



NATURAL RESOURCES DEFENSE COUNCIL

By electronic mail and facsimile

January 3, 2011

USDA-APHIS-WS
Idaho WS State Office
9134 W. Blackeagle Drive
Boise, Idaho 83709
wsidwolfea2@aphis.usda.gov
FAX: (208) 378-5349

Comments Re: Gray Wolf Damage Management in Idaho for Protection of Livestock and Other Domestic Animals, Wild Ungulates, and Human Safety, Revised Environmental Assessment

To Whom It May Concern:

On behalf of the Natural Resources Defense Council, The Humane Society of the United States, Predator Defense (collectively, NRDC), our over 12 million members, activists, and constituents, 50,000 of whom live in Idaho, we write to comment on Wildlife Services' Revised Environmental Assessment evaluating the impacts of alternatives for gray wolf (*Canis lupus*) damage management in Idaho. (See U.S. Dept. of Agriculture, Animal and Plant Inspection Service, Wildlife Services, "Revised Environmental Assessment for Gray Wolf Damage Management in Idaho for Protection of Livestock and other Domestic Animals, Wild Ungulates, and Human Safety" (December 2010) ("REA").)

These comments supplement our previous comments on Wildlife Services' Draft Environmental Assessment (Draft EA) of gray wolf damage management in Idaho, submitted by NRDC, the Humane Society of the United States, and Predator Defense on August 30, 2010. (See Letter from Ralph Henry, Brooks Fahy and Rebecca Riley to USDA-APHIS-WS dated 8/30/10 (NRDC Comment Letter).) We reiterate, and incorporate here by reference, all of our previous comments. Nothing in this letter should be read as constituting a waiver of any issues originally raised by our organizations but not specifically discussed herein.

Most importantly, as in our previous comments, we continue to urge Wildlife Services to withdraw its REA and instead prepare an environmental impact statement ("EIS"). The preparation of an EIS is required because the widespread reduction of Idaho's wolf population, proposed by the REA, will have a significant effect on the environment.

In addition, it is questionable whether Wildlife Services has the legal authority to undertake wolf reductions for the benefit of ungulate populations. Finally, the REA, like the Draft EA before it, fails to comply with the requirements of the National Environmental Protection Act.

I. Wildlife Services Is Not Authorized Under Section 10(j) of ESA to Lethally Remove Wolves for Ungulate Control

As we noted in our comments on the Draft EA, the 10(j) rule does not allow Wildlife Services to kill wolves for the purpose of ungulate control. The rule provides that only “a State or Tribe may lethally remove the wolves in question” if wolves are having an unacceptable impact on ungulates. 50 C.F.R. § 17.84(n)(4)(v) (emphasis added). This grant of authority is exclusive. Id. at § 17.84(n)(4)(v) (“Other than as expressly provided in this rule, all other forms of take are considered a violation of section 9 of the Act.”). Wildlife Services has not adequately addressed this limit to its authority in the REA.

Indeed, Wildlife Services does not deny that the language in the 10(j) rule prohibits a federal agency from killing wolves for the purpose of ungulate control. Instead, the agency asserts, without support, that it may be authorized to kill wolves to protect ungulates pursuant to its authority to take wolves for “scientific purposes.” (REA at 115 (citing 50 C.F.R. 17.84(n)(4)(xi)(A)).)

This response is weak and unpersuasive. The REA does not present the proposed action as a scientific study. Rather, the REA describes an action to kill wolves to protect ungulates, the very action the 10(j) rule makes clear cannot be taken by the federal government. (REA at 12-13; 20-24.) The REA even cites the language of 10(j) that authorizes take of wolves in the event of “unacceptable impacts” on ungulate populations in its description of the action. (Id. at 20-21.) Wildlife Services’ attempt to mischaracterize its proposed action as having a “scientific purpose” in order to get around what it perceives as an inconvenient limit on its authority to kill wolves for ungulate control is therefore inappropriate and unlawful.

II. Wildlife Services Has Failed to Satisfy NEPA

A. The REA’s Environmental Baseline and Cumulative Impact Analysis is Flawed

The REA also fails to comply with the basic requirements of NEPA. NEPA requires agencies to evaluate all “reasonably foreseeable” and “cumulative” impacts of its actions. 40 C.F.R. §§ 1502.22, 1508.25(c). “Cumulative impacts” are defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” 40 C.F.R. § 1508.7. Wildlife Services has made several fundamental errors in calculating the effects of its proposed action.

First, Wildlife Services has included activities in the “environmental baseline” that should have been evaluated as part of the proposed action’s cumulative effects. This

mistake dramatically decreases the calculated impact of the proposed action, by inflating the baseline and deflating the effects. Although the environmental baseline is not described in the NEPA regulations, it is a practical requirement for evaluating the effects of an action. See Am. Rivers v. FERC, 201 F.3d 1186, 1195 (9th Cir.1999) (“A baseline is not an independent legal requirement, but rather, a practical requirement in environmental analysis often employed to identify the environmental consequences of a proposed agency action.”). An error in setting the environmental baseline distorts the agency’s consideration of the effects of the action.

Here, Wildlife Services has counted regulatory decisions that have not yet been made in the environmental baseline. See REA at 35-36 (speculating about future regulatory actions by either FWS or Idaho to manage wolves). This error distorts the agency’s analysis of the effects of the action. The Ninth Circuit has vacated a SEIS that made this same error. See Friends of Yosemite Valley v. Kempthorne, 520 F.3d 1024, 1038 (9th Cir. 2008) (vacating SEIS that counted a proposed but not yet finalized action in the environmental baseline). Wildlife Services must correct its calculation of environmental effects by properly counting future regulatory actions as cumulative impacts, rather than part of the environmental baseline. In other words, Wildlife Services can only include current nonlethal management and lethal removal of wolves in its baseline, not past removals that may not be repeated in the future (such as public hunts) or increased future removals contemplated, but not yet authorized, by federal or State agencies.

Second, the REA fails to properly analyze the effects of all parts of its proposed action. Throughout the REA, the agency repeatedly concludes that its own proposed action will have essentially no environmental effect because other entities would carry out the same activities in the event Wildlife Services does not. (See REA at 35-36 (including management by other entities in environmental baseline); REA at 81 (“However, IDFG has indicated they will undertake wolf removals for this purpose on their own if WS does not assist them, subject to approval from the USFWS as long as wolves remain listed. Therefore, the levels of such removals in the absence of assistance from WS would most likely remain similar.”); REA at 106-107 (stating that all alternatives will result in a population of 500 wolves and therefore the action has no ecological effect).) Such an assumption amounts to no consideration of Wildlife Services’ activities at all, because the agency has assumed that its actions have no effect. This surely is not the purpose and intent of NEPA.

Moreover, this assumption begs the question of whether the proposed action is necessary in the first place. If the activities Wildlife Services is proposing would be undertaken by other entities, it is not clear what the purpose or need of the federal action is, other than to give a federal subsidy to private landowners.

Third, the REA often improperly ignores environmental effects by pretending that Wildlife Services has no authority to make decisions about its wolf removal activities. This error appears throughout the REA. For example, Wildlife Services rejects conducting a detailed analysis of the “NRDC Alternative” based on its purported inability to require non-lethal techniques prior to taking lethal action. (REA at 66-68.) However, some of the alternatives Wildlife Services does consider in detail, including the alternative Wildlife Services purports to follow now, contemplate using non-lethal methods before deploying lethal action. See EA at 54-56. This obvious conflict

between Wildlife Services' explanation of its discretion and its actual activities indicates that its discretion is not so limited. But, more importantly, the agency cites no legal authority, and NRDC is unaware of any such authority, that requires Wildlife Services to carry out lethal actions without discretion. Because no such limit exists, the agency must evaluate the effects of its activities in the EA.

Similarly, the EA expressly dismisses any consideration of the "appropriate population levels for wolves" in Idaho, by citing FWS approval of Idaho's wolf management plan. EA at 52. The agency concludes that this issue is outside the scope of any decision Wildlife Services could make. An EIS (or EA) fails to conform to NEPA when it accepts "as a given" parameters that it should have studied and weighed. Simmons v. U.S. Army Corps of Engineers, 120 F.3d 664, 667 (7th Cir. 1997). Here, while it is true that Wildlife Services has no authority over management of wolves in the State as a whole, it must still consider whether its own proposed management of wolves, which is intended to produce a major decrease in wolf populations throughout Idaho, is appropriate.

In short, the REA continues to make a series of errors and assumptions that has led to a flawed decision-making process. The REA therefore violates NEPA.

B. The REA Does Not Account For Idaho's Most Recent Wolf Management Decision

The REA also fails to take into account the fact that Idaho has abandoned its 2008 management plan for wolves. The REA provides four reasons for revising the Draft EA: (1) the August 5, 2010 federal court decision that restored Endangered Species Act protections for all Northern Rockies wolves; (2) the resumption of litigation over the 2008 change to the "10(j) Rule"; (3) the October 18, 2010, letter from the Governor of Idaho to the Secretary of Interior, informing the Secretary that the State of Idaho would no longer continue to act as a "designated agent" of the USFWS for conducting wolf management in Idaho; and (4) the appeal of the August 5, 2010 court decision to the U.S. Court of Appeals for the Ninth Circuit by Idaho and Montana as well as various "wolf delisting bills" that have been introduced in Congress. (REA at 2.)

Conspicuously absent from this list is the unanimous decision by the Idaho Fish & Game Commission to immediately suspend the 2008 Idaho Wolf Population Management Plan and direct the Idaho Fish & Game Department (IDFG) to prepare a new management plan, consistent with the State's 2002 Idaho Wolf Conservation and Management Plan. (See 12/8/10 IDFG Motion (attached).) The omission of this significant action from the REA is understandable, as the IDFG Commission made its decision on December 8, 2010, a few days before the REA was issued.

Nonetheless, many of the assumptions that undergird the REA simply no longer apply the management of wolves in Idaho. Most significantly, the REA assumes the 2008 Idaho Wolf Population Management Plan will direct wolf management in Idaho following a future delisting of wolves. (See, e.g., Section 1.5 of REA ("When wolves are delisted, they will be managed under the guidance in the IDFG Wolf Population Management Plan (IDFG 2008a)").) Per the now-suspended 2008 management plan, the REA erroneously assumes Idaho will manage for as few as 518 – 732 wolves and

at least 15 packs (Id.), whereas the now-operational 2002 plan only provides for the management of 10 – 15 packs. (ILWOC 2002.).

C. The REA's Analysis of the Ecological Effects of Widespread Wolf Removal is Still Inadequate

1. Reducing wolf populations to levels authorized by Idaho/10(j) rule would affect wolf viability in the region

The REA continues to assert that the proposed reduction of the wolf population would not have an adverse effect on wolves, citing research suggesting that wolf populations can sustain between 30-50% harvest levels. Recent research, however, has questioned this previously held assumption, which was based on the idea that wolf mortality due to harvest was compensatory rather than additive. Compensatory mortality is when death due to harvesting simply replaces deaths that would have occurred from other natural causes whereas additive mortality is when deaths due to harvesting are in addition to deaths that are occurring due to other causes. Creel and Rotella 2010 and Murray et al. 2010, for example, have found that harvesting wolves actually causes additive mortality and Creel and Rotella 2010 demonstrate that the effect of harvest on populations of wolves in the Northern Rocky Mountains is, in fact, highly additive to superadditive.

Additionally, the REA continues to fail to address the effect that a reduction of the wolf population would have on the viability of the Idaho population of wolves and the Northern Rocky Mountain (NRM) wolf population as a whole. As outlined in our initial comments, thousands of wolves, not hundreds, are required to ensure the long term survival of a population. Furthermore, although recent research indicates some level of genetic connectivity between the three recovery areas within the NRM (vonHoldt et al. 2010), this connectivity occurred during a period of rapid population expansion as wolves were dispersing to occupy previously unoccupied habitat. Plans to reduce the wolf population and maintain it at substantially lower numbers are likely to limit the number of dispersers able to maintain connectivity within the NRM. The REA should analyze the effect that maintaining a reduced population would have on the connectivity and subsequent viability of the Idaho and NRM wolf populations.

2. Reducing wolf populations to levels authorized by Idaho/10(j) rule would have significant effects on coyote and mesopredator populations.

While the REA describes some basic relationships between wolves and coyotes, it still fails to analyze the effect that a reduction in the wolf population would have on the coyote and other mesopredator populations as well as the surrounding environment.

Indeed, the REA seems only to discount the effect that wolves have on coyote populations, by suggesting that coyotes have adapted to the presence of wolves and reestablished in Yellowstone National Park after initially experiencing a decline based on cited personal communication. (REA at 45.) This conclusion fails to address well documented effects of wolves on coyotes, and the subsequent ecological effects these reductions have had, such as the increase in pronghorn antelope populations. (Berger and Connor 2008.)

Additionally, as we indicated in our original comments, the removal of top predators such as wolves and in other cases coyotes, results in the release of other medium-sized predators including raccoons, skunks, and badgers, for example. The change in abundance of these types of predators can affect the overall species diversity of an area including plant diversity and abundance. The REA fails to analyze the effect that the removal of 40% of Idaho's wolf population would have on other mesopredators and the corresponding ecosystem.

D. Wildlife Services' Personnel Should Adopt the Use of Nonlead Ammunition in All Circumstances.

In response to a public comment suggesting that Wildlife Services use nonlead ammunition, the REA makes four points: (1) "there is no legal or policy requirement" to use nonlead ammunition; (2) "most WS aerial gunning operations in Idaho for wolves are conducted using steel shot, rather than lead shot"; (3) "the number of wolf carcasses left unrecovered in the field is low"; and (4) "there are currently no federally listed threatened or endangered species deemed likely to encounter or scavenge on any of these carcasses." (REA at 117.) None of these reasons is sufficient for Wildlife Services to reject using nonlead ammunition as a basic mitigation measure for its activities.

First, it is simply irrelevant that Wildlife Services is not required to use lead ammunitions (if it were, there would be no need to discuss and analyze it in an EIS or EA). It should be noted, however, that because of the environmental risks that lead ammunition poses to scavengers, U.S. Fish and Wildlife Service officials in the Grand Teton National Park and the National Elk Refuge recommend that hunters use nonlead ammunition during elk and bison season.¹ What is relevant is that Wildlife Service has the authority to require that all of its employees and contractors use lead ammunition in the field.

Second, while it is commendable that Wildlife Services uses steel shot while conducting aerial gunning activities, this does not eliminate the benefits of Wildlife Services using nonlead ammunition in other circumstances.

Third, even if the number of wolf carcasses left unrecovered in the field is low, this response nevertheless suggests that wolves shot with lead ammunition do go unrecovered during Wildlife Services operations. If these carcasses are subsequently scavenged, animals are likely to be exposed to toxic lead fragments. Studies of game shot with lead bullets show that they can exhibit a "surprisingly high incidence of metal retention in carcasses as a result of fragmentation" and that there is resulting a "high potential exposure of scavengers to lead." (Hunt et al. 2006, p. 169.)

Fourth, the assertion that there are no species listed under the Endangered Species Act that are likely to encounter hunter-shot wolves ignores the possibility of grizzly bears scavenging wolf carcasses. Also, there may well be candidate species (such as

¹ See FWS, National Elk Refuge, "Voluntary Use of Non-Lead Ammunition During the Elk and Bison Seasons," http://www.fws.gov/nationalelkrrefuge/Documents/Press%20Releases/2009/08_06_09nonlead.pdf.

wolverines) or other federally protected species, such as bald and golden eagles, that can be exposed to lead from scavenging carcasses shot with lead ammunition. Indeed, a wide variety of mammalian carnivores, golden eagles, and other migratory birds have been shown to be exposed to lead from hunter-shot game, including within the Greater Yellowstone Ecosystem. (Rogers et al. 2009; Bloom et al. 1989; Craighead and Bedrosian 2007.)

By contrast, the burden that would be placed on Wildlife Services from requiring the use of nonlead ammunition is minimal. Certified nonlead ammunition is available in a wide variety of calibers and loads from numerous manufacturers.² The cost of switching ammunition types is practically nonexistent, particularly when weighed against the costs of conducting lethal removal activities for wolves (a box of nonlead ammunition may cost, for example, between ten and fifteen dollars more than a box of high-quality lead ammunition). And nonlead ammunition is widely considered to be just as, if not more, effective than lead ammunition. A 2006 survey of over a thousand hunters conducted for the Arizona Game and Fish Department found that 60% rated nonlead ammunition accuracy as excellent or above average and nearly 75% said they would recommend nonlead ammunition to other hunters. (Seng 2006.)

In short, there is simply no reason for Wildlife Services not to require its employees and contractors to use nonlead ammunition when conducting lethal wolf removals and it has not provided any convincing reasons not to do so in the REA.

F. The REA Improperly Dismisses the Possibility that Disrupting A Pack's Social Structure Could Increase Livestock Predation

As set forth in our initial comment letter, there is growing concern in the scientific community that killing members of established wolf packs, through hunting or lethal removals, can alter a pack's social structure and have unintended consequences on wolf behavior, including potentially increasing, rather than decreasing, livestock depredation. (NRDC Comment Letter at 13 -15.) We cited numerous peer-reviewed studies in support of this assertion. The REA, however, dismisses these concerns with little analysis, labeling the studies cited as "speculative". (REA at 118.) In truth, these papers are no more speculative than many of the studies the REA itself relies on to support its preferred alternative.

Indeed, some of the evidence cited in defense of the idea that hunting will reduce depredation relies on just a single year of experience with wolf hunting in Idaho, which may not provide an accurate portrayal of the true effects. (REA at 118.) Moreover, the REA cites several studies to show that depredations usually cease temporarily after lethal control efforts, but these studies provide little convincing evidence of the longer-term effects of predator control. Indeed, the cited study by Bradley 2004 states only that "after partial or complete wolf pack removal, depredations usually ceased for the

² See, e.g., California Department of Fish and Game, Certified Nonlead Ammunition Information, <http://www.dfg.ca.gov/wildlife/hunting/condor/certifiedammo.html> (certifying nonlead ammunition from twenty-four manufacturers); Arizona Game and Fish Department, Non-Lead, Rifle Information, http://www.azgfd.gov/pdfs/w_c/condors/Non-LeadAmmo.pdf (listing 120 bullets in various calibers produced by thirteen manufacturers, including seven providing custom-loaded nonlead rifle ammunition).

remainder of the given grazing season.” (REA at 118.) If depredations cease only for a single season and more predator control may need to be undertaken in subsequent seasons, then lethal control may not be as efficient as using nonlethal techniques and keeping packs’ social structure intact, particularly when those packs are not depredating but may be targeted as part of a public hunt.

Given the lack of evidence regarding the effects of hunting and control efforts, Wildlife Services should err on the side of caution when considering the effects of disrupting pack structure. In this case, the REA simply fails to appropriately evaluate the risks inherent in the widespread disruption of wolf packs across the State.

E. The REA Does Not Adequately Assess the Full-Range of Nonlethal Techniques Available to Wildlife Services and Livestock Operators as an Alternative to Lethal Removal

1. REA’s assessment of the costs and benefits of nonlethal techniques is not conclusory and not supported by sufficient analysis

Throughout the REA, Wildlife Services consistently dismisses the use of nonlethal wolf management techniques as economically inefficient, but fails to provide a sufficient basis to justify these claims or to permit the public the meaningful comment on the agency’s economic conclusions.

For example, in its dismissal of the so-called “NRDC Alternative,” the REA states that “methods such as wolf-proof or resistant fencing could cost more than the value of resources protected.” (REA at 67.) Without citing any actual cost-benefit data or analysis, the REA uses this claim to imply broadly that nonlethal methods are unlikely to be cost-effective. Likewise, in its response to public comments regarding nonlethal conflict mitigation approaches, the REA repeatedly claims that such approaches are often economically unfeasible, yet provides no support to justify these claims. For instance, regarding nonlethal methods, the REA states that “in many cases such methods would not be economically feasible or practical” (REA at 109) and later reiterates that certain types of nonlethal methods “would ordinarily be cost-prohibitive for livestock producers to implement on their own.” (REA at 109.)

Not only does this response fail to cite any evidence to support its conclusion, it also ignores the fact that producers would not necessarily have to pay the full cost of conflict-prevention methods. Wildlife Services provides assistance to producers for both lethal and nonlethal methods. The REA should analyze the impact that Wildlife Service assistance might have on defraying the costs to producers. Similarly, the REA should examine whether any of the costs savings realized by reducing federally funded lethal removal of wolves could be redirected to livestock producers to assist them in implementing nonlethal predator damage management methods.

2. The REA Fails to Fully Discuss All of the Nonlethal Techniques Raised by NRDC

The REA’s response to public comments mentions some of the nonlethal techniques discussed in the NRDC Comment Letter, but makes it clear that most of these

techniques were dismissed without serious consideration. Range riders, fences, and night penning are all mentioned in passing, for instance, but are hastily dismissed as uneconomical. (REA at 109.) Yet the discussion of nonlethal techniques in NRDC's first comment letter shows that all of these methods are currently in practice and are providing benefits to some producers when used appropriately. (NRDC Comment Letter at 8-10.) Wildlife Services should not dismiss these techniques without considering them more thoroughly and acknowledging that they can be cost-effective in some situations.

Similarly, the REA dismisses husbandry practices, guard animals, and fladry or other frightening devices because "[w]olf predation still sometimes occurs in spite of good livestock husbandry practices and use of nonlethal preventive measures." (REA at 113.) Total predation prevention is an impossible standard – one that lethal control could not meet either – and should not be a reason to dismiss techniques that can be effective in many situations during critical times of year (e.g. calving season). Moreover, the REA only mentions husbandry practices broadly and fails to respond to the wide range of specific, practical husbandry techniques highlighted in the NRDC Comment Letter. In particular, the recommendations developed by the Mountain Livestock Cooperative, are largely ignored. (NRDC Comment Letter at 9-10.) Highlighted recommendations include:

- Incorporating foraging theory into conflict-avoidance practices (i.e., using feeding strategies to bunch livestock together, move them to less vulnerable areas, etc.);
- "Opportunity teaching" and managing livestock to defend themselves against wolves (e.g., large animals, like cattle, that stand their ground in the face of wolves are very successful in thwarting attacks, while flight behavior makes such animals vulnerable);
- Using knowledge of the landscape and the local wolves to the rancher's benefit (i.e., understanding a wolf pack's home range and how they use it, keeping livestock away from wolves and ungulates, etc.);
- Keeping wolf packs intact (e.g., no hunting) when such packs are successfully hunting wild ungulates and not attacking livestock;
- Changing management practices to make livestock more vigilant and less vulnerable (e.g., livestock are less vulnerable when grazed as a group, not scattered across the landscape);
- Calving in May and June (e.g., longer days and shorter nights mean less risk of depredation – and fewer dead calves from cold, snow, etc.); and
- Changing feeding practices (e.g., late-afternoon feeding leads to day-calving, which cuts down on depredations because most depredations occur at night).

These specific suggestions should be considered individually by the REA, as the breadth of this range of options is obscured when they are lumped together (and dismissed) under the broad title of "husbandry." Used in concert, these techniques can be useful across a wide variety of landscapes and situations.

F. The REA's Rationale for Rejecting the "NRDC Alternative" is Flawed

The REA briefly considers and then rejects any detailed analysis of an alternative proposed in our initial comment letter. (NRDC Comment Letter at 10-11.) As discussed above, the principle rationale for this rejection is an erroneous assumption about the degree of Wildlife Services' discretion in deciding which actions it will undertake as an agency. (See *supra* at Section II(A).) The other reasons given for rejecting the NRDC Alternative are also flawed.

The REA asserts, for example, that it would be difficult and impractical to determine an "acceptable level" of livestock losses before resorting to lethal removal. What the REA fails to recognize or discuss, however, is that we did not simply invent this "acceptable level" requirement. Quite to the contrary, the "acceptable level" language provided in the NRDC Comment Letter was directly quoted from a 2010 Summary Environmental Monitoring Review of a "Predator Damage Management in Washington" Environmental Assessment and Supplement to the Environmental Assessment prepared by Wildlife Services' Washington office, which analyzed in detail a "Nonlethal Before Lethal Methods Alternative." In fact, Wildlife Services unequivocally asserts in that document that "WS takes as few animals as necessary to reduce damages to an *acceptable level*." (USDA 2010 at 21 (emphasis added).) As such, precedent exists within Wildlife Services for detailed analysis of an alternative where "lethal techniques would only be used when the use of nonlethal methods failed to keep damages below an acceptable level." (*Id.* at 2.)

The REA also argues that the use of some nonlethal methods would be impractical, inappropriate, or have a low chance of being effective. (REA at 67.) NRDC's Comment Letter explicitly recognizes, however, that not all nonlethal methods will work for all livestock producers all of the time. (NRDC Comment Letter at 7.) The choice of nonlethal methods depends on location, topography, livestock type, livestock operation, and other factors. But employment of some combination of site-specific nonlethal practices has been proven to work. As such, the REA's discussion of impractical, inappropriate, or ineffective methods is immaterial.

Similarly, the REA asserts that it would be "difficult or impractical to determine appropriate and reasonable criteria to dictate ahead of time which particular husbandry or other nonlethal methods should be required in given situations." (REA at 67.) NRDC's Comment Letter did not seek a requirement that the specific nonlethal methods to be employed in each situation be dictated ahead of time. We merely asked for consideration of an alternative that requires the use of some nonlethal methods prior to using lethal methods. As for which nonlethal methods should be used, that decision should be made, as we explained, by each producer based on that producer's operation, landscape, location, etc. and with Wildlife Services' assistance and consultation as well as the government or other financial assistance available for implementing nonlethal conflict-prevention practices.

The REA also asserts that "most instances of wolf predation on sheep occur in spite of sheep producers' use of herders and livestock guarding dogs to help protect the sheep from predation. Therefore, the current situation for many wolf-caused livestock depredation problems is that the producers have already implemented one or more

nonlethal strategies prior to receiving WS or other agency assistance.” (REA at 67.) The REA, however, provides no citations or support for these assertions in its discussion of the NRDC Alternative or in Section 2.4.9. Moreover, to the extent that producers are already employing nonlethal methods which have proved ineffective, adoption of the “NRDC Alternative” may not be as burdensome as the REA supposes. Of course, if livestock producers have not implemented a reasonable set of nonlethal techniques, they should be required to do so before asking and receiving federally subsidized assistance to kill a protected species.

Nor is the NRDC Alternative intended to be a straitjacket. Contrary to Wildlife Services’ assumption, it is perfectly capable of crafting an alternative that takes into account the extraordinarily rare event of a wolf-related threat to human safety (or pet safety or other circumstances to be delineated), in which case the nonlethal-first requirement should clearly not apply. Indeed, our initial comment letter explicitly recognized this. (NRDC Comment Letter at 6-7.)

Finally, the REA states that implementing a nonlethal-before-lethal requirement would be counterproductive to promoting acceptance of wolf recovery by the livestock industry, as some or many producers would perceive such a condition to be too burdensome and would stop requesting assistance from Wildlife Services. As a federal agency, however, Wildlife Services should seek to find a balance acceptable to all stakeholders. With over 100,000 people expressing their opinion on this issue (REA at 32), it behooves Wildlife Services to look for a middle-ground approach to its role in wolf management in Idaho. Requiring the use of some nonlethal methods before resorting to lethal removals – not all nonlethal, not all lethal – is such a middle ground and the NRDC Alternative should not have been summarily rejected by the agency.

III. Wildlife Services Must Complete Endangered Species Act Consultations on Impacts to Grizzly Bears Before it Takes Any Action

We are pleased that Wildlife Services has initiated Endangered Species Act consultations with the U.S. Fish and Wildlife Service on the potential effects of the wolf removal plan on grizzly bears. As discussed in our Comment Letter, wolf-killed prey could be an important food source for grizzly bears, particularly in the fall months, when other food sources are scarce. During this consultation process, Wildlife Services may not make any irreversible or irretrievable commitment of resources if the commitment of those resources would foreclose the “formulation or implementation of any reasonable and prudent alternative measures” FWS may propose. 16 U.S.C. § 1536(d). Wildlife Services should therefore wait to finalize any new plan until this consultation is complete, including the finalization of a Record of Decision for the actions proposed here.

III. Conclusion

For the reasons set forth above and in our initial Comment Letter, we continue to urge Wildlife Services to withdraw its REA, prepare a full EIS, correct its flawed analysis of cumulative effects and the environmental baseline, and examine a full range of reasonable alternatives in detail.

Thank you for considering these comments.

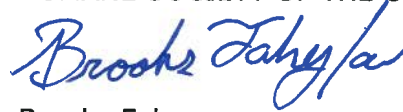
Very truly yours,



Andrew E. Wetzler
Director, Land & Wildlife Program
NATURAL RESOURCES DEFENSE COUNCIL



Ralph Henry
Senior Attorney, Wildlife Litigation
HUMANE SOCIETY OF THE UNITED STATES



Brooks Fahy
Executive Director
PREDATOR DEFENSE

Supplemental References

Berger, K. M. and M. Connor. 2008. Recolonizing wolves and mesopredator suppression of coyotes: impacts on pronghorn population dynamics. *Ecology* 18: 599-612.

Bloom, P.H., J.M. Scott, O.H. Pattee, and M.R. Smith. 1989. Lead Contamination of Golden Eagles *Aquila chrysaetos* within the Range of the California Condor *Gymnogyps californianus*. *Raptors in the Modern World*. B.U. Meyburg and R.D. Chancellor, eds.

Craighead, B. and B. Bedrosian. 2007. Blood Lead Levels of Common Ravens with Access to Big Game Offal. *Journal of Wildlife Management* 72: 240-245.

Creel, S. and J.J. Rotella. 2010. Meta-Analysis of relationships between human offtake, total mortality and population dynamics of gray wolves (*Canis lupus*). *PLoS ONE* 5(9): e12918.

Hunt, W.G., W. Burnham, C.N. Parish, K.K. Burnham, B. Mutch, and J.L. Oaks. 2006. Bullet Fragments in Deer Remains: Implications for Lead Exposure in Avian Scavengers. *Wildlife Society Bulletin* 34(1): 167-170.

Murray, D. L. et al. 2010. Death from anthropogenic causes is partially compensatory in recovering wolf populations. *Biological Conservation* 143: 2514-2524.

Rogers, T. B. Bedrosian, D. Craighead, H. Quigley, and K. Foreman. 2009. Lead Ingestion by Scavenging Mammalian Carnivores in the Yellowstone Ecosystem. Extended abstract in R.T. Watson, M. Fuller, M. Pokras, and W.G. Hunt (Eds.). *Ingestion of Lead from Spent Ammunition: Implications for Wildlife and Humans*. The Peregrine Fund, Boise, Idaho, USA. DOI 10.4080/ilsa.2009.0121 (available at: http://www.peregrinefund.org/lead_conference/PDF/0121%20Rogers.pdf).

Seng, P. 2006. Non-Lead Ammunition Program Hunter Survey. Final Report to the Arizona Game and Fish Department. D.J. Case & Associates. Available at: http://www.azgfd.gov/w_c/documents/AmmoSurveyFINALReport2-23-06_000.pdf.

vonHoldt, B. et al. 2010. A novel assessment of population structure and gene flow in grey wolf populations of the Northern Rocky Mountains of the United States. *Molecular Ecology* 19: 4412-4419.

Attachment

Idaho Fish & Game Commission Motion
Passed December 8, 2010

Background for Motion

On October 18, 2010 Governor Otter ended Idaho's agreement with the Department of Interior to serve as designated agent for statewide wolf management. It is uncertain when the State of Idaho and the Department of Fish and Game will be allowed full management authority, including hunting. Continued expansion of the wolf population and conflict levels are beyond those forming the basis for the 2008 plan. Keeping the 2008 plan active during this period of uncertainty does not serve any useful purpose and only contributes to confusion on the subject of wolf management in Idaho.

MOTION

Therefore, I move the Department:

- (1) Continue the pursuit of control actions under 10j for the protection of ungulate herds while wolves remain listed under the Endangered Species Act;
- (2) Suspend immediately the 2008-2012 Idaho Wolf Population Management Plan; and
- (3) Postpone consideration, until delisting resumes, as to the specifics of day-to-day state wolf management and upon delisting of gray wolves in Idaho; the Commission will direct the Department to prepare an appropriate wolf species management plan, consistent with the 2002 Idaho Wolf Conservation and Management Plan approved by the Idaho Legislature and the U.S. Fish and Wildlife Service.