



February 22, 2023

CPW Commission  
Submitted electronically  
<https://engagecpw.org/comment-form>

Re: Wolf Reintroduction Plan

Dear CPW Commissioners:

The Organizations thank the Commission for this opportunity to provide public comment on the draft CPW Wolf Reintroduction Plan (Hereinafter referred to as “The Plan”). These comments are designed to supplement previous comments submitted on this issue. Our Organizations submit the Plan is a mixed bag of concepts – some we support and others we are concerned about and others we must oppose. The Organizations are very concerned that the Plan overly focuses on ranching and farming issues and is entirely silent on many other impacts, such as nonconsumptive recreation, that could be far more severe to the State over time. While we vigorously support full compensation of ranchers for any direct losses our Organization’s are very concerned about indirect impacts that have been addressed in similar efforts for similar species in the past and are not addressed in the Plan at all. The Organizations have chosen to provide our input via the written process rather than verbally simply due to the complexity of our concerns.

The Organizations are very concerned that any ambiguity, or silence in the Plan on particular issues will result in decades of litigation on any form of planning effort that may follow. Predominately CPW will not be involved or often times not even aware of these efforts. As an example, litigation continues over lynx management questions despite the fact CPW reintroduced the species more than 20 years ago and has declared that reintroduction a success. While CPW awareness of issues such as this may be low, these are impacts that must be mitigated

with clear management guidance, even if guidance on the issue is that the particular issues is not a concern for the species. This can be hugely valuable in subsequent efforts as too many planning concerns for the lynx remain centered on the fact someone saw a lynx. Inserting a new predator into discussions such as this will not bring clarity to these other efforts.

We support the data that has been provided about the steady population history of all species and that many species are above population goals. We also support Plan recognition of the expected decline of deer and elk populations as a result of wolves and that it is expected to shorten hunting seasons. This will be a major concern moving forward for those in the consumptive recreational community. This is a significant improvement in the Plan when compared to the 2005 CPW wolf plan that was almost silent on this type of issue. While this is an improvement, we are also concerned that a lot of this data is buried in the middle of the plan and simply not easily found. While we are aware this is a wolf plan, this information on other species is critically important and should be made easier to find and more clearly stated.

While there are several portions of the Proposal that we can support, we must express significant concern over the lack of data and management guidance on dispersed nonconsumptive recreation in the Proposal.<sup>1</sup> This void of information falls well short of the clear guidance that CPW has partnered with USFWS in developing for other species, such as the wolverine. In the wolverine reintroduction discussions, CPW championed the inclusion of language that dispersed recreation was a minimal threat to the species in various plans and USFWS efforts. The failure of CPW to include guidance on this issue is disappointing and sends a strong message to the nonconsumptive recreational community that their concerns about possible impacts from the wolf reintroduction are not as significant or valued similarly to impacts to the consumptive community, which are detailed heavily in the Proposal. The optics on such a position are troubling

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<sup>1</sup> For purposes of our comments, we are using the term “non-consumptive recreation” in a very general manner so as to include recreational activities that do not remove resources from the environment. This would include, but not be limited too, motorized trails users, mechanized trails users, dispersed campers, developed campers and visitors to state parks.

and we hope are something that would just be quickly remedied as compared to the other issues involved in the wolf reintroduction, our remedy is easily provided and costs nothing to the state or CPW.

The Organizations are opposed to several provisions of the Plan where CPW assumes that land closures will be necessary for the protection of wolves. Absolutely no guidance or even discussion is provided on this issue in the Plan, nor is there any discussion of why resources such as the incremental management structure outline in the 2021 CPW Trails and Wildlife Guide would not be fully applicable to wolves. We would like to understand how this decision was made, what lands it applies to and how long the proposed closures will last. We are sure that other interests will want to understand what these closures will look like as well. We are vigorously and completely opposed to any closures of any lands for the benefit of the wolf without a clearly stated scientific basis for the closure and application of an incremental management structure as outlined in the Trails and Wildlife Guide has been applied.

The Plans silence on issues that have been historically addressed by CPW stands in stark contrast to the inclusion of mandatory management actions for concerns that many experts have identified as theoretical and academic in nature. These actions are addressing management concerns that simply are not occurring in wolves in the Western United States. One example of this concern would be the inclusion of genetic migration corridors for wolves. We are very concerned that this concept is only briefly mentioned and is poorly described and not analyzed in the Plan. While there are might concerns on this issue with Mexican Wolves isolated in Arizona, of wolves that are forced to live on an island in the middle of Lake Superior. Genetic diversity is an issue for isolated wolves outside the region. We believe that the Plan should remain focused on identifiable challenges for the Colorado wolf reintroduction and address novel or academic issues at some other time. We believe the concept of genetic corridors is an example of the novel or theoretical issues that we could be drawn into in subsequent planning and serves as an example of why generalized management clarity must be provided. The Colorado wolf plan should focus on Colorado Wolves and Colorado impacts.

**1(a). The Organizations vigorously support the statements regarding ungulate species populations and expected impacts to those populations from wolves.**

CPW holds broad authority to manage wildlife and recreation throughout the State and has proven that jointly created documents between CPW and federal land managers can carry great weight in subsequent planning efforts. CPW position in these documents has always been a desire for more ungulate and other populations. These jointly created high quality documents will be critical in the wolf reintroduction as this is the first CPW management action that is going to directly create a decline in ungulate populations in the State. The Plan also recognizes that in some areas this impact will be a significant decline. These clear statements of expected impacts from wolf reintroduction must remain in the Plan and be further highlighted and clarified to avoid future management issues and immense conflict between user groups.

CPW has a great story to tell regarding the successful management of wildlife species in Colorado, as most species are at or well above population goals and often at or above populations that were present in 1980. Our Organizations have worked hard with CPW and federal managers in furtherance of these goals and it is highly frustrating for us to have to address issues such as this. This is a huge success, but it is often simply not recognized in local discussions around wildlife populations. Too often we hear assertions that wildlife populations are collapsing and trails must be closed. As a result, the Organizations vigorously support the clarity of statements in the Plan regarding the current populations of deer, elk and other species in the state. The Plan provides the following statement on elk populations:

“Colorado’s statewide elk population peaked in 2001 and as of 2021 was estimated at 309,000 after hunting season. In 2004, antlerless license numbers were at their highest which helped reduce elk populations to Herd Management Plan population objectives. Since 2004, the statewide total elk population estimate has increased as a result of CPW reducing antlerless and either-sex elk licenses every subsequent year.”

The sum of Colorado's post-hunt HMP population objective ranges for elk statewide is 252,000-306,000 for all 42 elk herds combined. These data indicate that Colorado's elk population is over objective."<sup>2</sup>

The Organizations are aware that in some areas of the state there are challenges being faced for elk and the Organizations believe these are generally local or regional issues that should be managed at that level. Recognition of the negative impacts of the wolf on those populations will be a major benefit in these subsequent local efforts.

The Plan also makes similar statements regarding the deer herd in the State:

"Mule deer populations in western Colorado have declined precipitously since the 1970s. CPW and the public have concerns over mule deer declines in the largest herds of western Colorado....Colorado's statewide deer population declined from roughly 600,000 deer in 2006 to an estimated 416,000 post-hunt 2021. The statewide deer population has been more stable recently, averaging 420,000 over the last 11 years. There is on-going interest from various constituents to increase mule deer populations; however, for many deer herds, population management is largely dictated by herd productivity and performance, winter severity, and Chronic Wasting Disease (CWD) prevalence."<sup>3</sup>

The Organizations appreciate the Plan recognizing populations of deer are largely stable and the somewhat cautious manner the Plan uses to call for increases in wildlife populations as there are many factors causing the situation. It has been our experience that demands from special interests for more wildlife are becoming highly frequent and often made in a very public manner. In the last year, we are aware of numerous inaccurate articles on this issue being present

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<sup>2</sup> See, Plan at pg. 23.

<sup>3</sup> See, Plan at pg. 24.

throughout the state. As an example: The Durango Herald ran an article January 11, 2022<sup>4</sup> asserting a critical need for wildlife corridors to protect plummeting wildlife populations; the Durango Herald ran a second article asserting Wildlife numbers on the decline in Southwest Colorado and plummeting worldwide<sup>5</sup>; and the Colorado Spring Gazette Recently ran an article asserting wildlife populations were at an all-time low in the state.<sup>6</sup> The Organizations do not believe that these discussions will be easier or less common after the wolf reintroduction actually starts causing these populations to decline.

It is unfortunate to note that this erroneous narrative is already creeping into local planning documents despite current CPW efforts to provide accurate information on these issues. Other Organizations and collaborative planning efforts simply are getting wildlife estimates and trends wrong already and populations are strong and steady. As an example, Envision Chaffee County planning documents have already taken the position that ungulate populations are plummeting as follows:

**“Summary**

According to research, 8 of 13 key wildlife populations in Chaffee County — or 65% — are in steady decline. This includes bighorn sheep, down 29% since 2000; mountain goat, down 32% since 2000; and elk, down 11% since 2000. Detailed data provided by Colorado Parks and Wildlife and USFS biologists on these species is available in the Chaffee Recreation Report.”<sup>7</sup>

The direct conflict with the Envision information with information from CPW on this issue is direct. The CPW November 2022 Sheep management plan for the area provides the following breakdown of populations since 1986:

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<sup>4</sup> [Need BLM to prioritize wildlife habitat, migration corridors – The Durango Herald](#)

<sup>5</sup> [Wildlife numbers on the decline in Southwest Colorado, plummeting worldwide – The Durango Herald](#)

<sup>6</sup> [Camping is out of control in Chaffee County. Officials want to fix it. \(coloradosun.com\)](#)

<sup>7</sup> See, Envision Wildlife Decision Support Tools for Recreation; at pg. 2.

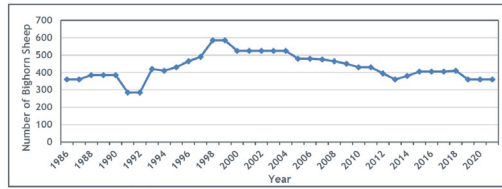


Figure 1. RBS-9 post-hunt population estimates from 1986-2021.

In discussions around the adoption of the November 2022 Sheep management plan, CPW commissioners were informed that the sheep herd is stable, at 1986 levels and the CPW managers for the area recommended no change in management for the area.<sup>8</sup> Candidly, the Organizations have to wonder how this situation was so poorly summarized in the Chaffee County Plan. Poor quality information such as this has significantly contributed to development of recreation plans that find no area suitable for trail expansion in the County.

Similar conflict between the Envision Wildlife Tools for Recreation and CPW data for elk is again immediately apparent as the CPW E22 elk herd plan provides the following population history for the eastern side of Chaffee County:<sup>9</sup>

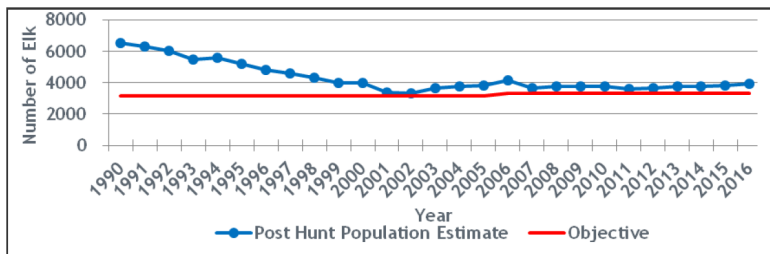


Figure 1. Elk Herd E-22 Post-hunt Population Estimate between 1990 and 2016

The 2020 CPW Elk management plan for unit E27 provides the following population history of elk in the western portions of Chaffee County as follows:<sup>10</sup>

<sup>8</sup> A complete copy of this meeting is available here: [Colorado Parks and Wildlife November Commission Meeting Day 2 - YouTube](#) and the Chaffee County sheep plan is addressed at minute 33 of the meeting.

<sup>9</sup> See, CPW Buffalo Peaks Elk Management plan extension E22; June 2018 at pg. 2.

<sup>10</sup> See, CPW Sangre De Cristo Elk Herd Plan Unit E-27 January 2020 at pg. 2.

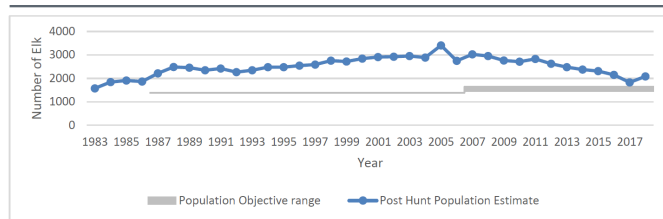


Figure 1. Elk DAU E-27 DAU modeled posthunt population and objective range, 1983-2018.

It is interesting to note that the E27 plan provides a detailed discussion on the reason for the decline in the elk population since the late 2000's which is:

“Harvest from 1983 to 2018 ranged from a low of 151 in 1983, to a high of 473 elk in 2016 (Figure 12). The population has been over objective since 2007 so we have increased license numbers with a resulting increase in harvest. The number of hunters per year for all seasons between 2007 and 2018 ranged from a low of 2,007 in 2008 to a high of 3,271 in 2018 (Figure 13). However, with the increase in licenses, hunter success rates have declined (Figure 14).”<sup>11</sup>

We are unable to locate anything resembling an 11% decline in elk populations, as the E22 population is above its 2000 population level and the E27 herd has been hunted down from its 2005 to levels present in the mid-1990s by CPW as they had concerns about game damage claims for the area. It is interesting to note that recreation is not even a priority issue in the E27 herd plan but yet we have been drawn into Envision efforts to restrict access to protect wildlife.

The Organizations believe the above references and issues provide highly credible examples of why we believe it is important to identify that populations of deer, elk and other species are reasonably good in the state currently. Even with current CPW efforts and information, too often inaccurate information is provided by many outlets and is now being found in planning documents. The Organizations are very concerned that once populations do start to decline as a

<sup>11</sup> See, E-27 at pg. 9.



result of wolf reintroductions, these issues will only get worse and require more and more effort to maintain an accurate management course regarding.

**1(a)(2). Consumptive and non-consumptive recreation uses should be addressed equally, as loss of trail as a result of decline in deer and elk populations remains a primary concern.**

As the Organizations have clearly stated, our concerns in this effort from day one has not centered on the direct impacts of wolves on trails users. We believe this is a comparatively easy issue that can be addressed with minimal management guidance in the Plan that trails and low speed forest service type roads do not significantly impact wolves. Rather our concerns focus on the indirect impacts of wolves on ungulates populations as trails users and other nonconsumptive users will be held responsible in misguided efforts seeking to account for ungulate population declines from wolves. For purposes of our comments, we are using the term “non-consumptive recreation” in a very general manner so as to include recreational activities that do not remove resources from the environment. This would include, but not be limited too, motorized trails users, mechanized trails users, dispersed campers, developed campers and visitors to state parks. This has already happened in the Envision effort.

While the Plan outlines, in somewhat alarming detail, the impacts of wolf reintroductions on consumptive activities such as the availability of hunting licenses, yet it remains silent on non-consumptive uses. We are not aware of concerns being raised about the safety of hunters from wolves, but there is significant concern about indirect impacts on consumptive recreation from the wolf reintroduction. We are asking for equality of protection in the Plan for all recreational interests regardless of the type of recreation they chose to pursue as our concerns are surprisingly similar. The Plan outlines the anticipated indirect impacts to consumptive recreation of the wolf reintroduction to the availability of hunting licenses for deer and elk as follows:

“Ungulate harvest objectives in Colorado may need to be adjusted over time as a result of wolves on the landscape, which will impact hunting opportunities for

resident and non-resident hunters, as well as businesses that rely on hunting, such as Outfitters. Additional regulatory restrictions, such as shortened hunting seasons to reduce hunter success rates, may need to be considered in some areas where wolves become established. Management prescriptions should be based on the most up-to-date science and data available to ungulate managers.”<sup>12</sup>

The Organizations believe this summary of indirect impacts to the consumptive recreational activities is probably accurate and should be hugely eye opening for many in the hunting community. The Organizations are concerned that similar levels of challenges in subsequent management will be seen for nonconsumptive recreation. Seasonal closure dates for trails will get longer, more trails will be closed and usage will be displaced or lost entirely despite decades of site specific NEPA supporting use of many areas. This is an impact that must be addressed as well.

Even minimal progressions of the forecasted management situation on the ground is going to result in unprecedented conflict on almost every factor that could impact ungulate populations, regardless of consumptive or nonconsumptive classifications. Many of the public comments received at the public meetings, addressed indirect impacts and concerns, such as these, around the wolf reintroduction. The Organizations can say with absolute certainty recreational trails in the area will be drawn into these unprecedented conflicts. Everyone already blames trails for negative impacts to resources throughout the state and we have to believe that this will only get worse after wolf reintroductions. The Organizations are asking for protection or management guidance be provided for non-consumptive recreational activities be provided in the Proposal, as this type of management guidance will be valuable for our interests and partnerships moving forward. Similar guidance has already been provided for indirect impacts to consumptive recreational concerns.

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<sup>12</sup> See, Plan at pg. 23

The Organizations request for this type of clarity is far from unprecedented as CPW and federal partners have effectively made such statements around indirect impacts to nonconsumptive recreational issues previously in planning efforts for several species. As an example, in the most recent efforts around Wolverine listing and possible reintroductions in Colorado, CPW and federal species managers were able to provide a clear statement that there should be no change in forest management as a result of Wolverine on landscape. The previous guidance on wolverine and lynx are addressed in greater details subsequently in these comments.

The proposed listing of the Wolverine is not the only time that CPW and other land managers have addressed issues that are not a challenge in planning documents. CPW resources were heavily used in the development of the 3<sup>rd</sup> version of the Lynx Conservation Assessment and Strategy, which clearly stated trails are second level threat to the lynx and should not be a primary management concern.<sup>13</sup> From our perspective, this type of recognition and clear guidance of non-threats to uses is as valuable as addressing actual impacts to the species. Far too frequently in efforts around lynx management, management appears to be driven by the assertion that lynx management is needed merely because someone “saw a lynx” and managers now must do something. As a 50 or more-year partner of CPW, the motorized trail community is asking for clarity in the plan regarding the lack of impacts of trails on wolves as some protection for our nonconsumptive interests. This has not been provided.

**1(a)(3) Wolves will cause ungulate population declines as ungulates are counted without regard to age or infirmity.**

While the Organizations welcome the clarity that has been provided around the existing ungulate populations in the Proposal, the Proposal falls well short of addressing all our concerns. A huge portion of the research we have been able to locate focuses on wildlife impacts from wolves on the basis that predominately old or sick animals are eaten by wolves. While this topic may be an interesting academic discussion, it is proof that populations will not increase for deer and elk or

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<sup>13</sup> See, 2013 LCAS at pg. 94.

probably even remain the same. This whole discussion is centered around a decline in population of these species as a result of the wolf presence, and it is this decline in populations that is most concerning to us. We have reviewed many herd management plans throughout the State and have never seen any management summary even attempting to identify old or infirm animals or take the position that these animals would have died anyway. While the fact that wolves predominately eat old or sick animals may be true, it will be useless in subsequent planning efforts as no one will be able to count how many animals were sick or old when they were eaten. We must question if information like this could even be developed making this discussion largely useless in resolving our concerns.

**1(a)(4). Management guidance should reflect the broad scope of concerns from the wolf reintroduction.**

The Organizations are also concerned that the current focus on consumption recreation while largely overlooking nonconsumptive recreation in the Plan fails to address how the wolf reintroduction is being funded. House Bill 21-1040 clearly changed the funding model for the wolf reintroduction from one borne by those that chose to support CPW to a model where wolf management is funded by everyone that was involved in the wolf reintroduction. Addressing a wider range of issues in the Plan beyond merely consumptive concerns would be a cost-effective manner to show that CPW has been responsive to more than their traditional funding base. The Organizations submit that there is significant value in this message alone as we are sure that the discussions around wolves and funding is FAR from over at this point.

**1(b)(1). There is a need for strong and clear statements on gray wolf management issues as a result of the national uncertainty around the species.**

The high level of uncertainty around the national management situation for the gray wolf means detailed, strong statements of positions and information at the state level are more critical now than ever before. The Organizations would ask for clarity in the Plan around issues where there

are NOT management concerns, as well as on issues where there are problems. It has been our experience that while there is a high degree of certainty around the lack of management concerns to nonconsumptive activities when landscape level plans are developed, this certainty will erode or be silenced when management challenges are subsequently addressed in site specific planning. This situation can only be remedied with strong and clear management statements in the Plan on all issues, which are made more valuable as a result of the national uncertainty around wolf management.

Wolf management is another highly contentious national issue with almost 50 years of listings, litigation and Congressional action involved in the discussion. There are abnormally high degrees of uncertainty around wolf management that result from the relisting of gray wolf nationally as a protected species for ESA purposes and notice of intent to sue on lack of 5-year assessment for wolf. We are also intimately aware of the impacts that the lack of clarity nationally has had on wolf management in adjacent states. The decades on conflict and uncertainty in adjacent states are something the nonconsumptive recreational community would like to avoid at all costs.

The Organizations are asking for clear and direct statements regarding possible conflicts and issues where there are not conflicts from reintroduction is the fact that some groups have taken positions that are simply at odds with anything that they have done before. As an example, Wild Earth Guardians has now taken the position that there are too many deer and elk in Colorado and that the population should be reduced. This is a significant departure from everything we have ever heard from this group in any planning effort and this is concerning for many reasons. Do we expect this unusual course of action to return to any variation of normal in the near future? No. We expect groups to continue to push their desires around wolves in every manner possible and this will cause credible general information on issues that are settled to be more valuable than ever before. It is unreasonable to expect nonconsumptive users to reinvent the wheel on an issue every time the discussion heads an unexpected manner. We believe developing the Wolf Plan to address as many possible issues, even generally, will mitigate this type of conflict.

**1(b)(2) Environmental factors impacting wolves and ungulate species responses to reintroduced predators are not particularly well understood nor are they consistent across species.**

Equal treatment of consumptive and nonconsumptive recreational activities in the Plan is needed as a result of the limited understanding and uncertainty we are seeing around natural activities of wolves and the response of ungulates to reintroduced wolves at the local level. As an example of the limited understanding of wolves currently possessed, factors such as high snowfall have recently impacted wolf behavior and populations in Canada.<sup>14</sup> Similar unusual behavior of ungulates has already been noted in Northwestern Colorado as a result of the unprecedented snowfalls limiting access of ungulates to food. Antelope in this area are being forced onto roadways and are now being struck in large numbers, which is a highly unusual occurrence. Could the presence of wolves in an ecosystem already stressed due to unusually high snowfall compound the issues we are seeing to an exponential level? That answer is possibly and that relationship is not well understood. Could wolves on the landscape cause deer to be struck on roads in a larger number on deep snowfall seasons? Possibly. Seasonal fluctuations such as this can be addressed but that type of management response is not facilitated if efforts become misdirected due to a lack of information or understanding of the issue. We don't want to have to fight for trails while researchers are resolving this question. Based on our previous experiences that could take decades.

Even without environmental pressures, such as unusual snowfall, these clear general statements of management guidance will be necessary to address the uncertainty in forecasting the response of ungulates to the presence of an alpha predator in the ecosystem. Research indicates that there is the high level of uncertainty in forecasting this type of response around any predator reintroduction efforts and often that different species respond differently to the same predator. Researchers in Canada have explicitly recognized the varying responses of ungulates around the reintroduction of cougars into a park area as follows:

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<sup>14</sup> [Wolves searching for food attack pet dogs in northern Ontario First Nation | CBC News](#)

“The presence of cougars during the past decade apparently caused deer and elk to leave the security of forest cover that now harbors a highly effective predator (Figure 3). Mule deer responded most strongly to the presence of cougars, increasing 6% per year outside the Park relative to inside even though total counts decreased throughout the study period ( $\beta = -0.037$ ,  $P = 0.03$ ), and specifically showing a 7% rise in their occurrence on grasslands and agricultural land cover types relative to forests ( $\beta = 0.133$ ,  $P = 0.001$ ).... When new predators establish and their population explodes within a decade, as has been the case for cougars in the Cypress Hills, we expect to see direct effects on prey population size resulting from predation; indeed, 76% of cougar kills in the Cypress Hills were deer, and 15% were elk (Bacon *et al.* 2011). Anticipating and planning for the indirect effects of a landscape of fear is more difficult”<sup>15</sup>

The poorly understood nature of the ungulate response to fear from a reintroduced alpha predator was recently outlined in great detail by other researchers who concluded as follows:

“Similarly, in systems where predators have been locally extirpated and are later reintroduced or naturally recolonize, wild prey animals may be naive to risk cues. This naivety has been observed in multiple ungulate species in response to wolf extirpation and recolonization in North America and Europe, and while some populations quickly learn to fear predators, others have not exhibited typical anti-predator responses even after generations (Berger, Swenson, & Persson, 2001; Sand *et al.*, 2006; Berger, 2007b). Further species-specific research is needed to understand the consequences of predator reintroduction for prey behavior and demography and inform potential management strategies.”<sup>16</sup>

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<sup>15</sup> See, Bacon *et al.*; *Landscapes of fear for naive prey; ungulates flee protected area to avoid a reestablished predator*; Canadian Wildlife Biology and management; Volume 5 Number 1; 2016

<sup>16</sup> See, Gaynor *et al.*; *An applied ecology of fear framework; linking theory to conservation practice*; Animal Conservation; #24 (2021) at pg. 312. A complete copy of this article is attached as Exhibit 1.

Yet more researchers have summarized the poorly understood nature of the fear response of ungulates to newly introduced predators and how this is a management concern as follows:

“In the presence of predators, prey generally alter their behavior to become more difficult to capture, detect, or encounter. Antipredator behaviors are a complex suite of innate and learned behavioral responses, which can be individual or species-specific (Chamaillé-Jammes et al., 2014; Thurfjell et al., 2017). They can be affected by predator species and habitat characteristics.”<sup>17</sup>

This research goes into a huge number of factors that must be understood more completely to allow these unintended and poorly understood impacts to be locally managed. These researchers outline even more management tools that could be applied to address ungulate response to predators, once these unintended responses are understood better. Large portions of the possible management do not involve the management of a human presence in the ecosystem. While this is an interesting discussion and could be management that could be facilitated around the Colorado wolf reintroduction, again the nonconsumptive recreation community should not be asked to wait for the conclusions of this research in order to maintain recreational access.

Clearly, research indicates that wildlife is going to respond to the presence of the new predator in an ecosystem, that species don't respond the same and we really don't understand exactly what that response will be. Despite it now being almost a decade after research was conducted around the ungulate response to the cougars in the Canadian Park, we are unable to find any research indicating when deer and elk returned to the Canadian Park or if they returned at all. While the wolf reintroduction may facilitate ground breaking research and resolve this scientific uncertainty identified above, the Trails community should not have to fight for trails when all the

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<sup>17</sup> See, Chitwood et al; *“Ecology of Fear” in ungulates; Opportunities for improving conservation*; Ecology and Evolution; February 3, 2022



wildlife disappears from portions of the state as a result of the wolves being present and then hope research is completed to allow us to reopen trails. This type of research could easily span decades to resolve and create exactly the impact and challenge that the Plan is supposed to be resolving. People will be mad when the deer and elk locally disappear and that will not be related to nonconsumptive recreational impacts. These interests are entitled to protection under the Plan and that protection has not been provided.

If we return to the Northwestern Colorado snowfall situation, management guidance could greatly assist in this situation by simply eliminating factors that simply don't make sense. Could managers look at feeding away from roads? Maybe. Could this draw predators to the feeding area? Probably. Should managers educate users of the road to slow down as large numbers of animals could be on the road? Yes, as this is a safety issue for the animals and motorists. Should managers be closing recreational access in the backcountry when populations decline? Probably not, as this will create conflict and may actually impair management actions such as plowing of grazing areas or feeding efforts and impair researcher access to these areas. Decades of research into this issue have been unable to substantiate any significant relationship of recreational access in the relationship of introduced predators on other predators and ungulate species and nonconsumptive recreational users should not be held accountable for this situation.

**1(c)(1). Idaho wolf planners have proactively addressed the indirect impacts of wolves on other predatory species in their wolf planning efforts.**

The Organizations have been directly involved in many efforts trying to understand the indirect relationship a single predator may have on other predators in the area and how environmental factors may provide an indirect comparative advantage to one species or the other in the ecosystem. Many of these efforts have started with partners and in other states decades ago. Trying to understand the indirect relationship between predators is another example of the highly theoretical research that seems to plague predator management as it has been our experience that these concerns simply can never be resolved. These types of theoretical

concerns have consistently resulted in lost recreational access due to decision making from highly cautious land managers seeking to avoid possible impacts to other predators from the presence of wolves. When efforts such as this started in Idaho, Idaho provided guidance to mitigate possible impacts from the issues being researched, which did help mitigate impacts. It should be noted that the motorized community has lost access even with these protections being in place. As a result, we are asking for stronger protections in Colorado around the wolf reintroduction.

The possible indirect impacts of predators on other predators and ungulate species have resulted in many challenges for nonconsumptive recreation including concerns around winter grooming and possible snow compaction from winter usage. This snow compaction concern started as a highly theoretical concern many decades ago but subsequent research has been unable to resolve this concern despite decades of research. Sometimes concerns center on increased competition between predators, such as lynx and coyotes due to snow compaction while other concerns have centered on predators being able to travel further faster and impacts ungulate populations such as caribou that can result. No matter how much research was conducted, there was always a different twist on the challenge that had to be researched more. With wolves, we are seeing concerns that summer roads and trails are creating similar types of concerns and that question concerns us greatly. Protections, such as those we are seeking could facilitate further partnerships with researchers such as those we have participated in already. We would be hugely concerned about research such as this without clear management protections in place.

As mentioned elsewhere in these comments, these types of abstract concerns can be litigated decades after reintroductions have been declared a success and CPW has moved on. This concern is exemplified by the 2022 litigation challenging the Rio Grande NF resource management plan, where the following allegations around lynx behavior were made in the Complaint:

“Snow compaction can crush subnivean spaces and alter the competitive advantage that some snow-dependent wildlife, such as Canada lynx, enjoy over coyotes and other predators.”

Introducing wolves into highly abstract management similar to those exemplified above will not bring clarity or access to lands in planning but will further cloud the already abstract questions of existing species relationships. This is a serious impact for our interests and must be addressed in the Plan. The Organizations would like to avoid litigating the relationship between wolves and lynx to protect recreational access more than 20 years after the wolf reintroduction has been completed and declared a success. We are asking for as much clarity as can be provided in the Plan as possible on this issue as the Plan is entirely silent on this issue.

After a preliminary review of wolf specific research, similar theoretical concerns about the predator/predator relationship appear to exist around wolves as continue to be challenges with the lynx. Concerns about wolves impacting other predator populations, such as the lynx, continue to exist, even if there is no supporting research whatsoever.<sup>18</sup> Nationally recognized lynx experts have firmly resolved this theoretical concern in the negative but the issue remains present.<sup>19</sup> Idaho wolf management documents recognized this issue and have specifically addressed the predator-to-predator type of impacts in their wolf planning documents as follows:<sup>20</sup>

“Wolves presumably interact in various ways with other predators and other species of concern. Wolves compete indirectly with other predators by preying on the same prey species, but have also been documented to kill mountain lions (Boyd and Neale 1992; Boyd et al. 1994; T. Ruth, Hornocker Institute, in prep.). Likewise, wolves have been documented to kill coyotes (Boyd et al. 1994, Crabtree

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<sup>18</sup> Ripple et al; *Can Restoring Wolves Aid in Lynx Recovery?* Wildlife Society Bulletin 35(4):514–518; 2011; DOI: 10.1002/wsb.59

<sup>19</sup> Squires et al; *Missing Lynx and Trophic Cascades in Food Webs: A Reply to Ripple et al.*; Wildlife Society Bulletin 36(3):567–571; 2012; DOI: 10.1002/wsb.186

<sup>20</sup> See, *Idaho Wolf Conservation and Management Plan*; Idaho Legislative Wolf Oversight Committee, March 2002 at pg. 16.

and Sheldon 1999) and researchers occasionally report observing wolves harassing bears in attempt to chase them off ungulate carcasses. It is likely that other large predators also occasionally usurp kills from wolves. Lions visited or scavenged about 3% of wolf kills while wolves visited or scavenged 20% of mountain lion kills (Kunkel et al. 1999). However, little is known about the frequency and effects of these interactions among wolves and other predators, other endangered or threatened species, or species that are candidates for listing as endangered or threatened. The Department will attempt to investigate these relationships to the extent possible as the wolf population increases.”

The State of Idaho recognized the possible impacts of this inconclusive research and has chosen to directly address these types of predator/predator secondary impacts in their planning documents around the wolf. This protection facilitated the motorized community participation in subsequent research efforts on the issue as a partner rather than an outside interest that opposed the research. We have been consistently told this partnership was important to subsequent research efforts. We would ask that issues such as this be addressed in the Colorado plan with at least the specificity that it has been addressed already in Idaho. As noted in other portions of these comments, the motorized community again had to defend another legal challenge to lynx management as existing management document were not providing sufficient protections and management clarity to lynx.

Over the 20 years following Idaho efforts, the motorized community has worked outside just defending litigation around the predator/predator relationship and the possible impacts to this relationship from recreation. As a result of the protections Idaho has provided around the wolf, we have partnered with researchers in an attempt to resolve this cross-species type of uncertainty for environmental conditions. CSA has partnered with the Idaho Snowmobile Association in supporting the work of nationally recognized experts, US Forest Service Research Stations and the US Fish and Wildlife Service exploring the relationship of recreation of the wolverine and its possible facilitation of negative impacts on other predators. These efforts were

significant enough that Idaho Snowmobile Association was recognized as a partner on this study.<sup>21</sup>

These predator/predator/recreation study efforts were continued by lynx managers in Colorado to understand snow compaction and the relationship of lynx to recreational users with the support of Colorado Snowmobile Association in partnership with CPW. CSA partnered with researchers in a variety of ways from building confidence in the snowmobile community to even participate in the study on Vail Pass, to supplying fuel and oil for researchers to recovering large amounts of stuck equipment in the backcountry and teaching researchers how to ride safely in the backcountry. This research developed information about the real time response from predators to recreational usage as follows: <sup>22</sup>

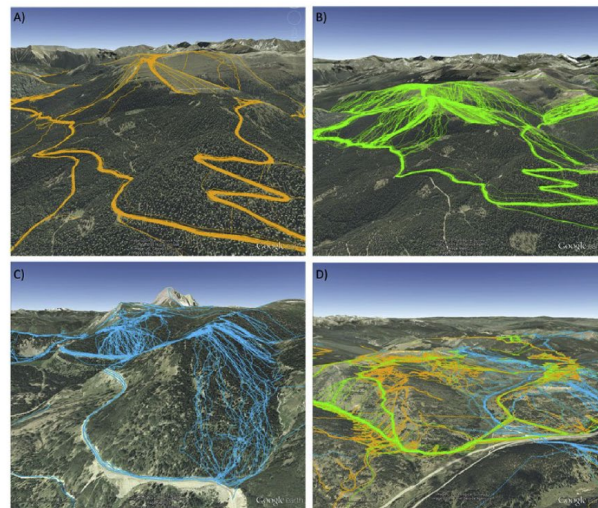


Fig. 2. Examples of recreation tracks recorded with GPS units during the study in western Colorado, 2010–2013. Panel A) snowmobile tracks primarily on trails in the Vail study area, B) hybrid skiing in the Vail study area; thick lines near the bottom of the picture show snowmobile travel, while thinner dispersed lines further back show skiing, C) backcountry ski recreation in the San Juans study area, and D) a combination of all three recreation types at the Vail study area, showing areas of overlap as well as areas used primarily by one recreation type. Image credit: Google, DigitalGlobe.

<sup>21</sup> See, Heinemeyer et al; IDAHO WOLVERINE – WINTER RECREATION RESEARCH PROJECT: *INVESTIGATING THE INTERACTIONS BETWEEN WOLVERINES AND WINTER RECREATION* 2011-2012 Progress Report; December 12, 2012 at pg. 2.

<sup>22</sup> See, Olson et al; *Modeling large scale winter recreation terrain selection with implications for recreation management and wildlife*; Applied Geography 86(2017) at pg. 71.

Even with nationally recognized cutting-edge research such as this, the Organizations still are litigating this relationship and this type of question remains a problem for almost any planning effort. It has been our experience that despite everyone's best efforts, uncertainty such as this simply never go away. That is a situation we would like to avoid moving forward involving yet another species, as we assert there needs to be some type of process to recognize there is not a strong relationship of these types of factors. Without basic protections such as this there is no way the motorized community would ever participate in or support research on issues like this. We would simply have too much at risk.

While our Organizations have not had to deal directly with these issues around wolves, the reintroduction of wolves will bring yet another species into this predator/predator/prey discussion in Colorado. The relationship of wolves and roads and trails seems to be an equally messy discussion as we have had to address with other species. Some research finds a benefit to wolves from roads,<sup>23</sup> other research indicates roads are safer with wolves being present and benefits to the wolves,<sup>24</sup> while other research indicates a weak negative relationship between roads and wolves.<sup>25</sup> Other research appears to indicate there is a negative impact on ungulates from wolf predation as the wolves can move longer distances faster.<sup>26</sup> The Organizations can state with absolutely certainty that we have lost access to trails as a result of this type of uncertainty with other species and these are exactly the issues we believe the Plan must be addressing to satisfy the requirements of Prop 114. Given that more than 20 years of research, partially with CPW, has established the lack of relationship of any size on this issue, the Organizations request this conclusion be clearly stated in the Plan. Idaho has already provided protections such as this and it has been a "win" type situation for everyone. As noted in other

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<sup>23</sup> Zimmerman et al; *Behavioral responses of wolves to roads: scale-dependent ambivalence*; Behavioral Ecology (2014), 25(6), 1353–1364. doi:10.1093/beheco/aru134.

<sup>24</sup> Raynor et al.; *Wolves make roadways safer, generating large economic returns to predator conservation*; Proceedings of the National Academy of Science; May 24, 2021. A complete copy of this research is available here: [Wolves make roadways safer, generating large economic returns to predator conservation | PNAS](#)

<sup>25</sup> Whittington et al; SPATIAL RESPONSES OF WOLVES TO ROADS AND TRAILS IN MOUNTAIN VALLEYS; *Ecological Applications*, 15(2), 2005, pp. 543–553

<sup>26</sup> Dickie et al; *Faster and farther: wolf movement on linear features and implications for hunting behaviour*; Journal of Applied Ecology 2017, 54, 253–263 doi: 10.1111/1365-2664.12732

portions of these comments, Wisconsin has clearly recognized the lack of relationship between dispersed nonconsumptive recreation and wolves and is seeking to protect the benefits of recreational access to wolf habitat as an economic driver.

**1(c)(2). Wisconsin has proactively addressed nonconsumptive trail and access issues in their updated Wolf planning documents.**

The Organizations would be remiss if we did not recognize the direction that the State of Wisconsin has taken in addressing recreational access around wolf management in our comments, as Wisconsin efforts are occurring at almost the same time as Colorado efforts. Wisconsin has recognized the value of nonconsumptive recreational access to wolves and is seeking to more fully understand and develop this economic resource for local communities. This effort is highly relevant as the revision to the Wisconsin Wolf Plan is occurring at almost exactly the same time as Colorado is developing their Wolf plan under Prop. 114. While we have some concerns that this direction of management might create its own challenges, such as safety of wildlife watchers, the positive correlation of access, wolves and revenues warrants discussion and analysis in the Colorado Plan.

In the November 9, 2022 version of the updated Wisconsin wolf plan,<sup>27</sup> the Wisconsin Dept of Natural Resources proposed the following goal of the Wisconsin Plan:

**“Product E2b: Develop a recreational behavior and economic analysis to explore the ways that wolves influence the attitudes and behaviors of various recreational user groups, including deer and grouse hunters.** Currently, wolf distribution covers over a third of the state, including vast areas of public lands which simultaneously support many forms of recreation, tourism and sources of economic stimuli. It is therefore important to better understand the net effects of

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<sup>27</sup> A complete copy of this proposal is available here: [Draft Wisconsin Wolf-Management Plan Nov2022.pdf \(widen.net\)](#)

wolf presence across the state on recreational users. For example, many dog owners may choose to recreate (hunt, hike, etc.) in areas away from wolves to avoid conflict and this may result in a net opportunity loss for those users and redirection of spending. Others may quit hunting or recreating with their dogs entirely due to fear of losing a dog to wolves. Still other users, such as winter recreationists, campers, or hikers, may be indifferent to or even selecting for areas with wolf presence. Finally, those driven to see or observe wolves (ecotourism) are likely to be drawn to areas with wolves. An improved understanding of this dynamic would help improve holistic recreational planning, identify educational and outreach needs, support hunter recruitment and retention efforts, and provide information to help support local economies.

**Product E2c: Evaluate the potential impacts of wolves and wolf presence on recreational land values.** Department staff routinely hear from some members of the public during individual interactions and at various meetings (such as County Deer Advisory Council and Conservation Congress meetings) that the presence of wolves and the implied reduction in hunting opportunities have reduced recreational land values and created economic loss and hardship to these landowners. The plan recommends this dynamic be explored further to determine the extent to which this may or may not be occurring.”<sup>28</sup>

The Organizations would note that the basic issues and direction for this nonconsumptive type discussion of these goals is not addressed in the Colorado Plan in any manner. Obviously protecting access to these areas is a cornerstone of this type of economic development effort. While the Organizations are not proposing detailed research or other research on this issue, we do believe that maintaining access for this type of nonconsumptive ecotourism effort is warranted and should be provided for in the Colorado Plan as well. It would be unfortunate to be in the situation where Wisconsin’s research has identified a major economic driver and

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<sup>28</sup> See, 2022 Wisconsin Draft Wolf Management Plan at pg. 133.



revenue stream for the agency, but Colorado is unable to leverage this resource due to the loss of access to public lands as a direct and indirect result of the reintroduction of the wolf. Candidly, Colorado should strive to at least keep up with other states on issues such as this.

**1(c)(3). While other states have embraced collaboration and clarity in management to avoid impacts, the Colorado Plan appears to assume only closures work.**

The Organizations are concerned with many aspects of the Plan which are internally inconsistent or conflicts with general CPW authority. The Organizations are ***hugely frustrated*** with the portions of the Plan that assert land closures will be necessary to protect wolves. The Organizations are simply offended at the cavalier manner that closures are recognized as the ONLY tool for wolf protection by the Plan, despite so many other states recognizing the value of nonconsumptive access and protecting it in new ways for the benefit of the wolf. This is in direct conflict with pretty much every collaborative we have done with CPW for decades and totally conflicts with numerous provisions of the Plan where CPW asserts it lacks authority to make decisions on lands not owned by CPW.

The Organizations are vigorously opposed to any assertions in the Plan that any closure of lands may be necessary for the protection of wolves. This is at best entirely pre-decisional for any subsequent local planning efforts. The Plan assumes that closures will be necessary for the management of wolves as follows:

“Therefore, it will be important for federal agencies and CPW to collaborate on land use issues as they relate to wolf management, which may include recreation, grazing management, public access, or habitat manipulation. ***CPW will facilitate on-going collaboration with Federal land managers in instances where wolf presence or behavior may warrant temporary public land access restrictions.***”<sup>29</sup>

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<sup>29</sup> See, Plan at pg. 48.

The Organizations are unable to understand how this type of a provision could be found in the Plan at all as it asserts that closures will be needed on public lands to address wolves, and we know from decades of experience that closures create conflict and generally don't solve problems. Management tools, with proven track records of success in balancing wildlife and recreation like seasonal closures or educational resources for wolves are simply not even mentioned in the Plan but closures are. This sends a strong and negative message to the trails community.

Not only is there no discussion of how this broad closure authority was thought to be worthy of inclusion in the Plan, there is no attempt to reconcile this provision with other sections of the Plan that specifically assert CPW does not have this authority. There is also no attempt made to provide a scientific basis for the need for closure authority or steps that must be taken prior to closures to mitigate impacts of even a single closure. CPW has outlined the value of incremental management use of all forms of management tools before closures for 61 pages in the 2021 Trails and Wildlife Guide.<sup>30</sup> We must ask why that decision making model would not be fully applicable here? This Guide is not even mentioned as a management resource in the Plan at all, which is disappointing as the Guide was designed to be a species neutral guide for all forms on nonconsumptive recreation that was adopted by CPW and all federal managers.

The lack of clarity in this provision is astonishing as well as we are unable to understand what uses might be subject to closures and what might not? How long would a closure be in place? Is temporary a day or years. How are closure boundaries set? Who enforces closure boundaries? Who does the closure boundary apply to? Everyone? Just motorized? How would a closure impact hunting? How would a closure impact grazing in the area? Are these damages that could be recovered by the victim of the closure? As more than 50-year partners with CPW we at least deserve a discussion of these questions, and that has not been given at all. It is frustrating that silence from CPW has been provided despite so many opportunities to defend nonconsumptive

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<sup>30</sup> A copy of the 2021 CPW Trails and Wildlife Guide is attached as Exhibit "2"

recreational interests. It is infuriating to see that closures are seen as the only tool for management by interests within CPW despite this 50-year partnership and massive internal resources being created in partnership with CPW.

**1(d). Management guidance for dispersed nonconsumptive recreation in the Plan falls well short of guidance provided on similar species in the past by CPW.**

The Organizations are also disappointed that the management guidance in the Plan falls well short of the management clarity that has been provided for similar species, like the Wolverine reintroductions addressed 10 years ago by CPW. While similar protections have been provided in many other species management efforts and listings, comparisons between wolves and wolverine management situations is highly relevant. As we have attempted to outline in these comments often research on these issues crosses specific species designations and may impact many other species. Generally, both are highly mobile habitat generalists and can survive in a wide range of situations and both species have along and twisting relationship with the Endangered Species Act generally. Protections in wolf planning efforts for recreation provided in Idaho have facilitated research for the benefit of wolverine possibly being reintroduced in Colorado.

Comparisons of the wolverine and wolf are also highly relevant as management documents for each have followed similar paths of development. Wolverine discussions between USFWS, CPW and interested organizations, such as motorized trails, the farming and ranching community, the ski industry and others spanned more than a year. These efforts centered around the use of rules such as 10J and 4d to provide protection for the wolverine along with protection of participant interests in the process.

Similar legal processes to the wolverine effort are being applied for the wolf reintroduction as well. The alignment of these wolverine meetings and the SAG and TAG efforts that CPW has undertaken for the wolf is significant as well. Our records indicate that 5 CDOW representatives

consistently attended all wolverine collaborative meetings. This course of conduct clearly indicates input of CPW has always been valued in reintroduction discussions and that CPW input has always been heavily weighted in the management of all lands in the state. No rational argument that can be made that DOW could allocate this level of time and resources to an effort they expected to get nothing out of. This effort was always a two-way street.

While the two species and two processes used for facilitation are highly similar, the differences in the treatment of dispersed nonconsumptive recreation could not be more stark. As a result of the collaborative efforts on the wolverine, dispersed recreation was clearly identified as a low-level threat to the wolverine planning documents as follows:<sup>31</sup>

“Under the proposed NEP designation, any effects from skiing activities to wolverine would not be prohibited by the ESA. These activities either do not significantly affect wolverines (dispersed recreation) or occur at a small scale relative to wolverine habitat (developed ski areas, snowmobile play areas) such that the overall effects of these activities are not significant to wolverine conservation. Wolverine populations persist and have expanded in the presence of these activities and the available scientific information does not indicate that they pose a threat the DPS.... The Service also believes that the benefits of providing assurances that their activities are protected to residents of the affected states outweigh the costs in terms of a small conservation risk to wolverines.”

By comparison we are unable to find any guidance or other resources in the Plan that provides for this type of guidance on nonconsumptive recreational concerns despite the similarities of the species and planning efforts. This simply must be corrected as the wolf reintroduction should be building on the success of previous collaboratives not regressing from them. We believe that impacts of both of these efforts will be highly similar and we are aware of several instances where

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<sup>31</sup> A copy of these USFWS documents around the wolverine plan is attached as Exhibit 3.

this guidance has avoided impacts to nonconsumptive recreation in areas where there may have been a wolverine seen at one time.

**1(e). Litigation of wolf issues will continue for decades after the CPW wolf plan is completed.**

The Organizations are intimately familiar with the fact that while species specific landscape level planning documents are completed within a few years, court litigation over the application of these documents can continue for literally decades. What is more important to understand is the fact that this litigation may not even directly involve CPW or other interests but may be involving challenges to forest plans and other site specific NEPA efforts. CPW is rarely a party to any of these actions but this does not mitigate the fact that these are significant impacts to the parties involved and should be mitigated in the Plan.

An example of the litigation of indirect impacts from ambiguities in traditional species planning documents has recently occurring as a result of the Rio Grande NF revision of its forest plan. The Forest has been sued twice over lynx management issues, despite lynx being on the ground for more than 20 years and CPW declaring the reintroduction a success more than a decade ago. One of these suits directly addressed motorized usage on the Rio Grande National Forest despite the fact that this had been clearly addressed in the 2013 LCAS with reasonable clarity. The second involved the sufficiency of the §7 consultation of the USFWS on the Rio Grande Forest Plan on the issue of dispersed recreation and changing ecosystems. Our Organizations were forced to intervene in defense of one of these matters, as the litigation sought remedies that would have enjoined many forms of recreation on the forest while the matter was resolved in the Courts. While one lawsuit was dismissed,<sup>32</sup> the other matter we have intervened in remains only partially settled and ongoing.<sup>33</sup> These are impacts and conflicts in every sense of the term and ones that we are all too familiar with addressing. We think introduction of the wolf into these types of legal

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<sup>32</sup> A copy of this Decision is attached as Exhibit 4 to these comments.

<sup>33</sup> A copy of this Partial Settlement agreement is attached as Exhibit 5.

discussions without management clarity will only compound problems and challenges like this. As a result, we are asking for protections under the Plan.

While the Organizations are aware that no planning document can prevent litigation, the Organizations are aware that planning documents can heavily impact the speed of resolution of these matters and the scope of the remedy that is sought in the litigation. It is unfortunate that the Organizations believe this type of litigation could easily continue for the wolf decades after the CPW plan is completed. The Organizations are asking for as much clarity as possible about the lack of impact of low-speed roads and trails on wolves and the possible impact of wolves on other species as possible to allow matters such as this to be resolved as quickly and effectively as possible. These are impacts and conflicts that warrant mitigation measures in the Plan to the fullest extent possible.

**2(a)(1). CPW must address species on federal public lands and recreational opportunities pursuant to its enabling legislation.**

CPW has a broad mission to manage wildlife and recreational opportunities in the State pursuant to its enabling legislation. The Organizations helped create this legislation as part of the merger of CPW. Despite this broad authority, CPW takes the unusual position of asserting there are limitations on this management authority over wildlife. Often these limitations are asserted to be based on interpretations of CPW statutory authority that cannot be supported when reviewed further. These internal conflicts in foundational issues, such as CPW ability to guide and direct management on federal lands must be addressed consistently and broadly in the Plan to avoid confusion and conflict moving forward. The failure of CPW to address wildlife on federal lands only compounds the impacts from the absolute silence on nonconsumptive recreational issues that are statutorily required to be developed under this general authority as well. While we are aware there is a lot of pressure on CPW for many reasons right now, avoiding this discussion will only create more conflict in the future.

As an example of this type of internal conflict between standards and the enabling legislation, the Plan attempts to avoid providing guidance on uses on public lands as follows:

".. Federal land management agencies have sole management discretion over their lands. CPW has no legal authority to implement restrictions or land management prescriptions on lands it does not own or lease. Therefore, it will be important for federal agencies and CPW to collaborate on land use issues as they relate to wolf management, which may include recreation, grazing management, public access, or habitat manipulation. CPW will facilitate on-going collaboration with Federal land managers in instances where wolf presence or behavior may warrant temporary public land access restrictions."<sup>34</sup>

The Organizations were surprised at this assertion of authority, as it is a significant change in the management direction from CPW efforts historically. While there may be federal regulations around the experimental nonessential designation for wolves on federal lands, this does not absolve CPW of their statutory obligation. Alignment of CPW and federal managers on issues like this sends an important message.

The silence of this provision on nonconsumptive recreational concerns is noted as well, as this type of authority is again provided by the CPW enabling legislation. We are not asserting that CPW has direct management authority over lands under federal management, but CPW has primary management authority over most of the species that reside on those lands. Even those species where management may be shared by US Fish and Wildlife Service, the shared nature of CPW authority has never been contested. Often CPW is a primary source of information and researchers for the management of species on the ground as USFWS lacks these types of resources. CPW has broad authority over species management issues and that authority directly applies to all lands in the State. CPW routinely provides hugely detailed comments on a wide

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<sup>34</sup> See, Plan at pg. 48.

range of projects and efforts on federal public lands. If there was no authority for this type of management, we must question why such actions would be undertaken?

CPW's general authority to perpetuate wildlife resources of the State is clearly stated on the CPW website "the agency manages All of Colorado's Wildlife.... And works to protect and recover threatened and endangered species".<sup>35</sup> CPW's statutory authority explicitly provides an even more wide-ranging grant of authority for the management of wildlife in the State to CPW as follows:

"(1) It is the policy of the state of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors. It is further declared to be the policy of this state that there shall be provided a comprehensive program designed to offer the greatest possible variety of wildlife-related recreational opportunity to the people of this state and its visitors and that, to carry out such program and policy, there shall be a continuous operation of planning, acquisition, and development of wildlife habitats and facilities for wildlife-related opportunities.

(2) All wildlife within this state not lawfully acquired and held by private ownership is declared to be the property of this state. Right, title, interest, acquisition, transfer, sale, importation, exportation, release, donation, or possession of wildlife is permitted only as provided in articles 1 to 6 of this title or in any rule of the parks and wildlife commission."<sup>36</sup>

The immediate conflict of the Plan provisions with CPW general enabling legislation is evidenced when the authority of the CPW commission is reviewed. This authority is specifically provided as follows:

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<sup>35</sup> [Colorado Parks & Wildlife | Department of Natural Resources \(DNR\)](#)

<sup>36</sup> See, CRS 33-1-101



“(1) The commission is responsible for all wildlife management, for licensing requirements, and for the promulgation of rules, regulations, and orders concerning wildlife programs.

2) The commission shall establish objectives within the state policy, as set forth in section 33-1-101, which will enable the division to develop, manage, and maintain sound programs of hunting, fishing, trapping, and other wildlife-related outdoor recreational activities. Such objectives shall employ a multiple-use concept of management....

(5) The commission may coordinate with the United States secretary of the interior and the United States secretary of agriculture to develop wildlife conservation and management plans consistent with this title for federal lands pursuant to 16 U.S.C. sec. 530, 16 U.S.C. sec. 1604, and 43 U.S.C. sec. 1712.”<sup>37</sup>

CPW enabling legislation also provides broad general powers to the agency to address recreational issues throughout the State as follows:

“(1) It is the policy of the state of Colorado that the natural, scenic, scientific, and outdoor recreation areas of this state are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and visitors of this state. It is further declared to be the policy of this state that there shall be provided a comprehensive program of outdoor recreation in order to offer the greatest possible variety of outdoor recreational opportunities to the people of this state and its visitors and that to carry out such program and policy there shall be a continuous operation of acquisition, development, and management of outdoor recreation lands, waters, and facilities.”<sup>38</sup>

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<sup>37</sup> See, CRS 33-1-104

<sup>38</sup> See, CRS 33-10-101

While the subsequent provisions of the above section provide examples of recreational management issues, the Organizations are unable to find any application of these examples in a manner that diminishes other broad grants of authority in these provisions.

The Organizations are unable to find any portion of Prop 114 that reduces or diminishes the broad general grant of authority to CPW with regard to species on lands throughout the State or the requirement to address all forms of recreational opportunities. Any assertion that CPW does not have broad general authority over wildlife management and recreation is highly frustrating to the Organizations, as our representatives were heavily involved in crafting the above legislative language as part of the merger of DOW and Colorado Parks. We can say with absolute authority that the scope of wildlife management authority was some of the most lengthy and contentious portions of the merger effort and if the current interpretation of this authority was moved forward the legacy of Colorado Parks would simply cease to exist.

Not only does CPW have a broad grant of statutory authority for wildlife issues, CPW has always vigorously participated in management of all lands in the state for wildlife issues. Exhaustive OHV grant specific comments have been provided by CPW on all projects throughout the State despite the fact the overwhelming portion of these occur on federal lands. CPW has ALWAYS addressed management of federal public lands in herd plans. CPW has always provided wildlife comments on any federal planning effort. On some planning proposals, these CPW concerns have spanned hundreds of pages outlining concerns and possible impacts. While these comments are FAR too long to summarize here, CPW recently asserted jurisdiction over wildlife on federal lands on the Pike/San Isabel National Forests as follows:

*“Impacts to Wildlife from Recreation:* Outdoor recreation associated with roads and trails can negatively impact wildlife species at the individual, population and community levels through direct and indirect mechanisms. Direct disturbance

results from the physical loss and fragmentation of habitat from road, trails, and any associated infrastructure.”<sup>39</sup>

The Organizations are simply unable to understand any assertion of limited wildlife authority on federal lands are allowed in the Plan. This is simply incorrect. The Organizations are even more troubled by the fact the Plan is utterly silent on nonconsumptive recreational concerns around the wolf as recreation is 50% of the agency mission. There is not even an attempt to address this portion of the enabling legislation authority or continue CPW engagement with these issues as has been the baseline of understanding for decades. This is really frustrating to the Organizations as creating this balance of interests was the basis of years of effort from our representatives at the time of the merger of CDOW and Colorado Parks. This per se legal deficiency must be addressed.

**2(a)(2). CPW has successfully litigated to defend their authority over species throughout the State.**

This narrow scope of CPW jurisdiction outlined in the Plan is not supported by recent settlements of legal proceedings brought by CPW where broad wildlife management authority across the State was defended and recognized by federal managers. An example of CPW litigating to defend this broad scope of authority would be provided by the fact that CPW recently sued the BLM over concerns for possible wildlife impacts in the Uncompahgre Field Office.<sup>40</sup> In the 2022 settlement agreement for this litigation, BLM recognized the authority of CPW to manage big game and other species and other important habitat areas as follows:

“The Parties agree that BLM will complete a statewide Resource Management Plan Amendment ("RMPA") addressing, at a minimum, the management of oil and gas and associated infrastructure in big-game migration corridors and other important big game habitat areas on BLM-administered lands in Colorado.”

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<sup>39</sup> See, CPW Comments on Pike/San Isabel NF Travel Management plan; Page 2.

<sup>40</sup> *State of Colorado v. Bureau of Land Management*, 1:21-cv-00129 (D. Colo.). A copy of this settlement is attached as Exhibit 6.

As a result of this litigation, BLM moved forward with planning for wildlife corridors on BLM lands across the State. In the scoping for this massive planning effort, BLM made the following recognition of the authority of CPW to manage species:

“The BLM recognizes state authority to conserve and manage big-game species. In 2019, the Governor of Colorado, Jared Polis, signed Executive Order D 2019 011, *Conserving Colorado’s Big Game Winter Range and Migration Corridors*. In 2020, the Colorado Parks and Wildlife updated their action plan for *Implementation of Secretarial Order 3362*. In 2021, Colorado Department of Natural Resources released a report titled *Opportunities to Improve Sensitive Habitat and Movement Route Connectivity for Colorado’s Big Game Species*, encouraging the BLM to adopt recommendations for managing land use development in big game important habitat”<sup>41</sup>

With the Plan, CPW has the ability to provide clarity about the lack of a relationship of nonconsumptive recreational activity and wolves and has chosen not to do so despite decades of input from CPW on federal lands issues and litigating this broad authority as well. This is totally unacceptable. This failure to act would create huge impacts as the Organizations would have to reinvent the proverbial wheel every time discussions around wolf and herd populations are undertaken on a nonconsumptive recreational planning effort. These are exactly the type of impacts that Proposition 114 requires be resolved in the Plan and CPW has consistently asserted it has authority to manage across the state. We would request similar clarity for nonconsumptive recreation be provided for in the wolf plan as has previously been provided for in wolverine planning docs.

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<sup>41</sup> See, BLM Corridor Scoping document at pg. 1. A full copy of these documents is available here. [EplanningUi \(blm.gov\)](https://www.blm.gov)

**2(a)(3). Internally conflicting positions on CPW involvement on federal lands are taken within the Plan.**

The scope of CPW's statutory authority to manage and guide wildlife on federal lands is also an issue that is inconsistently addressed within the Plan. Portions of the Plan appear to just concede existing jurisdiction for management of wildlife on public lands, while at other points in the Plan CPW clearly states the importance of public lands to wolves. There is no analysis or discussion of why directly conflicting positions are taken on the management authority of CPW on public lands.

Despite the value of the Plan in subsequent federal planning efforts, portions of the Plan try to avoid addressing federal lands as follows:

".. Federal land management agencies have sole management discretion over their lands. CPW has no legal authority to implement restrictions or land management prescriptions on lands it does not own or lease. Therefore, it will be important for federal agencies and CPW to collaborate on land use issues as they relate to wolf management, which may include recreation, grazing management, public access, or habitat manipulation. CPW will facilitate on-going collaboration with Federal land managers in instances where wolf presence or behavior may warrant temporary public land access restrictions."<sup>42</sup>

While the Organizations are very concerned that the above provisions assume that closures will be necessary to protect wolves and we must again ask how this decision was made our concerns are much larger than just closures. When the above provisions asserting no authority to issue guidance on federal lands is compared to other Plan provisions, the systemic internal conflict of the Plan is immediately apparent. Conflicting provisions in the Plan would be represented by the following provision:

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<sup>42</sup> See, Plan at pg. 48.

#### “Managing Impacts

- If wolves are creating conflict, manage to resolve the problem....
- Successful wildlife management includes both public and private lands, providing, where possible, consistency of management across land jurisdictions.”<sup>43</sup>

The Organizations are unable to identify how these asserted distinctions on CPW authority on public lands could be justified in the Plan. These provisions directly conflict with each other. These conflicts open a proverbial Pandora's box of issues around pre-decisional issues when applied to access and asserts closures of public lands will be necessary. Have the federal planners already made this decision? We are not aware of it and if a route has been opened with NEPA it must be closed with NEPA as well. Wouldn't this plan be a major tool in working with federal managers to avoid closures? We think it would. These types of conflict must be corrected in the Plan and guidance materials must be developed that apply consistent guidance for all types of usages that will be impacted by conflict from the Wolf reintroduction.

**2(a)(4). CPW position of limited management authority on federal lands is directly contrary to the CPW position in the 10j designation request to USFWS for the wolf reintroduction.**

The Organizations are deeply concerned about the many factors in the Plan that are dealt with in a very inconsistent and directly conflicting manner to internal CPW authority and efforts. This will create a myriad of problems in related actions for wolf management. The Organizations are very concerned the asserted lack of management authority for wolves on federal lands made by CPW in the Plan is directly contrary to the request by CPW for the 10j Rule from the USFWS. Pursuant to the CPW requested federal rule making commenced by the USFWS for the 10j designation, CPW identifies the basis for the request as follows:

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<sup>43</sup> See, Plan at pg. 10.

“As part of the reintroduction and management planning process, the State has requested that the Service designate an experimental population under section 10(j) of the Endangered Species Act of 1973. We are considering promulgating a section 10(j) rule to address components of the gray wolf restoration and management plan being developed by the State of Colorado.”<sup>44</sup>

The Organizations are unable to reconcile assertions that CPW has limited or no authority over wildlife on federal lands with the request from CPW to assume more management authority over wolves on federal lands. We also can’t overlook the fact that CPW requested something from a federal lands manager and the federal agency actually did it. Again, the CPW request is sought without limitations and this request is also the same management model that has been applied to by most western states managing significant populations of wolves. This must be reconciled and corrected as CPW should not request management authority for the species and also assert that they lack jurisdiction to manage the species in the manner they are requesting. This type of consistency of management standards across state lines is significant. This type of consistency is an issue CPW falls well short of keeping pace with other states on.

**2(b)(1). Obligations and resources created through CPW collaboratives must be recognized as well.**

The basic authority of CPW is provided in Colorado statutes has been expanded by numerous commitments made in collaboratives initiated by CPW and a large number of management resources have come from these efforts. These collaborative obligations sought to provide information on a wide range of issues including wildlife and recreation from CPW with support of the nonconsumptive recreation community and also federal land managers and local governmental interests. These efforts create obligations outside the direct scope of the Plan and

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<sup>44</sup> See, DOI; Fish and Wildlife Service; 50 CFR Part 17 [Docket No. FWS–R6–ES–2022–0100; Endangered and Threatened Wildlife and Plants; Proposed Rules; *Establishment of a Nonessential Experimental Population of the Gray Wolf in the State of Colorado*; *Environmental Impact Statement*; Federal Register; Vol. 87, No. 139; July 21, 2022 / 43489

management resources that must be recognized in the Plan. These commitments also include compliance and consistency with existing statutory requirements but also these CPW led efforts have created a partnership environment for each group to be working under.

When we entered into many of these partnerships, it was our understanding that these collaboratives were being approached by CPW and everyone else with the mentality summarized by President John F. Kennedy as follows:

“As they say on my own Cape Cod, a rising tide floats all boats. And a partnership be definition, serves both partners, without domination or unfair advantage. Together we have been partners in adversity, let us also be partners in prosperity.”<sup>45</sup>

Put another way, collaboration is a two-way street. The Organizations have satisfied our obligations under these partnership efforts, often through huge commitments of time and resources on issues that may not directly impact our concerns. Based on the numerous assertions and promises made throughout these collaboratives, the nonconsumptive community expected CPW to satisfy their obligations made in these collaborations in the future as well. It is from this foundation of collaboration that the Organizations must voice strenuous concerns to the several Plan provisions that seek to avoid issuing public land management guidance on nonconsumptive issues despite subsequent provisions where the need for public land management is recognized and provided. Silence in the Plan sends a message and that cannot be overlooked. Blanket assertions of closures as a primary management tool also sends a message to the nonconsumptive recreational community despite CPW developed resources that outline a detailed incremental management process before closures, and that cannot be overlooked either. Right now, our two-way street of collaboration only has travel flowing one direction.

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<sup>45</sup> See, President John F. Kennedy, address in the Assembly Hall at the Paulskirche, Frankfurt West Germany, June 25, 1963- Public Papers of the United States: John F. Kennedy, 1963 at pg. 519.



The number of CPW collaborative efforts the Organizations participate in are simply too long to list. Several of these efforts are statewide and warrant a brief discussion, as the Organizations have fulfilled our obligations under these collaboratives. One effort would be the CPW/DNR COOP whose mission is outlined in Governor Polis Executive Order B 2020 008 as follows:

“We can meet conservation and recreation challenges head-on through thoughtful planning, strategic investment, and engagement with regional and State-level partnerships. Some Colorado communities have joined with local, State, and federal governments, land and water managers, and other local partners to address issues involving conservation, agriculture, outdoor recreation, hunting, angling, and equitable access. Statewide, conservation leaders have formed the Colorado Outdoor Partnership (the CO-OP) to address conservation and outdoor recreation challenges.”

We are unable to find any exclusion of the wolf reintroduction from this executive Order requirements. Simply participating in the COOP has become a major commitment from the Organizations and often we are engaging on topics that are not uniformly recognized within the recreational community, such as trail user registrations. While significant time and resources of the Organizations have been devoted to this effort, direct benefit to the motorized community has been minimal in terms of new trails etc. We were told our efforts in the COOP would lead to greater proactive engagement from CPW on trails issues, and CPW engagement would highlight the lack of impact of trails and the partnerships between users and the agency. With the current wolf plan, CPW has failed to engage at all on this issue despite the mission of the COOP and huge resources that have come from this collaboration from CPW managers. Silence sends a message.

As we have noted above, the Plan’s failure to address management decisions on public lands while at the same time asserting, they are critical to the species is entirely arbitrary and a major departure from the scope of general collaborative assertions made in previous CPW efforts. While implementing Prop. 114, CPW also made clear commitments in the Plan to engage with all stakeholders through the Stakeholder Advisory Group (SAG). This failure to provide clear

guidance also conflicts with SAG group recommendations and legal requirements that conflict minimization be used as the first tool to address issues. The SAG's first recommendation is clearly stated as follows:

“Conflict minimization program principles: Overview

- Conflict minimization should be encouraged and explored as the first line of defense.”

The alignment of the SAG group efforts and the COOP mission cannot be overlooked. The Organizations vigorously assert that all forms on conflict are subject to the SAG group goal identified above but yet several of the provisions in the Plan create conflict immediately rather than minimizing conflict by using CPW collaboratively developed tools. Much of what we are asking for in these comments, including equal treatment of consumptive and non-consumptive uses would be entirely aligned with this goal.

We are also not able to identify any limitation, either geographically, interest based or chronologically, on how the conflicts between an interest group and wolves may be occurring. Simply because the conflict is not occurring right now does not mean it can just be avoided in the Plan. As we note throughout these comments, conflicts from the wolf reintroduction may not be apparent for many years but this in no way minimizes the requirement that the Plan address these conflicts. There can be no factual assertion conflicts such as this will not occur. For many of these issues, the Plan may be the most effective manner to address the issue with clear management guidance on the concern being provided that is consistent with the other resources that CPW has collaboratively developed.

**2(b)(2). CPW's Outdoor Principals highlight the need for proactive management on issues.**

As the Organizations have addressed in several portions of these comments, over the last 5 to 10 years CPW has sought a more active leadership role in addressing the intersection of recreation

and wildlife concerns. These CPW efforts were supported by huge amounts of volunteer time from a wide range of partners, such as the motorized community, with the understanding the concerns of users that issues would be addressed by CPW in a proactive manner to minimize conflicts and impacts to our interests. The wolf plan provides an opportunity for CPW to carry through on the assertions made in the general partnerships that guidance and support would be given.

The partners have stepped up throughout the development of the CPW Outdoor Principals and supported the implementation of the goals of these collaboratives. For the motorized community this meant continuing to support and advance the CPW OHV program, which since 2019 has provided more than \$30 million in funding and supported efforts such as Stay the Trail. Simply continuing the motorized program requires thousands of hours of volunteer time from our members. We also had targeted meeting with other users to advance the engagement of the registration program model for other uses. Now we are asking CPW to live up to their commitments in these efforts not directly related to the wolf reintroduction and provide management guidance on an issue important to the users. Mainly proactively outline the lack of impact of trails on wolves and that has not happened.

Another example of these generalized agreements coming from collaboratives would be the Colorado Outdoor Principals. In 2019, CPW created and adopted Colorado's Outdoor Principals, which were a first in the nation effort intended to guide all interests using the outdoors and aid in the alignment of recreational interests and wildlife concerns.<sup>46</sup> This agreement was the result of several years of effort from CPW and partners on this issue and were vigorously supported by the motorized community. Two of the seven outdoor principals directly relate to our requested clarity on the lack of impact of nonconsumptive recreation on wolves and our request for clarity around the lack of forest management action as a result of wolves' predation on ungulate species. These two CPW Outdoor Principals are as follows:

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<sup>46</sup> A full copy of these goals and the related planning effort is available here. [The Colorado Outdoor Partnership \(copartnership.org\)](https://thecoloradooutdoorpartnership.org)

“5. Proactive management solutions, combined with public education, are necessary to care for the land, water and wildlife, and to provide the protections needed to maintain quality recreational opportunities.

6. Physical, biological and social sciences must inform the management of outdoor recreation.”

The Organizations have directed significant resources towards efforts such as this before the Colorado Outdoor Principals and have continued to support all efforts since then. This partnership reflected in the Outdoor Principals has consistently been held up as a model of collaboration to other users, who may not be supporting these concepts at a similar level. Failure of CPW to honor commitments in agreements, such as this, will have chilling effects on issues well outside the wolf reintroduction. Again, the Organizations are merely requested guidance resources be provided in the wolf reintroduction such as those previously recognized as highly valuable in general planning efforts and that CPW has agreed to provide in multiple other agreements such as the Outdoor Principals. Recognition of the lack of impact of trails on wolves and that ungulate populations will decline will be hugely valuable to our interests for decades into the future.

**2(b)(3). The CPW Trails and Wildlife Guide stresses proactive use of wildlife information throughout the trail planning and incremental management of trails.**

Another example of these more generalized management documents coming from collaborations between CPW and user groups to improve both recreation and wildlife habitat and populations would be the efforts to update CPW’s “Planning Trails with Wildlife Guide”. In June 2021, CPW and a large group of interested parties completed the update on the CPW Planning Trails with Wildlife in Mind Guide. Updating this Guide was a significant commitment of time and resources from a wide range of interests including trails users, CPW, local governmental representatives, federal land managers and wildlife interest group. This document was released

with much recognition and accolade from all interested parties including CPW. This document stresses the need to address wildlife impacts early and throughout the planning process and the need for incremental management action after the planning process. As we have recognized in other portions of these comments, often times accurate information can be very difficult to address and is often need to rebut bad information that is being provided by some interests.

The Guide identifies the need for an extensive process for planning efforts around trails to minimize wildlife impacts and that high quality information to be used early and often in the trail planning process. The Trails and Wildlife Guide outlines in this process as follows: <sup>47</sup>

#### “Outcome-Based Planning Framework

This document is grounded in the overarching framework of Outcomes-Based Planning. Figure 1 depicts the outcomes-based framework for trail planning, from identifying outcomes and needs to siting and managing a trail. The chapters in this document are organized to reflect the flow through this framework. Chapter 1 describes the importance of building partnerships through collaborative processes, how to engage the public, and strategies to define desired outcomes (Step A). Chapter 2 explores how to identify opportunities for trails and assess the needs of wildlife (Steps B and C). Chapter 3 details the trail management and monitoring practices needed to minimize wildlife impacts after completing trail construction (Step D). The Appendices of this document provide multiple resources, including species-specific best management practices, examples of planning frameworks used in different areas of the state, and an extensive list of scientific literature used as the basis for this document.

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<sup>47</sup> See, Colorado Trails with Wildlife in Mind Taskforce. (2021) *Colorado's Guide to Planning Trails with Wildlife in Mind*. Prepared by Wellstone Collaborative Strategies and Rocky Mountain Innovation Lab. Project supported by Colorado Parks and Wildlife in collaboration with land managers in City, County, State, and Federal government across the State of Colorado. 58pp. @ pg. 6.



Figure 1. Outcomes-based trail planning framework

The Organizations must ask how wolf concerns can be addressed early and often in the trails planning process, when clear guidance on the relationship of wolves and nonconsumptive recreational activities is not provided. As we have noted in other portions of these comments some of the input in the wolf discussion has been unusual compared to other input from some groups. The failure to provide good wolf management information now would open the door to conflicting positions and bad information being used in subsequent planning. We can say with certainty that the wolf plan model will result in conflict and delays in planning when compared to the Trails and Wildlife Model. That is unacceptable.

Again, the OHV community has worked hard to carry through on the goals and objectives of the Trails and Wildlife Guide and the Outdoor Principals. This success is evidenced by the fact it has been many years since there was an OHV grant that significant wildlife concerns were raised regarding. Many other users cannot say the same. This type of discussion is functionally impossible if guidance is not provided as good information is a foundational cornerstone of this type of an effort. We are asking that CPW move forward with the foundational resources that will be needed under these guidance documents to mitigate impacts and challenges from the wolf reintroduction. Without this type of general guidance, the entire proactive collaborative management model based on incremental management simply will not function correctly.

**2(c). Wolves are at least as much of a stressor on wildlife as trails are on wildlife.**

As the Organizations have noted in the last several sections of these comments, the indirect impacts of trails on wildlife have been the basis of several large-scale collaborative efforts with CPW. Federal management of motorized usage has been mandated since in 1972. Pursuant to Executive Order 11644, issued in 1972, and 11989, issued in 1978, the motorized community has been addressing these indirect types of wildlife concerns for more than 50 years on federal lands. Not only have federal managers been addressing a wide range of wildlife concerns on federal lands, CPW managers have been active participants in these efforts. The CPW OHV grant program provides more than \$6 million annually to maintain and enforce seasonal restrictions on routes for wildlife related concerns. Again, direct impacts of motorized recreation on deer and elk is a VERY rare occurrence.

Minimizing these indirect impacts of trails on a wide range of resources has been the basis of the CPW OHV program. The Organizations can say with certainty that the possible indirect impacts of trails on wildlife have been a major management concern throughout the State for decades. Wildlife is simply not being struck on low speed forest roads and trails at a large enough level to impact populations or warrant management action. Even without these direct impacts, trails have been regulated. Given that wolves will be directly impacting wildlife populations in all forms, this will create more stress on the species than trails ever could. Guidance must be given on this issue simply to provide equitable management of impacts from both issues and factors.

**3(a). Genetic materials/migration corridors are not a management tool for Colorado wolves.**

The Organizations are opposed to the inclusion of the concept of genetic management corridors for wolves in the Plan as this issue is generally viewed as academic and unresolved in nature. CPW should honor existing commitments before creating new ones of this questionable value. We do not contest that there are isolated situations where genetic diversity has been a challenge for sustaining wolf populations, such as the challenges faced by the Isle Royale pack living on a single island in the middle of Lake Superior or the tiny populations of a subspecies in Scandinavia.

The wolf management situation in Colorado could not be further from this situation on the ground, as wolves easily move long distances and interact with other wolves throughout the region. Genetic diversity is an issue that should be addressed as wolves are selected for relocation and then monitored at most.

The Organizations will also express concern over another foundational assumption that is needed for the corridor concept, and that is the fact that wolves will only occupy small portions of the State. The Organizations must again question the basis of this determination as we are unable to identify a single source that thinks wolves will only stay on the Western Slope. Any conclusion that genetic variations are a problem for the Colorado population is hugely premature. The situations where genetic diversity has been an issue and the Colorado reintroduction simply could not be more different in every way possible. Even if these corridors are found necessary to map, do they need to be managed? These are foundational questions that the Plan must address before determining these are even management issues and has not.

The genetic corridor management concept is outlined in the Plan as follows:

“Safe passage within and between habitat areas is vital for allowing wolves to recolonize unoccupied habitat and for promoting genetic and demographic exchange between subpopulations, as it is for many wildlife species in Colorado. In Colorado, areas of greatest importance for restoring or maintaining connectivity between regions of suitable wolf habitat currently include various areas through western Colorado, primarily connecting areas that would likely have minimal interaction with livestock.

Other areas may be recognized in the future. Mechanisms to conserve lands and maintain working landscapes include conservation easements, agreements or land acquisitions with willing landowners, and other methods. Where appropriate, working with the Colorado Department of Transportation to create wildlife crossing structures for assisting wolf movement across highways that act as



barriers can be a beneficial and productive effort towards wolf management and conservation.”

The Organizations believe the Plan skips many important steps in the analysis process before coming to the conclusion that there is a risk of genetic isolation of wolves in Colorado. Research indicating that western wolf populations have experienced genetic migration issues or that the reintroduced wolves will lack genetic diversity are simply never mentioned.

Unlike wolves that may be trapped on an island in the middle of Lake Superior, that can only enter or exit the island when the Lake waters freeze, western US wolves have demonstrated the ability to travel long distances to connect with other wolves. It is generally accepted that wolves in Colorado are the result of wolves being reintroduced in Yellowstone National Park, and have already traveled long distance without issue. Other wolves from Yellowstone NP have been found in California, Oregon and Washington. Similarly, wolves from the Great Lakes population have been found in Iowa, Nebraska and Kansas. This type of ability to travel has been demonstrated by other species as well, such as the wolverine known as M56, who was originally collared outside Yellowstone NP and subsequently made a globally known voyage across the western United States as he proceeded south to the San Juan Mountains in southern Colorado only to then turn northward and travel to South Dakota, where he was killed harassing cattle. Given this ability to travel with almost no restriction of many species, we must question why there would be a concern about genetic diversity in wolves.

The Organizations are also very concerned that the Plan gives no guidance regarding general traits that might be managed in these genetic corridors. Additionally, the Plan provides no guidance regarding what management of these undefined traits might look like in the corridor. Our research is unable to identify any situation where management for wolf corridors has been undertaken, making any meaningful discussion of our concerns impossible. The Organizations remain deeply concerned that current oil and gas based corridor management efforts will hugely impact recreational access, such as applying arbitrary route density standards in areas that have

already been the subject of years of effort for site specific travel management planning. The Organizations submit that arbitrary wolf management concepts such as this are the exact reason, we are asking for management analysis and clarity for these areas be provided in the Plan. Often new or novel management concerns are introduced in planning documents, found to be unnecessary or unwarranted and then parties impacted by the standard fight for decades to make the management effort stop.

The Organizations must ask how this hugely generalized genetic corridor standard does not conflict with previous assertions that Colorado lacks authority to mandate management on federal public lands. Any assertion that genetic corridors would only be occurring on lands of willing landowners or state managed lands simply lacks any credibility and will not be discussed further in these comments. Taking conflicting positions on basic issues such as the management of federal lands for wolves is entirely unacceptable. CPW needs to clearly and consistently apply standards for all forms of opportunities in these genetic migratory corridors or omit the genetic corridor concept entirely from the Plan. The Organizations must state that the idea of reopening previously completed site specific NEPA efforts to address wolf genetic material corridors simply does not appeal to us. Addressing what has been called a novel academic concern will create years more work for partners, on issues that we were told were resolved. This concept would be creating the same type of conflict that Proposition 114 required the Wolf Plan to address and mitigate.

**3(b) Wolves are habitat generalists making any habitat or migratory corridor mapping difficult to almost impossible.**

The Organizations are unable to identify any scientific research or other materials to support the asserted need to manage migration corridors for wolves. Our research has found extensive materials available discussing why critical habitat, including corridors, for the western gray wolf has not been designated. CPW resources also specifically state that wolves have freely moved long distances from Yellowstone area to Colorado as follows:

“Wolves that migrate in and out of Colorado would likely come from the Northern Rockies populations currently in the states of Montana, Idaho and Wyoming.”<sup>48</sup>

Again, this is another example of conflicting positions being taken in the Plan without recognition of the conflict it will create with other provisions of the Plan. The Plan also fails to discuss the need for this type of management. This must be corrected as CPW should not assert wolves move freely over long distances and then subsequently assert wolves cannot move long distances easily and as a result there is a need for management of corridors to assist their movement. That would be immediately conflicting.

Clearly answering basic questions of why wolves would not be able to migrate or understanding why wolves would be migrating would be highly relevant. While some species wolves rely on a food source that may migrate, this is not a wolf migration but migration of the food source wolves may be relying on. The relationship of wolves and prey is far from consistent and many wolves do not rely on migratory species as many wolves will establish a home range and then never move as they are highly effective habitat generalists and do not rely on a single food source for survival. The State of Washington clearly and directly states that wolves are generalists on prey species as follows:

“Wolves primarily prey on elk, deer, moose, and other ungulates, although they also feed on smaller species such as beaver, mice, squirrels, rabbits, muskrats, marmots, grouse, and even songbirds.”<sup>49</sup>

Recognition of the ability of the wolf to adapt to a wide range of habitat extends well beyond Washington State. The adaptability of wolves to pursue many species and exist in many conditions is highlighted by the USFWS on their webpage as follows:

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<sup>48</sup> [Colorado Parks & Wildlife - Wolf Management \(state.co.us\)](https://coloradoparksandwildlife.com/wolf-management/)

<sup>49</sup> [The role of wolves in ecosystems | Washington Department of Fish & Wildlife](https://wdfw.wa.gov/wolves)

“The wide range of habitats in which wolves can thrive reflects their adaptability as a species and includes temperate forests, mountains, tundra, taiga, grasslands and deserts. In North America, wolves are primarily predators of medium and large hooved mammals, such as moose, elk, white-tailed deer, mule deer, caribou, muskox and bison. Gray wolves have long legs that are well adapted to running, allowing them to move fast and travel far in search of food, and large skulls and jaws that are well suited to catching and feeding on large mammals. Wolves also have keen senses of smell, hearing and vision, which they use to detect prey and one another.”<sup>50</sup>

USFWS involvement also provides significant additional resources and management expertise to the wolf reintroduction on questions such as migration corridors. This is exemplified by the fact that USFWS already theorizes that the wolf population in Colorado is sustainable and able to travel long distances without migratory corridors, which has been clearly stated as follows:

“Post-delisting and subsequent monitoring, and the expansion of the NRM population into western Washington, western Oregon, northern California, and, likely, Colorado (USFWS 2020, pp. 15–19, 28; see also *Current Distribution and Abundance*), indicate that the wolf population in the NRM DPS remains well above minimum recovery levels (see *Current Distribution and Abundance*).”

Given the USFWS has already identified the wolves in Colorado are sustainable and can travel long distances, again the Organizations must question why corridor management would have thought to be necessary. Even the Center for Biological Diversity agrees with the above findings that wolves are habitat generalists and easily travel long distances as follows:

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<sup>50</sup> [Gray Wolf \(\*Canis lupus\*\) | U.S. Fish & Wildlife Service \(fws.gov\)](#)

“HABITAT: Gray wolves are habitat generalists but need a sufficient prey base of ungulates and somewhat secluded denning and rendezvous sites. Areas with limited road access generally provide the best security for wolves.

RANGE: In the Great Lakes region, there are established breeding populations in Minnesota, Wisconsin and Michigan. Wolves have dispersed into North Dakota, South Dakota, Iowa, Missouri, Illinois and Indiana.

MIGRATION: Wolves do not migrate but travel over large areas to hunt, sometimes as far as 30 miles in a day; dispersing wolves may travel hundreds of miles in seeking mates.”<sup>51</sup>

The Organizations must question the basis for management corridors as a huge number of disinterested sources agree wolves have moved from the Great Lakes area to the Dakotas without managed corridors. This movement exemplifies typical behavior of wolves demonstrated by the fact that Nebraska Parks and Wildlife recently concluded that two wolves were killed in separate events in the last 18 months. The first being killed outside Uehling, Nebraska. This news was astonishing as most expected with wolf to be associated with the Yellowstone population, but this story was even more astonishing as the wolf was from the Great Lakes Population.<sup>52</sup> The second wolf followed a similar fact patten and was killed outside Bassett Nebraska <sup>53</sup> Given the clear history of wolves traveling long distances without any species they are following, the Organizations believe that any corridor management concept must address if this is even a management concern. These foundational decisions should be discussed in the Plan and has not been.

Our review extends beyond just USFWS resources and we are unable to identify any planning efforts for migration corridors in any state planning for the management of wolves in adjacent states. Clearly if genetics were an issue for the western gray wolf, it would have been recognized

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<sup>51</sup> [Natural history \(biologicaldiversity.org\)](https://biologicaldiversity.org/)

<sup>52</sup> See, Nebraska Parks and Wildlife; April 14, 2021. A complete version of this article is available here [Gray wolf confirmed in Nebraska • NebraskaLand Magazine \(outdoornebraska.gov\)](https://www.outdoornebraska.gov/)

<sup>53</sup> [Wolf killed north of Fremont is the second in Nebraska since November | Nebraska News | journalstar.com](https://www.journalstar.com/news/local/nebraska/wolf-killed-north-of-fremont-is-the-second-in-nebraska-since-november/)

in these state planning documents that have managed wolves for decades. Many of these states determinations in previous management decisions directly contradict any assertion there is a need for this type of management for the wolf, as they mirror the USFWS summary that wolves travel easily and adapt to a wide range of prey sources.

Given this widely accepted facts from every source of information we can locate, the Organizations must question again the complete inconsistency in the Plan on basic issues. The Organizations remain deeply concerned that current oil and gas based corridor management efforts will hugely impact recreational access, such as applying arbitrary route density standards in areas that have already been the subject of years of effort for site specific travel management planning. The Organizations submit that arbitrary wolf management concepts such as this are the exact reason, we are asking for management analysis and clarity for these areas be provided in the Plan. Often new or novel management concerns are introduced in planning documents, and then found to be unnecessary or unwarranted and then parties impacted by the standard have to fight for decades to make the management effort stop. Here the Plan is creating conflicts on issues where the underlying questions are uniformly settled and everyone is in agreement with these determinations. Conflict can only result from mandating management in these situations.

**3(c) Critical habitat has never been designated for the gray wolf making any determination of corridors hugely premature.**

The Organizations must recognize how horribly premature any discussion of connecting corridors is for western gray wolves. The position of the Plan on migratory corridors is based on a rather unique interpretation of federal provisions for the management of species, that we would disagree with. Our concerns would center around the lack of any habitat designations for the wolf. These would be critical in determining there is a lack of connectivity. Without these determinations, we must question what we would be connecting.

The only designated habitat by the US Fish and Wildlife Service for wolves relates to the Eastern Timber Wolf and is located in Northern Minnesota.<sup>54</sup> We are unable to find a discussion of connectivity type issues in this designation of habitat. This is a major problem and would place CPW ahead of the USFWS on an issue they have exclusive jurisdiction over and would require the input of adjacent states on this issue which we are sure has not occurred. We are unable to locate any rulemaking or other efforts by USFWS to designate critical habitat for the western gray wolf.

We are also concerned that any attempt to create management corridors for wolves by CPW would immediately create problems with the enabling legislation for CPW. We are unable to find any provisions where CPW is granted management authority to create critical habitat designations over lands they do not own or is provided the authority to designate habitat in the manner proposed. While CPW has broad authority, they don't have the authority to manage in this manner. The remedy for concerns on connectivity is to work with the USFWS and collaborate with a huge number of interests in the USFWS planning effort. This simply has not occurred.

**3(d). Genetic corridor management would immediately conflict with the 2018 US Supreme Court in *Weyerhaeuser*.**

The Organizations would also have serious concerns that any management of genetic or migratory corridors on federal lands would immediately become problematic under the Weyerhaeuser<sup>55</sup> decision from the US Supreme Court. In this decision, the Supreme Court addressed the critical habitat of the Gopher frog as follows:

“The Service found that each of those areas possessed the three features that the Service considered “essential to the conservation” of the frog and that required special protection: ephemeral ponds; upland open-canopy forest containing the

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<sup>54</sup> See, DOI; USFWS; Endangered Wildlife and Plants; *Reclassification of the Gray Wolf in the United States and Mexico with determination of critical habitat in Michigan and Minnesota*; Federal register Vol 43 NO 47 at pg. 9607; March 9, 1978.

<sup>55</sup> See, *Weyerhaeuser Company v. United States Fish and Wildlife Service* 586 U.S. \_\_\_\_ (2018),

holes and burrows in which the frog could live; and open-canopy forest connecting the two.”

The Court struck down the habitat designations and corridor related management for the dusky gopher frog as the USFWS failed to clearly identify and define the habitat for the species and how it related to the survival of the species. The definition of habitat remains an open issue with the USFWS, but given the Supreme Court’s concerns over management of lands that are not related to the survival of the species as habitat cannot be overlooked. The Organizations submit that given the proven success of the wolf as a habitat generalist, how could migration corridors ever be defined in a manner to exclude any portion of the State. Defining what is not habitat is as valuable as defining what is habitat for any species.

Given the Supreme Court concern over this type of arbitrary and overly generalized characterization of migration corridors for species, the Organizations must ask how these genetic corridors for wolves could ever be sustained, especially as many of these corridors will be crossing state boundaries with states that are not providing similar management. The Organizations submit that any attempt to manage genetic corridors for wolves would be creating exactly the type of conflict that the Colorado Wolf Plan is designed to be resolving. Rather than avoiding conflict this standard would create the basis for “I saw a wolf” based management identical to the failed management structure for the lynx we passionately want to avoid.

#### **4. Conclusions.**

The Organizations submit the Plan is a mixed bag of information and concerns, some of which we can support, other so which we must oppose for a variety of foundational failures and others we oppose as there is no basis for the concern to even be addressed in the Plan. We support recognition that ungulate populations are stable for all species and often well above goals for most species. This is something we continue to struggle with almost daily, so even the general recognition of this situation is valuable to our interests both around the wolf and around other



species. From this perspective, the Plan is a significant step forward from the 2005 Wolf Plan that was created by DOW. The Organizations also must express our vigorous support for the FULL compensation of the ranching and farming community for any losses that result from the reintroduction of the wolf in Colorado. This includes the direct mortality of animals but also should include possible loss of animals due to wolf predation and also costs that the ranching community is incurring to mitigate possible impacts of wolves. These mitigations costs have already been identified as significant in discussions with CPW. We are concerned that most of the burden of proof on any of these issues remains on the ranching community and that must not be overlooked.

While this Plan is a step forward, it falls short of being sufficient from the non-consumptive recreational perspective. It is disappointing that our support is limited to these two issues. We are disappointed that Wisconsin has specifically recognized the interests of non-consumptive users in their updated wolf documents, while Colorado has chosen to remain silent. For the nonconsumptive user community silence in planning or vague, conflicting and unclear management guidance can result in decades of challenges and often expensive litigation when ambiguous standards are applied in subsequent site specific or landscape level planning. As we have exemplified in our comments, litigation and conflict around the lynx reintroduction continues in Colorado more than a decade after CPW declared the reintroduction a success and more than 2 decades after the lynx were released. The presence of the wolf will complicate existing conflicts on many species to higher levels than are currently present. Impacts and challenges such as this must be addressed and mitigated in the Plan as we anticipate challenges such as this with the wolf.

The Organizations are very concerned and disappointed that consumptive and non-consumptive interests are treated very differently in the Plan despite years of collaboration between all users of public lands and CPW. This division of users sends a horrible message to the nonconsumptive users given that the Plan outlines significant impacts to the consumptive wildlife users and interests and is silent on possible impacts to the nonconsumptive user. That is disappointing by itself. This disappointment compounds when the broad statutory scope of CPW to address recreation and wildlife is reviewed. The fact that CPW has recently and successfully litigated their broad scope of wildlife management on federal public lands only adds to our frustrations on the silence of the Plan on federal lands management. Couple this silence and conflicting analysis with passing references to closures on public lands and these types of internal conflicts only add to our disappointment. These types of problems should have been a red flag that there was a problem with the basic premise of these parts of the Plan. It should.

While we support the clarity on wildlife populations in the State, this mere recognition of this concern does not go far enough. The Plan fails to address expected declines in populations of species, both ungulate and other predator species. Again, other states are far ahead of Colorado on addressing other implications of the wolf's presence. The State of Idaho recognized this issue many years ago and proactively recognized the problem and attempting to minimize damage and conflict. Colorado must follow Idaho's lead.

The Organizations are also disappointed that the Plan fails to build on the success of previous CPW efforts to provide guidance on possible challenges in the management of species for nonconsumptive users. Previous efforts that CPW has been actively involved with and supported, such as the USFWS update of lynx planning documents and the creation of USFWS planning docs for the wolverine reintroduction. While CPW may not have led these efforts, CPW was an ACTIVE participant in them and recognized the value of guidance for non-consumptive recreation. CPW must build on these successes rather than regress from them and the current Plan is a significant regression from these planning documents for other species. The alignment of CPW and Federal planning documents on issues such as this could send a strong message, but the current version of the Plan fails to do this.

There are provisions of the Plan where CPW assumes that land closures will be necessary for the protection of wolves. Absolutely no guidance or even discussion is provided on this issue in the Plan, nor is there any discussion of why resources such as the 2021 CPW Trails and Wildlife Guide would not be fully applicable to wolves. We would like to understand how this decision was made, what lands it applies to and how long the proposed closures will last. We are sure that other interests will want to understand what these closures will look like as well. We are vigorously and completely opposed to any closures of any lands for the benefit of the wolf without a clearly stated scientific basis for the closure. No discussion of resources such as this have been provided in the Plan despite closures being some of the most opposed management tools available.

While the Plan falls short of addressing known and recognized conflicts or exploring use of existing management resources to their fullest, the Plan moves novel academic concerns forward without any discussion of impacts or challenges on the ground. An example of the type of issue would be the inclusion of genetic corridor management requirements in the Plan. Absolutely no provisions are provided in the

Plan to address why the genetic corridor concept is even proposed or how this would relate to on the ground management in these corridors. Foundational concerns around this issue are simply never mentioned, such as discussion of how western wolves would be thought to be isolated to such a level as to need this type of management. This simply must be corrected.

The Organizations would welcome a meeting to discuss resolutions to our concerns as some of them are simple. Others clearly are not. We are concerned that previous input from the nonconsumptive interests has simply been overlooked entirely. We would like to craft a plan that builds on the previous successes in species management we have achieved with CPW. We felt that written comments were the most appropriate and effective manner to address our concerns given the specific and complex nature of our concerns. Please feel free to contact Scott Jones, Esq. at 518-281-5810 or via email at [scott.jones46@yahoo.com](mailto:scott.jones46@yahoo.com) for copies of any documentation that is relied on in this document or if you should wish to discuss any of the concerns raised further.

Respectfully Submitted,



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