



State of Washington  
**DEPARTMENT OF FISH AND WILDLIFE**

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Main Office Location: Natural Resources Building, 1111 Washington Street SE, Olympia, WA

September 10, 2014

Chairman Wes McCart  
Commissioner Steve Parker  
Commissioner Don Dashiell  
Stevens County Board of County Commissioners  
215 Oak Street  
Colville, Washington 99114

Re: Resolution No. 46-2014 Regarding Wolves in Stevens County

Dear Chairman McCart and Commissioners Parker and Dashiell:

I am aware that on September 29, 2014 the Commission adopted a resolution that advised Stevens County citizens of a purported constitutional right to kill one or more wolves that are a threat or perceived threat to their personal safety or the safety of others, or to kill one or more wolves when reasonably necessary to protect their property. I am writing to express my concern that your resolution may encourage citizens to take action that is not constitutionally protected and that violates state law. The purpose of my letter is to make you aware of my concerns and to ensure that you have the background information that forms the basis for my concern.

In *State v. Vander Houwen*, 163 Wn.2d 25 (2008), and *State v. Burk*, 114 Wash. 370 (1921), the Washington Supreme Court held that a property owner has a constitutional right to kill elk when reasonably necessary to protect the owner's self or his or her property. However, the court held that whether it is "reasonably necessary" is a case-by-case determination that should consider the assistance measures made available under the Fish and Wildlife Code and by the Department of Fish and Wildlife (WDFW). *Vander Houwen*, 163 Wn.2d at 33. As the court observed, RCW chapter 77.36 (and its implementing regulations in chapter 232-36 Washington Administrative Code) include provisions that seek to minimize and resolve human/wildlife conflicts by authorizing WDFW to provide various forms of assistance and compensation to landowners. WDFW's Wolf Management and Conservation Plan, and implementing guidelines, provide guidance particular to conflicts involving wolves, which are listed as endangered under state law. As the Supreme Court cautioned in *Vander Houwen*, "These provisions . . . could reduce the likelihood that resorting to lethal means to protect property is 'reasonably necessary.'" Unfortunately, the resolution adopted by the Stevens County Commission does not reflect this important nuance in the law, and may inadvertently mislead citizens to believing that they have a broad right to kill wolves.

RCW 77.15.120 generally makes it unlawful to kill endangered wildlife. However, RCW 77.36.030 and WAC 232-36-050 authorize killing wildlife, including wolves, that are attacking a person. WAC 232-36-052 authorizes an owner of domestic animals, the owner's immediate family member, the owner's agent, or the owner's documented employee to kill one gray wolf without a permit from WDFW, if the wolf is attacking the owner's domestic livestock. WDFW may authorize additional removals by permit, or may itself undertake removals. However, if a private citizen kills a wolf beyond circumstances authorized by rule or statute, WDFW will investigate the incident which may lead to the prosecution of the responsible party for the unlawful taking of wildlife under RCW 77.15.120.

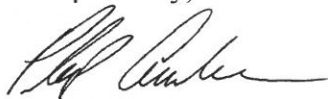
WDFW remains committed to working with Stevens County and with property owners to proactively address wolf/livestock conflicts. We encourage landowners to enter into Damage Prevention Cooperative Agreements with WDFW. These agreements provide for state cost-sharing of preventative methods to discourage wolf/livestock interactions, sharing of wolf location information through radio-collared wolf monitoring, payments for livestock losses attributed to wolves, and where necessary, issuance of permits to kill wolves caught in the act of attacking livestock. As recently demonstrated in regard to the sheep depredations in Stevens County by the Huckleberry Wolf Pack, WDFW stands ready to make staff and other resources available to help manage wolf/livestock conflicts, including lethally removing wolves when nonlethal options have proven ineffective.

WDFW is the agency designated by the Washington Legislature to manage state wildlife resources. I am concerned that your approval of Resolution 46-2014 may lead the citizens of Stevens County to reach the wrong conclusions about the scope of their rights and it appears to exercise authority that the County does not possess. Either way, the resolution may place your citizens at risk.

I understand the pressures that the Commission and your citizens are under as a result of the increase presence of wolves in your county. However, I respectfully request that you consider rescinding the resolution. Finally, I would also like to offer the opportunity to submit a joint news release to ensure Stevens County residents are aware of the caught-in-the-act rule in effect in the eastern third of Washington and how to contact WDFW or the County regarding wolf conflicts.

I appreciate your willingness to maintain an open communication line with us. You and your citizens are on the front line in a very difficult situation. I remain confident that we will find a successful pathway forward although I know it will be filled with challenges along the way.

Respectfully,

A handwritten signature in black ink, appearing to read "Philip Anderson", written in a cursive style.

Philip Anderson  
Director