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31 December 2007

John Slown
U.S. Fish and Wildlife Service
New Mexico Ecological Services Field Office
2105 Osuna NE
Albuquerque, NM 87113

Re: New Mexico Department of Game and Fish Comments on the January 12, 1998 Final 10 (j) Rule under the Endangered Species Act for Establishment of a Nonessential Experimental Population of the Mexican Gray Wolf in Arizona and New Mexico – 31 December 2007 Comment Deadline.

Dear Mr. Slown:

On 7 August 2007, the US Fish and Wildlife Service announced intent to prepare a Draft Environmental Impact Statement and socioeconomic assessment in conjunction with a proposed rule to amend the 1998 Final Rule authorizing the establishment of an "experimental nonessential population of the Mexican gray wolf in New Mexico and Arizona under section 10(j) of the Endangered Species Act. This process included 12 public meetings to disseminate information and elicit comments from the public, scientific community, interested governmental agencies, Tribes, and other interested parties regarding the scope of the EIS, pertinent issues to address, and alternatives to assess. The New Mexico Department of Game and Fish, as a cooperating agency in the reintroduction program, has worked actively in support of the recovery effort. Despite the intensive combined efforts of the US Fish and Wildlife Service, New Mexico Department of Game and Fish, the Arizona Game and Fish Department, U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service--Wildlife Services, USDA Forest Service and the White Mountain Apache Tribe, the reintroduction program has not achieved planned objectives. The 1998 10(j) rule establishing the nonessential experimental population of Mexican gray wolves identifies and mandates how the population will be managed. While many of the provisions of this rule have proven useful and acceptable, there are substantive shortcomings that impose hardships on the citizens of New Mexico, limit management flexibility, and result in unsustainable losses in the wolf population. New Mexico Department of Game and Fish believes that changes in the original 1998 10(j) rule are necessary to ensure success of this program. It is especially

important to embed flexible conservation actions into the program and to shift from a focus on individual problem events to a focus on proactive efforts that maximize keeping wolves on the ground in suitable habitat.

Key Points

- **Redefine the Blue Range Recovery Area** to be one component of a larger meta-population incorporating noncontiguous areas of suitable habitat within the nonessential Experimental Population Area. Wolves are long range dispersers and are capable of moving among areas of potential habitat distributed throughout southern New Mexico and the Southwest. The Blue Range Wolf Recovery Area (BRWRA) may be the single largest area of high quality contiguous wolf habitat in the Mexican Wolf Experimental Population Area (MWEPA). However, the wolves' historic range incorporates large areas of variably suitable and productive habitat. Wolf populations may have comparatively higher densities in alpine coniferous forests that support larger populations of elk and deer than in dryer lower elevation areas. Historically, they also survived as lone wolves, temporary associations, and breeding packs of variable size throughout their historic range. This area extended from western Arizona through southern New Mexico, the plains of west and central Texas and as far south through central Mexico to points south of Mexico City. Given this extensive range incorporating vast areas of lowland desert, shrubland, and grasslands, the existing reliance of the Reintroduction Program on one limited area of alpine mountain habitat is unrealistic. Mexican wolves should be allowed to naturally disperse to and move among suitable habitat throughout the MWEPA, with appropriate conservation and management actions applied, and with the MWEPA extended to include all of New Mexico south of I-40.
- **Expand the reintroduction area to include additional public land within the MWEPA in New Mexico.** Designation of the Apache Sitgreaves and Gila National Forests as the Recovery Area limits the wolves to a politically defined area with no underlying biological significance. To a highly mobile species like the wolf, boundaries at the scale of the BRWRA are meaningless. To the agencies tasked with implementing this program, the boundaries constitute a constraint that inflicts burdensome management requirements, stimulates unnecessary conflicts, and leads to unsustainable wolf population losses. Thus, the area designated as allowable for occupation by the reintroduced wolf population should be extended to a larger and more ecologically realistic area. For clarity, it may be appropriate to change terminology from Recovery Zone to Reintroduction Area.
- **Revise section (k)(9) to permit initial releases in parts of New Mexico.** The existing rule restricts initial releases to the "primary recovery zone." This limitation reduces opportunities to release captive-reared wolves, as part of the Reintroduction Project, that can be more timely and functional parts of the wolf population in New Mexico. Such a provision will expedite putting effectively functioning wolves on the ground and will provide greater flexibility in the program to address specific conservation and management needs.
- **Describe a specific wolf population objective in the rule** to enhance clarity and provide dimension to reintroduction efforts. Such an objective should be described in terms of overall numbers, breeding pairs, packs, distribution, allowable densities, duration, and other meaningful biological, ecological, and demographic features. Such a description should not focus on single numbers, but rather on reasonable ranges of values within biologically meaningful time frames that are consistent with the abilities of wildlife managers. New Mexico Department of Game and Fish is especially willing to assist in efforts to provide such a description.

- **Provide for more realistic “threshold of action” rather than the seeming mandate for action** with respect to depredation by wolves. Current provisions regarding 3 depredation incidents have been interpreted too strictly and have developed some unrealistic expectations about specific outcomes. The revised rule should provide for flexibility in actions associated with depredation incidents that is consistent with the circumstances, location, wolves involved, livestock management practices involved, people involved, and other salient factors. Three depredation incidents can remain the triggering threshold for responsible action, but not a departure point for single definitive outcome. This approach will be consistent with more focus on proactive conservation practices and less focus on individual depredation events, thus being more efficient in use of time among project personnel.
- There needs to be explicit understanding in the rule that **wolves should be expected to occupy private land** as is the case with any other wildlife species. The presence of wolves should not, in and of itself, constitute a problem. Rather, the actions of specific wolves should determine the need for management action on the part of the Reintroduction Project.
- The strict application of an **overly broad definition of “problem wolves”** unreasonably stigmatizes pups and yearlings and sets the stage for undesirable levels of removal through management actions. The definition of “problem wolves” should be restructured to focus only on those individuals clearly initiating undesirable behaviors that become routine or chronic. Wolf pups may be, but are not necessarily, more likely to depredate on livestock as a result of having been fed from livestock killed or scavenged. There is no evidence that sporadic, opportunistic, infrequent feeding pups on meat from livestock predisposes these pups to be more likely to attack/kill livestock when they mature. A refined definition of “problem wolves” will reduce the burden of pack behavior on these wolves and help to keep more wild born wolves on the land.
- **Describe take permit provisions** so that non-injurious hazing by individuals includes a broader range of actions available to the public (throwing objects at, shooting in the direction of, and a more liberal definition of acceptable projectiles for use in hazing. This is especially important to provide a greater range of options for people who feel a need to do something to protect domestic animals other than livestock.
- **The definition of breeding pair should be tightened** to specify that the specific pair have actually mated and produced pups. Currently, “**Breeding pair** means an adult male and an adult female wolf that have produced at least two pups during the previous breeding season that survived until December 31 of the year of their birth.” Under the current definition, there is the possibility that pairs could be created through translocation or release. If a sole surviving member of a breeding pair, with pups, joined up with another wolf dispersing, translocated, or released then the pair could be considered a breeding pair when they have yet to mate and produce pups. This existing definition is subject to enough interpretation so that critical population parameters could be inaccurate.
- **Ensure adequate recognition of the importance of responsible livestock management** as a factor in wolf conservation decisions. Livestock operator tolerance of livestock illness and injury can lead to the presence of weakened livestock on the range. Old, weak, sick, or injured livestock are more likely than healthy livestock to elicit attack by wolves and other predators and thus may constitute an undesirable attraction relative to the wolf reintroduction program. Subsequent natural death and carcass abandonment on public land may stimulate wolves to scavenge on dead livestock,

further stimulating wolves to view livestock as prey. The Reintroduction Program cannot, without the support of the USDA Forest Service, force livestock operators to better manage their livestock. However, where there is evidence that obviously vulnerable livestock, carcass abandonment, or other livestock-related materials in an area has led to depredation/scavenging by wolves, an elevated threshold for livestock depredations should be applied in conjunction with intensified wolf management to discourage this behavior. This recognition that certain livestock management practices will result in higher thresholds should provide incentives to livestock operators to improve livestock management to avoid depredations.

- Preliminary results from ongoing livestock depredation studies in the Blue Range Recovery Area indicate that mountain lions are a significantly greater source of livestock depredation than are wolves. In cases where wolves have been shown to depredate on livestock and other predators are also active in the area, the program with the concurrence of the Agencies of Jurisdiction, should have the flexibility to **respond to wolf depredations with site specific adaptation**. Such adaptation could include an overall predatory animal management strategy, instead of individual focus on wolves,
- The existing 10(j) rule refers to population targets developed in the 1982 Mexican Wolf Recovery Plan. An updated recovery or “**conservation**” plan is needed to rigorously examine what would constitute recovery for the species. A credible plan could provide affected states and the Service with a realistic goal that would incorporate existing information on the status of wolves in the intermountain west, southwest, and Mexico.

Sincerely,

s/BT

Bruce Thompson
Director

Cc: Governor Bill Richardson (Attn: Sarah Cottrell)
All members of State Game Commission
Robert Jenks, New Mexico Department of Game and Fish
Luke Shelby, New Mexico Department of Game and Fish
Matt Wunder, Chief, New Mexico Department of Game and Fish
Benjamin Tuggle, United States Fish and Wildlife Service
Duane Shroufe, Arizona Game and Fish Department
Jeff Green, United States Department of Agriculture Wildlife Services
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Eva Sargent, Defenders of Wildlife
Kevin Bixby, Southwest Environmental Center
Paul Gutierrez, New Mexico Association of Counties
Posted to New Mexico Department of Game and Fish website under "Conservation Tab"