

CITIZEN PETITION FOR RULEMAKING
COLORADO PARKS AND WILDLIFE COMMISSION

Date: September 27, 2024

Petitioners: Petitioners include the five entities listed below, as well as the additional 21 entities listed on the last page of this Petition.

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ISSUE

This Petition for Rulemaking (“Petition”) is filed on behalf of the 26 Petitioners listed herein. This Petition asks the Colorado Parks and Wildlife Commission (the “Commission”) to adopt a rule that delays the further introduction of gray wolves in Colorado until Colorado’s wolf management program is equipped to handle the consequences of these introductions. Colorado Division of Parks and Wildlife (“CPW”) itself has admitted that the agency needs to provide “additional support” to livestock producers to address wolf-livestock conflicts, and it is safe to say the agency’s introduction of wolves has not gone smoothly. Given the turbulent start to this program, the program elements described below need to be funded and in place before any additional gray wolves are introduced in Colorado.

Under the Commission’s rules, the Chair of the Commission has the authority to act on behalf of the Commission and place the petition on the Commission’s agenda. Specifically, at the October 3 meeting, we ask the Commission to propose this rule for public hearing during the Commission’s November 14–15 meeting, so that the Commission may vote on the proposed rule change before the end of the year. Given CPW’s announced intentions to introduce more wolves in the same area as of December 2023, it is critical that the Commission resolve this issue with full transparency before any further introductions occur.

In addition, we request the opportunity to provide public comment during the Commission’s October 3 meeting on this important issue.

PROPOSED RULE

This Petition seeks to amend Chapter W-16 of the Commission's Procedural Rules, 2 Colo. Code Regs. § 406-16, to add Article IX, entitled "Implementation of Proposition 114." The proposed text is shown in redline below.

Article IX. Implementation of Proposition 114 2 Colo. Code Regs. 406-16:1691

These rules govern the Commission or CPW's introduction of additional gray wolves in Colorado. Proposition 114, codified at C.R.S. § 33-2-105.8, required the Commission to "take the steps necessary to begin reintroductions of gray wolves by December 31, 2023." The Commission complied with this statutory mandate by introducing ten gray wolves in Colorado by December 31, 2023.

The statute does not mandate the date by which the Commission must introduce additional wolves. These rules apply to the Commission's introduction of any additional gray wolves in Colorado.

A. Neither the Commission nor CPW or their employees and agents will introduce additional gray wolves to Colorado until:

1. The Commission adopts a definition of "chronic depredation" with mandated lethal take requirements of chronically depredating wolves and provides notice to the impacted communities and livestock producers of this generally applicable standard;

2. CPW tests and evaluates alternative forms of non-lethal measures for keeping wolves from attacking livestock and working dogs to identify what measures work in what field conditions and for how long the measures are effective;

3. CPW develops a program to conduct site assessments of areas where wolves are interacting with livestock and working dogs and educate livestock producers on managing wolf conflicts and implementing site-specific, effective non-lethal measures to minimize livestock losses;

4. CPW develops a range rider program for areas where wolves are either currently interacting with livestock and working dogs or can be expected to interact after additional wolves are introduced, acquires sufficient funding for this range rider program, and implements this program prior to the next introduction of wolves;

5. CPW hires, trains, and puts in place a rapid response team to immediately respond to reports of wolves harassing or depredating livestock and working dogs and keeps that team in the impacted area until the threat is removed;

6. CPW collaborates with livestock producers and other state, local and federal agencies to develop best practices for carcass management in rural areas and communicates with impacted communities and livestock producers about these best practices; and

7. CPW creates a transparent plan to communicate and consult with local county officials, impacted communities, and livestock producers in advance of any wolf introductions that could affect them.

REASONS FOR REQUESTED RULE

Under the Commission’s regulations, “[a]ny person may petition the Commission to initiate rulemaking[.]” 2 Colo. Code Regs. § 406-16:1606. The statute defines “person” to include entities such as the petitioners listed herein. In accordance with the Commission’s procedural rules, this Petition contains the petitioners’ contact information, “[a] copy of the rule proposed in the petition” in redline format, and a general statement of the reasons for the requested rule. *Id.*

Proposition 114—now codified as Section 33-2-105.8—requires the Commission to “take the steps necessary to begin reintroductions of gray wolves by December 31, 2023.” C.R.S. § 33-2-105.8(2)(d). Critically, nothing in the statute mandates the *pace* at which the Commission must introduce wolves. *See* C.R.S. § 33-2-105.8. Rather, the timing of wolf introductions is addressed in a planning document the Commission uses to guide its management of the program—the Colorado Wolf Restoration and Management Plan” (the “Plan”). While the Plan anticipates that “that wolf reintroduction efforts will require the transfer of about 30 to 50 wolves, total, over a 3 to 5 year time frame,” it reserves for the Commission the power to pass regulations related to the Plan, and “[i]n the event of any conflicts between the Plan and such regulations, such [Commission] regulations will control.” COLORADO PARKS & WILDLIFE, COLORADO WOLF RESTORATION AND MANAGEMENT PLAN (2023) at ii, *available at* <https://cpw.state.co.us/sites/default/files/2024-08/2023-Final-CO-Wolf-Plan.pdf>.

The Commission not only has the authority to adopt rules to delay the introduction of additional wolves in Colorado, but it has the *responsibility* to do so. Under the Wildlife Act, the Commission must “[d]evelop a plan to restore and manage gray wolves in Colorado” based on the “best scientific data available,” and that plan “*must* be designed to resolve conflicts with persons engaged in ranching and farming in this state.” C.R.S. § 33-2-105.8(1)-(2) (emphasis added). It further states that the Commission “*shall not* impose any land, water, or resource use restrictions on private landowners in furtherance of the plan.” C.R.S. § 33-2-105.8(3)(b) (emphasis added).

In the first eight months of this program, Colorado has confirmed 24 livestock deaths as the result of wolf depredations in Grand, Jackson, and Routt Counties. And this does not account for undocumented losses—the “missing” livestock and many suspected wolf-related deaths that CPW was incapable or unwilling to deem as depredations earlier in the year.¹ We appreciate CPW’s eventual decision to capture the depredating wolves in the Williams Fork Valley. That decision should have been made three months earlier to avoid the losses that occurred. And that delayed decision does not fix the cracks that were revealed in the existing wolf management program and are being pressure tested again. In recent weeks, wolf attacks have increased in the Muddy Creek

¹ Moreover, this Petition does not account for the harm the state’s inadequate wolf management program has and will continue to cause to wolves that are captured and transported thousands of miles away to Colorado.

drainage in Grand County. CPW has confirmed two depredations in that area, and livestock producers have reported additional missing or dead livestock.

As set forth below, the Commission should adopt the proposed rule to provide time for CPW to resolve conflicts with livestock producers and ensure the program does not impose land, water, or resource use restrictions on private landowners.

I. The Wolf Management Program Must Be Designed to Resolve Conflicts with Livestock Producers.

Colorado's wolf management program has not been designed to resolve conflicts with livestock producers, as is required by Section 33-2-105.8(1)(d).

As an initial matter, lethal measures must be employed at every phase of the wolf management program to address chronically depredating wolves. Both the Commission regulations and the Plan authorize lethal take of chronically depredating wolves. C.R.S. § 33-2-106(4); 2 Colo. Code Regs. § 406-10:1001(C); Plan at 27. To date, the Commission has failed to provide a coherent definition of "chronic depredation," and CPW has relied on the ambiguity of the term to deny any request to lethally control chronically depredating wolves in Jackson and Grand Counties.

Moreover, the Commission has failed to develop and message a coherent policy for implementing non-lethal measures. At times, CPW has told livestock producers that they must self-fund and implement every type of nonlethal measure before the agency would consider lethal control of a chronically depredating wolf. Decl. of Conway Farrell ("Farrell Decl.") ¶ 7, attached as Ex. 1. Not only is this suggestion inconsistent with Commission rules and the Plan, but it ignores the reality that all nonlethal measures are not effective in Colorado, given the state's unique terrain and land ownership patterns.

Even if a livestock producer were able to implement every type of nonlethal measure available, experience in Middle Park has shown that most nonlethal measures are only effective for so long—until the wolves learn that nonlethal measures do not harm them. Livestock producers in Middle Park report countless sightings of the two wolves sauntering away from humans yelling or screaming at them. *Id.* ¶ 8. When producers employ cracker shells and other targeted nonlethal measures, wolves are briefly repelled before simply circling back around to approach livestock from another direction. *Id.*

For some nonlethal measures, like range riders, the piecemeal funding available to fund this measure is insufficient to ensure range riders are available to cover all areas potentially affected by wolves. Range riders are expensive. For instance, Middle Park Stockgrowers Association has paid a range rider approximately \$400 per day to cover as much as 160 miles each day—riding roughly 11 of these miles on horseback. *Id.* ¶ 10. For the Muddy Creek drainage area alone, Petitioners estimate CPW would have to fund at least one—and likely two—full time range riders to effectively monitor the terrain and protect livestock. As it currently stands, there is no comprehensive funding mechanism to ensure sufficient range riders are employed to protect

livestock—just grant funding provided on an ad hoc basis to different livestock producer associations.

Once a depredation occurs, CPW has failed to ensure an adequate level of staffing in the field and train this staff to investigate suspected wolf depredations. We have heard Commissioners articulate this reality during Commission meetings. Livestock producers have had to wait long periods of time for CPW staff to arrive following reports of wolf harassment or a suspected depredation. *Id.* ¶ 11. But the longer CPW staff delays, the more likely it is that bears or scavengers will consume the carcass and destroy any evidence of the cause of death. *Id.* And even when CPW staff are available, it is evident that not all staff have received sufficient training. On numerous occasions, CPW staff has seemed unfamiliar with the signs of wolf depredations, resulting in inconsistent investigations. *Id.* ¶ 12.

To address these issues, the Commission should require the following conditions be met before any more wolves are introduced to Colorado, as set forth in this Petition’s Proposed Rule:

1. The Commission adopts a definition of “chronic depredation” with mandated lethal take requirements of chronically depredating wolves and provides notice to the impacted communities and livestock producers of this generally applicable standard;
2. CPW tests and evaluates alternative forms of non-lethal measures for keeping wolves from attacking livestock and working dogs to identify what measures work in what field conditions and for how long the measures are effective;
3. CPW develops a program to conduct site assessments of areas where wolves are interacting with livestock and working dogs and educate livestock producers on managing wolf conflicts and implementing site-specific, effective non-lethal measures to minimize livestock losses;
4. CPW develops a range rider program for areas where wolves are either currently interacting with livestock and working dogs *or* can be expected to interact after additional wolves are introduced, acquires sufficient funding for this range rider program, and implements this program prior to the next introduction of wolves; and
5. CPW hires, trains, and puts in place a rapid response team to immediately respond to reports of wolves harassing or depredating livestock and working dogs and keeps that team in the impacted area until the threat is removed.

II. The Wolf Management Program Must Be Designed Not to Impose Any Land, Water, or Resource Use Restrictions on Private Landowners.

Similarly, CPW has failed to comply with its statutory mandate to not impose “any land, water, or resource use restrictions on private landowners” in furtherance of the wolf management program, as required by Section 33-2-105.8(3)(b).

On numerous occasions, CPW has told producers in Middle Park that they must assume the risk and financial responsibility associated with deploying electrified fladry across their property—despite the high risk this measure poses to individuals accessing the property owned or leased by the producers. *Id.* ¶ 13. On another occasion, CPW suggested that cattle cannot be moved into leased lands that have been historically used year after year because the agency thought this established practice may be baiting the wolves to the location. *Id.* ¶ 14.

On yet another occasion, CPW suggested that livestock producers must alter their traditional ranching operations to avoid wolf-related depredations. In its denial of the Middle Park Stockgrowers Association’s application for a lethal take permit, CPW stated that the livestock producer’s long-time use of a dead pit—a common practice on many Western ranches—“likely lured wolves to the property.” CPW, Letter Regarding “Denial of Chronic Depredation Permit” (July 31, 2024), attached as Ex. 2.² Making matters worse, CPW has been inconsistent in its own messaging of best management practices to avoid wolf-livestock conflicts—often contradicting itself or its own practices. At times, CPW has removed a carcass after investigating a suspected depredation, while at other times, it has left the carcass at the location. Farrell Decl. ¶ 15.

To address these issues, the Commission should require the following conditions be met before any more wolves are introduced to Colorado, as set forth in this Petition’s Proposed Rule:

6. CPW collaborates with livestock producers and other state, local and federal agencies to develop best practices for carcass management in rural areas and communicates with impacted communities and livestock producers about these best practices; and

7. CPW creates a transparent plan to communicate and consult with local county officials, impacted communities, and livestock producers in advance of any wolf introductions that could affect them.

CONCLUSION

Having met its statutory obligation to introduce wolves by December 31, 2023, the Commission must now adopt this rule to pause any further introduction of wolves until it has redesigned and implemented a management program that resolves conflicts with livestock producers and refrains from imposing any land, water, or resource use restrictions on private landowners.

² For context, the Middle Park Stockgrowers Association’s complete application for a chronic depredation permit—that CPW denied two months after its filing—is attached as Ex. 3.

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