

## **Decision and Finding of No Significant Impact**

### **Wildlife Services' Gray Wolf Damage Management in Oregon**

**United States Department of Agriculture, Animal and Plant Health Inspection Service**

**July, 2014**

#### **1. Introduction**

The State of Oregon, Department of Fish and Wildlife (ODFW) has requested the assistance of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (WS) with resolving gray wolf damage to livestock and possible human safety threats under Oregon Administrative Rules (OAR) 635-110. ODFW has requested that WS provide assistance with implementing its Oregon Wolf Conservation and Management Plan (OWCMP). The need for action is based on confirmed and *chronic* livestock depredation, and although less likely, the potential for wolves to threaten human safety.

On tribal lands, WS proposes to take similar actions to assist tribal governments with managing wolf depredations on tribal lands. Additionally, WS proposes to assist the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) with wolf depredation on livestock and possibly human safety with both non-lethal and lethal control actions as directed by CTUIR.

Wildlife Services cooperated with ODFW to develop an Environmental Assessment (EA) entitled Wildlife Services' Gray Wolf Damage Management in Oregon (July 2012). The EA presents an analysis of the potential effects of several proposed alternatives including an optional non-lethal only alternative and a no action alternative. Other alternatives were considered but were not assessed in detail in this EA because they did not meet the criteria that the state established in the OWCMP and they were not options that Wildlife Services could select. The 2012 EA explains that Wildlife Services was presented with a request to assist the state with implementing portions of the OWCMP and CTUIR with managing their wolf conflicts. I have reviewed the July 1012 pre-decision EA and the public comments on the EA, and I have decided to issue a final EA, to adopt the proposed action as described in the EA, and to issue this Finding of No Significant Impact (FONSI).

#### **Purpose and Need**

The purpose of the EA is to respond to ODFW's requests to reduce livestock depredation by gray wolves in Oregon and on sovereign Native American tribal reservation lands, where gray wolves are not managed by the federal government under the federal Endangered Species Act (ESA) as defined in the EA, Chapter 1.3. Additionally, the purpose of the EA is to be available to assist ODFW and sovereign tribal governments in the unlikely event that wolves threatened human safety. Any actions undertaken on behalf of ODFW must conform with ODFW's conservation and management objectives and goals as defined in detail in OAR 635-110 (EA Appendix A) and OWCMP (ODFW 2010a, Section II).

The need for action as described in the EA, section 1.2, presents the nature of wolf damages and threats that are occurring in Oregon. From 2009 through June 30, 2014, there have been a total

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of 124 confirmed depredations on livestock (80 sheep, 42 cattle, and 2 goats) resulting in either killed or injured livestock. The number of confirmed losses likely underestimates the actual losses that are occurring. In addition to direct impacts, indirect effects on livestock due to depredations and wolves being present are creating impacts for producers. Also there is a new threat and impact to guard dogs being attacked or killed by wolves as well as other sport dogs and pets, and a potential threat to people.

## **2. New Information**

New or updated information has been obtained since issuing the July 2012 pre-decision EA that warranted consideration and inclusion in the FONSI but did not change the analysis or conclusions in the EA in the decision:

- 1.) On June 13, 2013, Federal Register Volume 78, No. 114, the U.S. Fish and Wildlife Service issued a proposed rule to remove gray wolves from the list of species receiving federal protections under the ESA. If gray wolves in the western two-thirds of the state are delisted, they would be managed solely by ODFW under the OWCMP (ODFW 2010a). Wolves in Oregon have been classified as State endangered species since 1987. The OWCMP has outlined conservation and management guidelines to ensure the State meets the intent of Oregon ESA rules and policies to “prevent serious depletion of any indigenous species and to provide the optimum recreational and aesthetic benefits for present and future generations of the citizens of this state” (ODFW 2010a). This contingency was described in the EA in Chapter 1, sections 1.1, 1.3, and 1.4.
- 2.) ODFW released their Oregon Wolf Conservation and Management 2013 Annual Report with updated information on the increased number of wolves and packs in Oregon as well as number of confirmed livestock depredation by wolves. The minimum wolf population in Oregon at the end of 2013 was 64 wolves (ODFW 2014), an increase from 29 wolves ending 2011 (EA section 4.1.1). There were at least 8 known packs ending 2013 (ODFW 2014), up from the 4 packs known ending 2011 (EA section 4.1.1). Depredation investigations for 2013 resulted in 13 confirmed incidents with the total of 5 cattle, 6 sheep, and 1 goat as confirmed losses plus additional injuries (ODFW 2014); there were 13 confirmed cattle depredations in 2011 (EA section 1.2). As of July 3, 2014, ODFW has release information for depredation occurring in 2014 through June, which includes: 1 cow injured; 36 sheep depredations (5 ewes and 6 lambs killed; 20 lambs and 5 ewes injured). Wolf numbers in Oregon were and are expected to continue to increase, which was discussed in the EA, sections 1.2, 1.3, and 4.3.1; therefore this updated information does not change the analysis of the EA.
- 3.) On May 23, 2013, the Oregon Fish and Wildlife Commission adopted the temporary revised Oregon Administrative Rule (OAR) 635-110 after a court settlement, and subsequently approved the final OAR 635-110 rules on July 12, 2013. The key changes to the rules regarding lethal control of wolves are:

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- Before ODFW can use lethal control against wolves, ODFW must confirm four qualifying incidents within a six-month time frame (previously and as noted in the Pre-decision EA, it was two depredation incidents and no specific timeframe).
- Requires the development and public disclosure of wolf-livestock conflict deterrence plans that identify non-lethal measures for implementation by landowners.
- Although non-lethal methods were already required to be used, the new rule requires that the non-lethal measures are identified in conflict deterrence plans and are implemented prior to a depredation incident, in order for the depredation incident to count towards lethal control.
- Specifies that any ODFW lethal control decision is valid for 45-days (previously the timeframe for an ODFW lethal control decision was not standardized in rule; 45 days is consistent with what other western states have implemented).

Amendments to the OWCMP and or OAR 635-110 were anticipated, as discussed in the pre-decision EA, sections 1.4 and 1.8, “any APHIS-WS actions must abide by limitations set forth in the OWCMP (ODFW 2010a) and OAR 635-110 (Appendix A), as amended”. Under these revised rules, ODFW would continue to be responsible for making the determination of confirming a qualifying depredation. ODFW is also responsible for defining and publishing the conflict deterrence plans. Resource owners are responsible for reporting to ODFW what non-lethal methods they are implementing. Therefore, these new conditions carry forward into the proposed action, Alternative 3 and it does not change the analysis of the final EA. Discussions about the amended OAR 635-110 are included in the final EA, in the Executive Summary, Chapter 1 introduction, section 2.1. The amended OAR 635-110 have also been updated and included in Appendix A of the final EA.

- 4.) On September 9, 2013, the USFWS issued a letter of concurrence with WS’s determination that the proposed action “may affect, but is not likely to adversely affect” the gray wolf in areas where it is federally listed under the Endangered Species Act (USFWS 2013). This letter has been added to Appendix D in the Final EA.
- 5.) The OWCMP (page 10) states: “The Oregon ESA requires the conservation of listed species, and defines conservation as “the use of methods and procedures necessary to bring a species to the point at which the measures provided under ORS 496.171-496.182 (the Oregon ESA) no longer are necessary.” The OWCMP and Oregon ESA laws call for conservation and management of wolves not recovery. Portions of the Pre-decision EA incorrectly referred to the OWCMP as a recovery plan instead of conservation and management plan or refers to recovery goals and objectives instead of conservations goals and objectives (EA Sections 1, 1.2, 1.9.2, 2.3, 4.1.1, 4.1.2, 4.1.4, 4.3.1, 4.3.3, and 4.3.4). The Final EA reflects these changes in the terminology. The changes in terminology do not affect the analysis of the EA.
- 6.) The pre-decision EA, Section 1.8, incorporated the 1997 Final EIS on the national APHIS WS program and Record of Decision (EIS and ROD) by reference. Based on a review of all such specific references in the EA, WS has determined that incorporation by reference was not necessary, and has updated and replaced information in Sections 1.8,

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4.1.2, and 4.3.2. No substantive changes have been made that would chance the analysis. This EA does not rely on the EIS and ROD. WS' decision and actions regarding gray wolf damage management in Oregon rely solely and exclusively on the EA, Decision Document and Record on this EA.

### 3. Issues

The following issues were identified during the interagency and public involvement processes during the development of the EA, were determined to be important to the analysis, and were used to drive the environmental analysis and compare the impacts of the alternatives.

- Impacts on wolf populations - What might be the impact of removing wolves on the growing Oregon wolf population, locally, in eastern Oregon, and statewide? What would be the cumulative effects of the proposal?
- Impacts on non-target animals and human safety - Would there be potential impacts on other species besides wolves? Could the program affect pets or wildlife? Might the program have adverse or beneficial effects on federally protected species? Are there any concerns for human safety?
- Social and Aesthetic Perspectives – How acceptable are the alternatives to stakeholders? How is humaneness perceived? What are the implications for the aesthetic value of wolves?
- Effectiveness – A discussion on the effectiveness of the alternatives will reveal how well the alternative meets the purpose and need for action. This issue is not an environmental issue, but it is an important management consideration that will be weighed with the environmental findings to make an informed decision

Other issues raised but not analyzed in detail, with rationale, are discussed in the EA section 3.2.

### 4. Public Involvement

Public participation in the National Environmental Policy Act (NEPA) process for the EA was conducted consistent with Wildlife Service's NEPA procedures and had three major components (EA section 1.7). WS identified issues related to the proposed action using: 1) summary of agency, focus group, and public involvement processes during OWCMP development; 2) Wildlife Service's own public outreach process on the pre-decision EA, which included direct mailing notices to potentially interested parties, posting a notice and the pre-decision EA, on the APHIS-Wildlife Services website, [http://www.aphis.usda.gov/wildlife\\_damage/nepa.shtml](http://www.aphis.usda.gov/wildlife_damage/nepa.shtml), and publishing a legal notice in the Statesman Journal newspaper on August 1, 2012, announcing the availability of the pre-decision EA for comment; 3) WS announcement of the Final EA, and Decision and FONSI document, by posting it on the APHIS-Wildlife Services website, publishing a legal notice in the Statesman Journal, issuing notices in Regulation.gov and GovDelivery.com, mailing notices to those who provided comments on the Pre-decision EA. The three steps are discussed below:

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1. In development of this EA, WS reviewed the summary public comments on ODFW's OWCMP. Because Wildlife Services proposed action is part of the OWCMP, some of the comments on the OWCMP were seen as relevant to Wildlife Services' proposal and were considered as part of Wildlife Services' NEPA scoping process. Substantive comments from the OWCMP that related to Wildlife Services actions were considered in the development of this EA. The development of the OWCMP plan took over a year to develop, and the process involved meetings with the Oregon Fish and Wildlife Commission, agency meetings, focus groups, and many public meetings. The Oregon Fish and Wildlife Commission initially began with public involvement in 2002. In 2003 they appointed a diverse public committee and in February 2005 they accepted the draft management plan. After additional public review, the OWCMP was updated in 2010. ODFW carefully considered input from peers, stakeholder groups and the public in the development of the OWCMP. The focus groups were comprised of a diverse membership representing individuals and organizations with a broad spectrum of opinions, philosophies and values on how natural resources in Oregon should be managed. The committee analyzed the numerous public and professional comments collected from these meetings and developed the OWCMP. WS reviewed ODFW's OWCMP and summary of public comments as part of our NEPA planning process.
2. The July 2012 Pre-Decision EA was made available to the public by directly mailing notices of the availability of the EA to all people who have expressed interest in this or similar Wildlife Services activities, by posting the pre-decision document and notice of its availability on the Wildlife Services website [http://www.aphis.usda.gov/wildlife\\_damage/nepa.shtml](http://www.aphis.usda.gov/wildlife_damage/nepa.shtml), and by issuing a legal notice in the general circulation Statesman Journal newspaper announcing its availability. Wildlife Services received 30 public comment letters and has considered all comments. A summary of the public comments and responses is contained in the Final EA, Appendix E.

The Final EA, Decision and FONSI document, were made available to the public by posting it on the APHIS-Wildlife Services website, [http://www.aphis.usda.gov/wildlife\\_damage/nepa.shtml](http://www.aphis.usda.gov/wildlife_damage/nepa.shtml), publishing a legal notice in the Statesman Journal on July 30 through August 1, 2014, issuing notices in Regulation.gov, <http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0070>, and GovDelivery.com, and mailing notices to those who provided comments on the Pre-decision EA.

## **5. Decision and Rationale**

WS considered three alternative courses of action, which were based on the reasonable choices that could be made by Wildlife Services: (1) No Action Alternative, in which WS would continue to provide a minimal level of non-lethal technical assistance to the state and tribes; (2) a Non-Lethal Wolf Damage Management Methods Only alternative, in which WS would use only non-lethal methods when assisting the state and tribes; and (3) Proposed Action - Integrated Wolf Damage Management, to assist the state with implementation of the OWCMP and tribes. The three alternatives were analyzed in the EA against the issues noted above in Section 3 of this FONSI, and section 3.1 of the EA. Other alternatives were considered but rejected from detailed analysis for the reasons presented in the EA, section 2.5. Both ODFW and CTUIR have clearly stated that they would implement their management plans without WS assistance (EA Appendix B) and because they have access to the same management tools, and will follow their own management plans, Wildlife Services finds that the environmental consequences or effects from

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alternatives 1, 2, and 3 are similar, with little difference between them. The following is a summary of the effects of the three alternatives evaluated in detail in the EA.

**Alternative 1: No Action Alternative**

The “No Action” Alternative is a procedural NEPA requirement (40 CFR 1502.14(d)). Alternative 1 would result in no new or additional action to be taken by Wildlife Services to assist the State of Oregon or tribes. Wildlife Services would continue providing non-lethal technical assistance or assisting with wolf damage identification. ODFW would continue to implement the OWCMP, including lethal take, and the tribes would implement their management responsibilities without additional assistance from WS. As analyzed under this alternative, Wildlife Services did not find its actions would have a direct effect on wolf populations in Oregon. Additionally WS also determined that this alternative was not likely to have any adverse cumulative effects on the wolf populations, EA section 4.1.1, 4.3.1, and USFWS (Appendix C). The EA, section 4.1, discusses reviews the impacts of wolf mortality, including natural events, direct management take, accidental, and illegal take. The OWCMP conservation and management strategies include a cautious and conservative approach to managing wolf populations to avoid adverse cumulative effects.

Under this alternative, WS would not take action to remove wolves and would not directly affect the social consideration analyzed, nor would WS have any positive or negative effect on the ability of the public to potentially experience wolves in the wild. The No Action alternative would include ODFW and others taking actions to resolve wolf depredation, using lethal means where authorized. WS would also have a no effect on non-target animals or human safety under this alternative.

Under this alternative, the effects are expected to be similar to the other two considered alternatives because ODFW has implemented the OWCMP including lethal control and has indicated that it would implement the plan in the absence of Wildlife Services' assistance. Wildlife Services will continue to respond to reported livestock depredation events and will only provide technical assistance when the depredation event is determined by ODFW to be caused by a wolf. The No Action Alternative was not selected because ODFW has indicated that although it would implement the plan, without additional assistance from WS, service to landowners may be reduced or delayed, thus wolf depredation on livestock may increase (EA 4.1.4 (Appendix B)). Also, the No Action Alternative would not fulfill WS legislative authority to use its expertise to assist the State of Oregon or the livestock producers with managing wolf damage to livestock.

**Alternative 2: Non-lethal Wolf Damage Management Methods Only**

Under the Non-lethal Actions Only Alternative, WS would continue to assist in livestock depredation investigations and assist livestock producers, other members of the public, tribes, and ODFW with implementing technical assistance or non-lethal management actions and or the distribution of those tools and supplies. It differs from Alternative 1 in that WS could take a more proactive role in educating, distributing, and/or using non-lethal methods. WS would not assist ODFW or CTUIR with lethal take of wolves to protect livestock or human safety in Oregon. ODFW and CTUIR, would, however, take the same actions as those described under the No Action alternative, thus lethal control would still occur.

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The cumulative effects of such actions are similar to the current environment under which wolves exist, and are discussed as the environmental baseline or the environmental status quo in the EA, Section 4.1 and 4.2. WS would have no direct effects on wolf populations since it would not conduct lethal removal of wolves. Cumulative effects are expected to be similar to Alternative 1, in that ODFW has determined WS is not likely to impact the long-term conservation of wolves in Oregon. There would be little to no effect on non-target animals and human safety with non-lethal actions due to operating procedures designed to minimize exposure and risk to non-target species or people. Humaneness and public aesthetic values will not be different than Alternative 1 since non-lethal methods are already being used, and ODFW has and is ready to implement lethal control methods when necessary as well as CTUIR. Therefore, because non-lethal methods are used when they are effective, and because ODFW may use lethal methods under the same circumstances as discussed under the No Action alternative, the effectiveness of this alternative is similar to Alternative 1, No Action. Sections 2.2 and 4.1.4 contain discussions of the efficacy and limitations of non-lethal approaches.

Likewise with Alternative 1, the Non-lethal Only, Alternative 2, was not selected because ODFW has indicated that although it would implement the plan, without additional assistance from WS, service to livestock producers may be reduced or delayed, thus wolf depredation on livestock may increase (EA 4.1.4 (Appendix B)). Additionally as noted in the EA Sections 2.1, 4.1, and 4.2, non-lethal measures are already an important part of the OWCMP and are used when they are effective and lethal removal of chronic depredating wolves is effective and an important part of managing conflicts.

### **Alternative 3: Proposed Action, Integrated Wolf Damage Management**

Under the proposed Action Alternative, WS would assist livestock producers, tribes, and ODFW with an integrated approach of technical assistance, wolf damage identification, and both non-lethal and lethal damage management approaches, as defined by OAR 635-110 and the OWCMP (ODFW 2010a) for management phases I and II. WS would also assist tribes in a similar fashion under the proposed action. As described in the EA, sections 1.3, and 2.3, ODFW would continue to be the sole entity to analyze the factors under OAR 635-110, as amended, and OWCMP, and only ODFW can authorize the lethal take of wolves under their management authority. WS would make no determination of when wolves meet the state statutory definition of "chronically depredating." Instead, WS role would be to implement the lethal control action, upon ODFW's request, after ODFW has made the determination and authorized removal as outlined in OAR 635-110.

The effects on the wolf population in Oregon are similar to Alternative 1. The proposed alternative is not likely to hinder conservation goals of the wolf population in OR on the statewide level when combined with other expected forms of mortality (cumulative impact). It is anticipated that wolves will continue to expand in Oregon through reproduction and immigration from neighboring states (EA section 4.3.1).

The proposed action is not expected to have a significant effect on non-target species and will have either no effect or will not be likely to adversely affect threatened and endangered species including the Canada lynx and federally protect gray wolves (EA Appendix C). While some people are opposed to the capture and killing of wolves for any reason, the best available methods will be used to minimize pain and suffering and similar methods are already being used by ODFW. The proposed action is not

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likely to affect the general public's long term visual enjoyment of wolves in their natural habitats but may temporarily limit their opportunity given that new wolves would most likely reoccupy the site in the future if suitable habitat exists. As stated earlier, ODFW will implement lethal removal of wolves when authorized should WS choose not to participate.

The effectiveness of the tools and techniques proposed under this alternative would be similar to the No Action or Non-lethal Only alternatives since either way, non-lethal methods will be in use when they are effective, and agency lethal control would take place using the same approach as provided by OWCMP (ODFW 2010a) and OAR 635-110 or under tribal authority (as discussed in Sections 2.1, 4.1.4, and 4.2.4). However, the proposed action would likely be more efficient in resolving depredation than either of the other two alternatives. As ODFW stated in a March 28, 2012 letter to WS (EA Appendix B), without the assistance of WS as proposed in this EA, its own lethal depredation management efforts may be delayed due to other commitments and responsibilities, which would have the effect of increasing wolf depredation of livestock. WS may be more efficient in responding to ODFW orders to remove depredating wolves potentially reducing further livestock losses because it has agents in the field assisting landowners with other wildlife damage conflicts, and these agents may be more readily available. No significant environmental effects were identified.

#### **FINDING OF NO SIGNIFICANT IMPACT**

The analysis in the EA indicates that Alternative 3, the Proposed Action, does not constitute a major federal action significantly affecting, individually or cumulatively, the quality of the human environment. I agree with this conclusion and, therefore, determine that an Environmental Impact Statement (EIS) will not be prepared. This determination is based on consideration of the following factors:

1. The proposed activities will occur in limited areas of Oregon on tribal lands when requested or as requested by ODFW and as specified in the objectives of the Oregon Wolf Conservation and Management Plan or as amended. The proposed activities are not national or regional in scope.
2. The proposed activities will not significantly affect public health and safety. The methods used to control wolves are target specific and are not likely to affect public health and safety.
3. The proposed activities will not have an impact on unique characteristics of the geographic area such as historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers or ecological critical areas. The nature of the methods proposed for removing chronic depredating wolves do not affect the physical environment.
4. The effects on the quality of the human environment of the proposed activities are not highly controversial. Although some people are opposed to aspects of wolf management and or removal, the methods and impacts are not controversial among experts, EA section 4.3.
5. The possible effects of the proposed activities on the quality of the human environment are not highly uncertain and do not involve unique or unknown risks. An adaptive management strategy is built into the Oregon Wolf Conservation and Management Plan so that the cumulative effects of the proposal

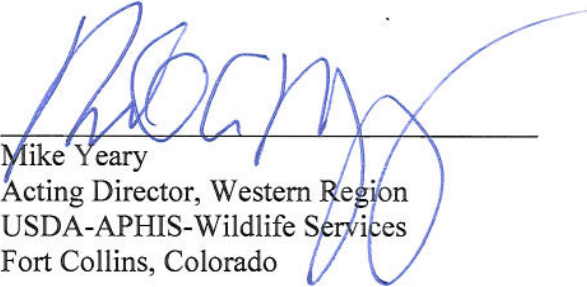


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would not adversely affect the viability of the wolf population in Oregon. WS will use similar adaptive management strategies when working with tribes per the tribes management authorities.

6. The proposed activities do not establish a precedent for actions with future significant effects or represent a decision in principle about a future consideration.
7. There are no significant cumulative effects identified by this assessment. All wolf management activities including removal will be coordinated with ODFW or tribes and will stay within ODFW's OWCMP and OAR 635-110 or respective tribal management authorities.
8. The proposed activities will not affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places nor will it cause a loss or destruction of significant scientific, cultural, or historical resources. Wolf removal does not have the potential to affect historic properties. Federally recognized tribes in Oregon were contacted during the preparation of EA, and no issues of concerns were identified.
9. The proposed activities will fully comply with the Endangered Species Act of 1973, as amended. The proposed activities would either have no effect, or would not be likely to adversely affect federally listed threatened and endangered species.
10. There are no irreversible or irretrievable resource commitments identified by this assessment, except for a minor consumption of fossil fuels for routine operations.
11. The proposed activities will not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

For additional information concerning this decision, please contact David Williams, State Director, USDA-APHIS-Wildlife Services, 6135 NE 80<sup>th</sup> Avenue, Suite A-8, Portland, Oregon 97218.

  
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7-22-14  
Date