



10 QUESTIONS FOR DNR ON ITS GRAY WOLF POWER GRAB

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Introduction: Why This Issue Matters

The gray wolf's presence in Wisconsin has long been a highly contentious issue. While some view the wolf as majestic or even sacred, others have serious concerns about the wolf's effect on livestock, pets, and wildlife or wish to exercise their state constitutional right to hunt the animal.

For this reason, it is critical that Wisconsin's approach to the wolf population represent the democratic choice of the people of this state; that those charged with executing that approach remain accountable to the people; and that the process by which an approach is selected is fully transparent to the people.

Unfortunately, the Wisconsin Department of Natural Resources (DNR) is completely overhauling Wisconsin's management of the gray wolf—discarding its decades-long approach of setting a numeric wolf population goal—without providing sufficient information on how and why it is doing so and what the expected effects of the change will be.

Since 1999, when the gray wolf population in Wisconsin was about 200 wolves, Wisconsin has had a **350-wolf population management goal**.¹ That 350-wolf goal was selected by DNR and the Wisconsin Natural Resources Board (NRB) after a study of relevant factors. **The DNR and NRB then reaffirmed this 350-wolf goal in 2007**, when the wolf population was over 500, indicating that they had begun “to apply controls on the wolf population.”²

¹ Wisconsin Department of Natural Resources, *Wisconsin Wolf Management Plan* at 3 (1999) [hereinafter *Management Plan*].

² Wisconsin Department of Natural Resources, *Wisconsin Wolf Management Plan Addendum 2006 and 2007* at 3 (2007) [hereinafter *Addendum*].



A decade and a half later, Wisconsin's wolf population has at times approached 1,200 wolves or more.³

This glut allowed hunters to harvest **218 wolves in under 3 days** in 2021, forcing DNR to conclude the season's hunt early.⁴ It has meant **48 farms with verified wolf depredations in 2021, the highest level in modern Wisconsin history.**⁵ It has led to the payment of over **one million dollars** in damages to Wisconsinites **since just 2016** for dead, injured, or missing calves, cattle, hunting dogs, sheep, chickens, and other livestock, not to mention numerous pet dogs.⁶

In light of this explosive growth, Wisconsinites might reasonably expect DNR to explain what it is doing to bring the population back in line with the 350-wolf management goal. **Instead, DNR has suddenly announced that it is not only discarding the 350-wolf goal, but will not be using any numeric goal going forward.**⁷ As justification DNR has provide vague statements such as its view that numeric goals "may unnecessarily restrict decisions" and can "easily fail to account for other biological concerns and social factors which are ever evolving through space and time."⁸

A decision this momentous requires more than listening sessions and opportunities for public comments which DNR is free to reject. **A greater level of oversight of DNR's revisions to the wolf management plan is required.** To facilitate that oversight, the Institute for Reforming Government's Center for Investigative Oversight proposes the following questions—to start.

DNR owes the people of Wisconsin answers to these questions.

³ Department of Natural Resources, *Wisconsin Wolf Management Plan* at 50 (2022) (draft) [hereinafter *Draft Plan*].

⁴ Randy Johnson and Anna Schneider, Department of Natural Resources, *Wisconsin Wolf Season Report* at 1-2 (2021).

⁵ *Draft Plan* at 74.

⁶ Department of Natural Resources, *Wisconsin Annual Wolf Damage Payment Summary* (2022).

⁷ See *Draft Plan* at 97-98.

⁸ *Id.* At 97.



1. WHY HAS DNR PERMITTED THE GRAY WOLF POPULATION TO GROW TO THREE TIMES THE CURRENT MANAGEMENT GOAL OF 350 WOLVES?

Figure 1 below shows DNR’s data on Wisconsin’s gray wolf population through 2021. The most basic question is how Wisconsin got to where it is today, with a wolf population of about 1,000 or more that far exceeds the state’s longstanding 350-wolf goal. That goal was exceeded as far back as 2003-04.

Importantly, **DNR and NRB made revisions to Wisconsin’s wolf management plan in 2006-07, when the wolf count crossed 500 wolves, but kept the goal at 350 wolves** and indicated that they had begun “to apply controls on the wolf population.”⁹ Did DNR’s efforts fail, or was this growth intentionally permitted despite the goal?

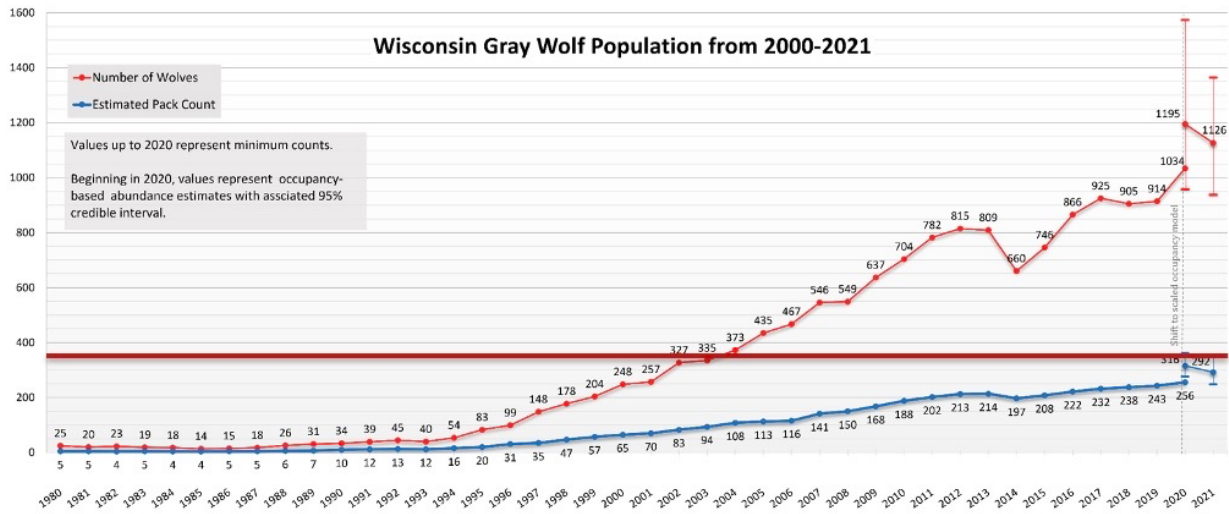


Figure 1.¹⁰

This question is important to answer because one possible explanation for DNR’s decision to eliminate a numeric goal is that it is unable or unwilling to actually meet the current goal.

⁹ Addendum at 3.

¹⁰ This graph is taken from the *Draft Plan* at 50, with a horizontal line added showing the current management goal.



2. WHAT NUMERIC WOLF POPULATION GOAL WOULD WISCONSIN'S TRADITIONAL MANAGEMENT CRITERIA REQUIRE TODAY?

In 1999, Wisconsin's management goal was chosen after consideration of four factors: (a) "[t]he goal needed to meet or exceed federal recovery criteria"; (b) "[t]he goal must represent a population level that can be supported by the available habitat"; (c) "[t]he goal needed to be compatible with existing information on gray wolf population viability analysis"; and (d) "[t]he population goal needed to be socially tolerated to avoid development of strong negative attitudes toward wolves."¹¹

When DNR initially considered these criteria, it concluded a balance of the factors dictated a goal of 350 wolves. For example, federal standards recommended a minimum of 100 wolves in Wisconsin and Michigan to federally delist wolves (factor a), whereas the carrying capacity of the relevant habitat was initially estimated at 500 wolves (factor b).¹²

In 2007, DNR reweighed these factors and concluded that 350 wolves was still appropriate. For example, federal recommendations remained at a minimum of 100 and carrying capacity was still estimated at 500.¹³

Has DNR conducted an analysis of what numeric wolf population goal these traditional management criteria would require? Is it still 350 wolves?

This question is important because it allows interested parties who value Wisconsin's longstanding approach to wolf management to conduct an apples-to-apples assessment of what kind of revisions to the management goal are needed in the first place.

¹¹ *Management Plan* at 15.

¹² *Id.* at 15-16.

¹³ *Addendum* at 3, 6-7.



3. WHY IS DNR NOW ABANDONING ANY NUMERIC GOAL FOR WISCONSIN?

Wisconsin has had a numeric population goal since 1999. DNR reaffirmed use of that goal in 2007 **after wolves had exceeded it.**¹⁴ And it acknowledged, in 2022, that numeric goals are “easily defined and readily measured.”¹⁵ **Yet now, after over two decades, Wisconsin is suddenly changing course without the vote of a single elected representative.**

Wisconsinites are entitled to ask why. The vague statements in DNR’s draft plan are wholly insufficient to explain what has changed. For example:

- DNR writes that it is “incredibly challenging” to ensure that numeric goals reflect changing biological conditions and social views, yet it has been doing so for decades and its new draft plan depends on assessment of the same conditions and views.
- DNR writes that numeric goals “may unnecessarily restrict decisions and lead dialogue away from the underlying issues requiring attention,” without clearly explaining what those decisions or issues are.
- DNR writes that meeting numeric goals “typically demands high resource and financial investments and may be impractical,” without discussing the specific resource costs or explaining the impracticalities.
- DNR writes that numeric goals “can easily fail to account for other biological concerns and social factors which are ever evolving through space and time” without identifying the concerns and factors that are being missed or explaining why they cannot be incorporated into numeric goal criteria.¹⁶

This question is important because Wisconsin cannot decide whether a seismic change to wolf management in the state is warranted without knowing the reasons for the change.

¹⁴ *Management Plan* at 3; *Addendum* at 3.

¹⁵ *Draft Plan* at 97.

¹⁶ *Id.* at 97.



4. WHAT AUTHORITY DOES DNR HAVE TO ABANDON A NUMERIC WOLF POPULATION GOAL?

Even more important than the question of whether DNR should jettison a numeric wolf population goal is the question of whether it has the power to do so. In Wisconsin it is the Legislature, not the Executive, which is constitutionally vested with the power “to declare whether or not there shall be a law; to determine the general purpose or policy to be achieved by the law; [and] to fix the limits within which the law shall operate.”¹⁷ Administrative agencies like DNR, in contrast, “are creations of the legislature and . . . can exercise only those powers granted by the legislature.”¹⁸ Although the Legislature may delegate a measure of legislative power to administrative agencies, the “purpose of the delegating statute” must be “ascertainable” and there must be “procedural safeguards to insure that the board or agency acts within that legislative purpose” and does not exercise its discretion “unnecessarily or indiscriminately.”¹⁹

DNR appears to be arrogating to itself the authority to decide, on a rolling basis and based on whatever factors it sees fit, what the population of wolves should be in Wisconsin. **What statute grants it this authority?** Wisconsin Stat. § 29.185(1m) orders DNR to “implement a wolf management plan.” Is it DNR’s position that those 5 words afford DNR unlimited authority with respect to wolf management? If so, **what procedural safeguards ensure that DNR is acting appropriately?** DNR appears to be operating outside of the normal Wis. Stat. ch. 227 rulemaking process. Do these unilateral changes to the plan constitute an illegal, unpromulgated rule?

This question is important because the Legislature, not DNR, ultimately sets wolf policy for Wisconsin.

¹⁷ *Koschkee v. Taylor*, 2019 WI 76, ¶11, 387 Wis. 2d 552, 929 N.W.2d 600 (2019) (alteration in original) (quoting *Schmidt v. Department of Res. Dev.*, 39 Wis. 2d 46, 59, 158 N.W.2d 306 (1968)).

¹⁸ *Martinez v. Department of Industry, Labor, and Human Relations*, 165 Wis. 2d 687, 697, 478 N.W.2d 582 (1992).

¹⁹ *Panzer v. Doyle*, 2004 WI 52, ¶155, 271 Wis. 2d 295, 680 N.W.2d 666.



5. WHAT EFFECT WILL DNR'S NEW "ADAPTIVE" APPROACH TO MANAGING WOLVES HAVE ON WISCONSIN LIVESTOCK AND PETS?

In 2021, Wisconsin hit a new record: 48 individual farms with verified wolf depredations, compared to 4 when the wolf management plan was first adopted in 1999.²⁰ The same year (2021), USDA Wildlife Services verified over 100 wolf complaints and Wisconsin paid damages for the following dead or missing animals: 81 calves, 10 cattle, 15 hunting dogs, 3 pet dogs, 4 captive deer, 25 sheep, and 3 horses or donkeys.²¹ This says nothing about unreported or unverified events or, as DNR itself points out, non-depredation impacts on livestock like "disease, reduced productivity, weight loss and reduction of meat value in cattle" caused by stress.²²

Nor are these numbers simply statistics. Each data point represents individual Wisconsinites whose lives were made more difficult by the gray wolf population. **Does DNR know what effect abandoning a numeric population goal that is one-third of the current population will have on the current levels of conflict?**

For example, DNR says in its report that it is aiming for "few total farms affected by livestock depredation annually."²³ But the lowest number of farms affected annually since the management plan was reaffirmed in 2006-07 is 22 farms. **Why, specifically, does DNR believe abandoning a 350-wolf goal is expected to improve these numbers?**

This question is important because livestock and animal owners are among those with the most to lose from DNR's policy decision.

²⁰ Draft Plan at 74.

²¹ Draft Plan at 74; Wisconsin Annual Wolf Damage Payment Summary.

²² Draft Plan at 75.

²³ Draft Plan at 117.



6. HOW MUCH WILL DNR'S NEW "ADAPTIVE" APPROACH TO MANAGING WOLVES COST THE STATE IN DAMAGE PAYMENTS AND OTHER COSTS?

The losses caused by gray wolf depredations impose real financial costs on the State of Wisconsin. Although these costs are difficult to fully quantify, one partial measure involves the damage payments Wisconsin makes to individuals who have lost livestock or pets to wolves.²⁴ According to DNR, **since 2016 Wisconsin has paid over one million dollars in damages to Wisconsinites for dead, injured, or missing livestock and pets.**²⁵

Now that DNR is abolishing its 350-wolf goal, does DNR expect this number to increase? This is an especially important consideration because state law requires DNR to prorate—reduce—damage payments in some circumstances if available appropriations are insufficient to pay all valid claims.²⁶ DNR vaguely remarks in its draft plan that proration is a “possibility” and recommends that DNR “explore additional funding options.”²⁷ How much funding does DNR think it will need? More generally, has DNR conducted any broader studies of the economic cost to Wisconsin of abandoning numeric population goals?

This question is important because if Wisconsin is going to force its citizens to live with a larger wolf population, the state should understand the economic cost and be prepared to compensate Wisconsinites for the harms that flow from this decision.

²⁴ See generally Wis. Stat. § 29.888.

²⁵ *Wisconsin Annual Wolf Damage Payment Summary*.

²⁶ See Wis. Stat. § 29.888(2).

²⁷ *Draft Plan* at 120.



7. WHAT EFFECT WILL DNR'S "ADAPTIVE" APPROACH TO MANAGING WOLVES HAVE ON OTHER WISCONSIN WILDLIFE POPULATIONS LIKE DEER AND ELK?

Wisconsin's gray wolves, of course, do not live in isolation. Allowing the population to increase will affect other aspects of Wisconsin's ecosystem. "In particular," DNR writes, "wolves are known to influence both the abundance and behavior of the animals they prey upon" ²⁸ **Two animal populations of special importance to Wisconsinites that could be affected by revisions to Wisconsin's wolf management plan are white-tailed deer and elk.**

The white-tailed deer, Wisconsin's official state wildlife animal,²⁹ is the "primary prey base for wolves in Wisconsin."³⁰ Maintaining a robust deer population is important to Wisconsin hunters and others. Similarly, Wisconsin has worked hard to foster its emerging elk population since 1995 when 25 elk were reintroduced to the state.³¹ But wolves "are the primary predator of elk" in Wisconsin and have "contributed to slower-than-anticipated elk population growth rates."³²

Does DNR know how eliminating a numeric wolf population goal will affect Wisconsin deer and elk? Its plan concedes that "[p]redator-prey dynamics are incredibly complex" and calls for additional research into how wolves impact deer and elk populations.³³ Should that research *precede* a drastic change in how Wisconsin manages its wolf population?

This question is important because Wisconsinites deserve to be informed about major ecological trade-offs resulting from DNR's policy decision.

²⁸ *Draft Plan* at 13.

²⁹ Wis. Stat. § 1.10(3)(j).

³⁰ *Draft Plan* at 114.

³¹ *Draft Plan* at 8.

³² *Draft Plan* at 8, 115

³³ *Draft Plan* at 135.



8. WHAT CONSIDERATION, IF ANY, HAS DNR GIVEN TO THE CONSTITUTIONAL RIGHT TO HUNT?

The individual rights specifically enumerated in the Wisconsin Constitution are relatively few and whenever there is a risk of possible infringement, government actors must exercise extra caution to ensure their protection. It is, therefore, surprising that DNR's 178-page draft plan does not even mention Wisconsin's constitutional right to hunt, much less explain whether or how it was given consideration.

Article I, § 26 of the Wisconsin Constitution provides that "The people have the right to fish, hunt, trap, and take game subject only to reasonable restrictions as prescribed by law." With respect to the gray wolf, in particular, the Legislature has implemented the guarantee of this provision by statute, ordering that "[i]f the wolf is not listed on the federal endangered list and is not listed on the state endangered list, the department shall allow the hunting and trapping of wolves."³⁴

No court decision authoritatively settles what counts as "reasonable restrictions" on the right to hunt wolves for constitutional purposes. **A fair inquiry is whether the regulatory structure proposed by DNR, according to which it will now determine wolf management necessities on an ad hoc basis, is "reasonable" under Article I, § 26, or indeed even "prescribed by law."**

This question is important because DNR has a duty to safeguard the constitutional rights of the people of Wisconsin.

³⁴ Wis. Stat. s. 29.185(1m).



9. WHAT IS THE FULL STORY BEHIND DNR'S UNPUBLISHED DRAFT MANAGEMENT PLANS?

The first paragraph of DNR's draft plan includes the following statement:

Multiple subsequent efforts to update the state's wolf management plan occurred [after 2007], none of which resulted in a new management plan. Most notable among these efforts was a draft management plan resulting from significant work completed between 2013-2015, which ultimately remained unfinished due to a change in federal wolf legal status in late 2014. . . . [T]he department utilized the 2015 draft plan as a non-binding reference point throughout the development of this updated wolf plan.³⁵

In other words, DNR began seriously revising Wisconsin's wolf management plan after annual wolf hunts began in Wisconsin in 2012; then stopped after the gray wolf was relisted as endangered; then started again once wolf hunting resumed in 2021.³⁶ **This history raises several questions.**

Why did relisting of the gray wolf as endangered make it unnecessary to complete the 2015 draft management plan, especially given that gray wolves are now again listed as endangered yet DNR is proceeding with revisions? Were past revision initiatives driven by a desire to limit wolf hunting? If the 2015 draft plan is non-binding, what parts have been followed and what parts ignored, and why? Why were the other pre-2022 "efforts" to update the plan unsuccessful and what do they say?

This question is important because its answer sheds light on the extent to which DNR is acting in a truly objective manner.

³⁵ *Draft Plan* at ix.

³⁶ See Wisconsin Department of Natural Resources, *Past Harvest Seasons, Wolf Hunting and Trapping* (2023), <https://dnr.wisconsin.gov/topic/hunt/wolf/index.html>.



10. HOW BIG WILL WISCONSIN'S WOLF POPULATION BE IN 10 YEARS?

At minimum, regardless of where Wisconsinites fall on the question of *how* to manage wolves in Wisconsin, DNR must provide complete information on the details of the proposal it is asking Wisconsinites to accept. But it is unclear if DNR itself even knows, or is willing to share, the fundamental implications of its proposal.

For example, **ignoring specific *numeric* goals, does DNR intend or estimate that Wisconsin's 2033 wolf population will be larger than, smaller than, or about the same as its 2023 population of approximately 1,000 wolves?**

A wolf management plan that fails to address these kinds of basic question is not a plan at all; it's an agency power grab.

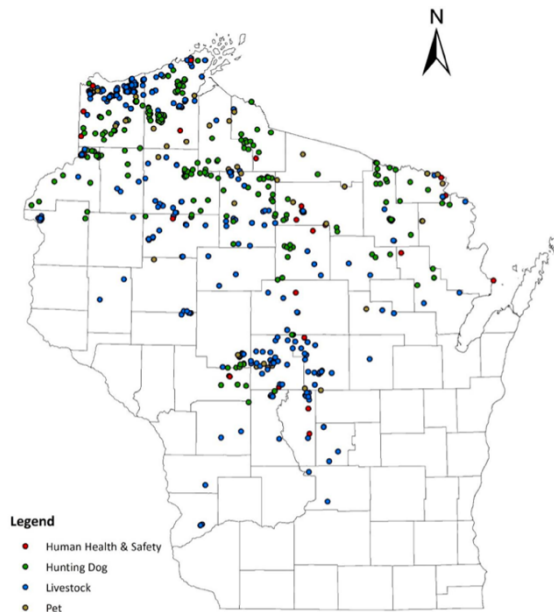


Figure 2.³⁷

³⁷ This graph is taken from the *Draft Plan* at 75 and shows "verified and probable wolf depredation and harassments by type" from 2013-2021.



HOW TO BEGIN OBTAINING ANSWERS

KEY INDIVIDUALS

1. **Randy Johnson**, Bureau of Wildlife Management, Wisconsin Department of Natural Resources – Lead Writer of 2022 Draft Wisconsin Wolf Management Plan
2. **Adam Payne** – Secretary-designee of the Wisconsin Department of Natural Resources
3. **Adrian Wydeven** – Chair of the Wisconsin Wolf Advisory Committee for the 1999 Wisconsin Wolf Management Plan

KEY DOCUMENTS

1. All prior, abandoned drafts of revisions to Wisconsin's Wolf Management Plan
2. Records disclosing who initially suggested departing from numeric population goals and how agreement on that departure was reached within DNR
3. Economic analyses of the estimated cost to Wisconsin of increases to Wisconsin's wolf population
4. Scientific analyses of the numeric wolf population goal dictated by Wisconsin's traditional wolf management criteria
5. Scientific analyses of the estimated effect on Wisconsin's white-tailed deer and elk populations resulting from increases to Wisconsin's wolf population