” of wolf recovery should not include the killing and harassment of the wolf itself, especially when multiple other options exist. The plan accurately states that “conserving wolves in Washington and meeting the delisting criteria will necessitate social tolerance for wolves on both public and private lands.” (Wolf Recovery Plan). WDFW should therefore promote tolerance for wolves, not the killing and the harassment of wolves. The recovery plan does not need to take the “unusual” method of permitting violations of the ESA or 50 C.F.R. § 17.3 while working to recover

the endangered wolf. The plan includes several methodologies that are not “unusual” lethal control or harassment. These options should be sufficient to mitigate human-wolf conflict.

While working to recover wolf populations, WDFW should not adopt a plan that involves the killing or harassment of the wolf. Instead, the WDFW recovery plan should focus on the non-lethal and non-harassment methods discussed in the plan that do not violate the ESA, 50 C.F.R. § 17.3, or involve unusual practices in the recovery of an endangered species.

IV. Compensation for Livestock Depredations

Reducing conflict between livestock producers and wolves is an essential part of any viable final plan protecting wolves in Washington after Federal protection falls away. The Preferred Alternative is sufficient to recompense any loss suffered by most producers in the state. However, higher amounts of money will be more likely to prompt those in conflict with wolves to take the time and effort to use the administrative process rather than resorting to violent actions against wolves. The parcel size requirements within the plan seem to be a reasonable way to assist those producers who may have undiscovered losses. However, the Preferred Alternative allows for the amount paid for probable depredation to drop below the full fair market value of the livestock killed by wolves on small plots. This is an unnecessary risk. An essential goal of developing a management plan is to defuse conflict between wolves and ranchers. This can be done without excessive monetary burden on the state. The Preferred Alternative states that there will be less human-wolf conflict in Washington than in other states that have reintroduced wolves. There will be less conflict because there are a lower number of livestock animals overall in the state and there is a significant difference in the types of species cultivated in Washington compared to other states. In addition, the actual total number of wolves in Washington and thus the number of animals killed by wolves will most likely be small. Thus, providing additional monetary incentive to reduce conflict will not be a financial burden on the state. Washington will only have to pay for a small number of livestock killed. Compared to this small cost there are great additional benefits to providing full market value in all situations where there is sufficient evidence of predatory activity by wolves. This policy will improve wolves' public relations and will reduce violence towards them. The actual amount of money paid out to ranchers will most likely be small but the perception of the Final Management Plan by livestock producers will be greatly improved.

The Student Animal Legal Defense Fund suggests that the final wolf management plan raise the minimal amount paid out to livestock producers to fair market value in both confirmed and probable depredations. The more fair and equitable the plan appears to be the lower the risk that the illegal killing of wolves will occur. The increased monetary burden on the State will be small and will not significantly outweigh benefits to wolves

V. Ungulate Conflict Management

A. It is important to take proactive measures to reduce depredation, Wolf Specialists provide the ability to take proactive measures.

Increasing Washington's wolf population numbers is an important goal in preserving the local ecosystems, and preserving a wolf population over time. By reducing the amount of human-wolf conflict, wolves will have a greater likelihood of successful recovery. The Preferred Alternative's implementation of a Wolf Specialist is critical to wolves' success in Washington. Wolf Specialists will be highly educated on the subject and able to educate the residents of areas where people and livestock are in conflict with wolves about non-lethal methods of reducing the likelihood of wolf encounters. Additionally, these specialists will have the experience and expertise necessary to properly and effectively implement proactive measures to reduce depredation. Specialists can provide technical assistance to the livestock producers, thus they can more effectively assist livestock owners compared to existing WDFW staff. Livestock owners' implementing non-lethal control techniques is essential to the success of the wolf management program. Aiding livestock owners with specialists is necessary to ensure that the plan has an opportunity succeed.

The Student Animal Legal Defense Fund believes that it is critical that Washington include Wolf Specialists in their final plan to implement proactive measures to reduce depredation. We urge the WDFW to include these new staff members in the final wolf management plan.

B. The wolf recovery should be a high priority when dealing with ungulates.

Healthy ungulate populations are critical for a healthy ecosystem, continued sport hunting, and a healthy wolf population. It is not possible to definitively determine whether or not the introduction of a wolf population will directly reduce the ungulate population in Washington. Additionally if there is a reduction in ungulate population after wolves are introduced the causation of this drop it will not be clear. Because decreases in the ungulate population cannot be definitively linked to the introduction of a wolf population (which is required before action can be taken under Alternative 2), measures should be added to the final plan to preserve the ungulate population even before there is a problem.

The measures set forth in Alternative 2 are sufficient to preserve ungulate populations in Washington. Habitat improvement, harvest management, and reduction of illegal hunting are all likely to decrease any significant negative impacts a wolf pack may have on the ungulate population. These methods would be successful in preserving ungulate herds even without the threat of wolves. In the context of this plan there is the added benefit of increasing the amount of prey for wolves. Unfortunately, Alternative 2 would only adjust recreational harvest levels to benefit wolves in localized areas when the wolves were not meeting recovery objectives. Protecting ungulate populations ensures that growing wolf populations will have adequate prey to support their needs. This fosters increased distribution and numbers. In order for the wolf program to be successful, wholesale management of the recreational take of ungulates should be implemented to create a sustainable environment for the new wolf population.

Although the methods in Alternative 2 are necessary, the measures in Alternative 3 are more likely to see successful results in a shorter time period. Rather than requiring research to show that the recreational harvest is having an adverse effect on the wolf

population, keeping them from meeting recovery objectives, Alternative 3 allows for the adjustment of recreational harvest levels to benefit wolves in each recovery region until recovery objectives there are met. This ensures that the recovery will be expedited. Further, conclusive findings of inadequate recovery due to over harvest will be unlikely. Showing that the cause of the failure to recover is directly related to recreational harvest levels will likely be a difficult task. Trying to show this conclusively will delay the recovery of wolf populations.

The Student Animal Legal Defense Fund believes that the ideal situation would be to allow reductions in recreational harvests from the outset of the program, and then adjusting harvest levels based on the wolf population performance. This course of action will build a strong population from the outset, rather than waiting to take action until the wolf population is struggling.

C. Special attention may be paid to wolf interactions with protected species, but there is no need for lethal control.

Alternative 2 allows for non-lethal measures while wolves are listed to reduce interaction with protected species, and allows for both non-lethal and lethal response options after wolves are delisted. Non-lethal measures are a superior choice for reaching the goal of delisting Washington's wolf population while also ensuring the survival of other important species. For example, the Preferred Alternative appropriately expands efforts to maintain and restore landscape connectivity and allows translocation of problem wolves. These options allow wolves to interact with the ecosystem but also include the potential safety valve of removal if the wolves are jeopardizing the survival of another species. This option is critical to the maintenance of a diverse ecosystem and does not allow one species to dominate another. Alternative 2's plan for wolf interactions with protected species should be included in the final plan, however, it should be noted that even after wolves are delisted, lethal measures should be only a last resort.

D. Wolf-Ungulate conflict management must be managed in a way that protects both the ungulate populations, as well as preserving the established wolf populations.

The state of Washington has both a hunting population, as well as a population of wildlife watchers. Each of these groups has a significant interest in the wolf populations. The hunters may fear that the wolf population will reduce their ability to have a successful recreational hunt, and wildlife watchers may welcome the possibility of wolf sightings, but fear the possibility that wolves will lead to reduced ungulate sightings. If the wolf population rises to a level at which it can be delisted Alternative 2 allows for both lethal and non-lethal techniques to reduce wolf abundance. This control can be applied in localized areas with at-risk ungulate population, if it can be shown that the wolf presence in the area caused the reduction in that specific ungulate population. This plan is appropriate because before any disturbance to the wolf population is allowed there must be a showing that the ungulate reduction is caused by the wolf presence. There should not be a disruption of the ecosystem, unless a population is actually threatened, and wolves are the cause. With that said, lethal force should always be only a means of last resort. SALDF believes that preserving wolf populations is as important to the ecosystem as preserving ungulate

populations. Thus, the use of lethal force should not be an open option, it should only be used when the preservation of the ungulate population requires it. Hunting is an important part of outdoor life in Washington. In order to maintain wolf populations in addition to hunting opportunities, recreational harvest management plans must be implemented. Alternative 2 provides for restrictions such as antlerless take reductions, shortened hunting seasons, etc. These management tools should be expanded and included in the final management plan to help ensure that the prey population of the state is maintained at a level that can satisfy wolves' need for food, as well as the hunter's desire for a healthy population of ungulates.

We urge the WDFW to include Alternative 2's plans for wolf-ungulate management in hunting areas in the final wolf management plan. We propose that the plan include additional provisions allowing for lethal removal only after delisting and then only in circumstances where there is a significant danger to the continued existence of other species.

E. Outreach and education is critical to a successful campaign to preserve Washington wolf populations.

A healthy new wolf population in Washington will affect a variety of interest groups, some positively and others negatively. Because there are multiple interests involved, it is vital that all parties affected are aware of the management plan, and are able to obtain advice and guidance on how to properly implement the plan while preserving their interest. In order to effectuate this, Alternative 2's wolf specialist plan is vital. The plan will hire specialists to develop and conduct outreach and education programs. These programs will target those interested parties and provide the needed guidance. The education of livestock owners, hunters, and other effected groups is key to a successful program. The more these groups learn about how to live with the wolves, the more likely the program will succeed.

The Student Animal Legal Defense Fund believes that education is a necessary component of a successful wolf management program. The final plan should include Alternative 2's specialists to educate and assist interested parties.

VI. Conclusion

In conclusion Alternative 2 is an adequate option for a final management plan for Grey Wolves in Washington. It should serve as a base below which efforts to protect wolves should not dip. However, Alternative 2 could be improved by incorporating elements from the third alternative plan proposed by the state as well as reconsidering the affect of direct hostile action towards wolves by agency actors and private livestock producers. These additions and recalculations would create a plan that would be more effective in meeting the goal of restoring a viable wolf population to Washington. These additions could improve the protection of wolves and their chances for survival in the state while doing no harm to the other interest and stakeholders affected by the presence of wolves.

Sincerely,

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