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September 6, 2017

The Honorable Ryan Zinke  
Secretary  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

Dear Secretary Zinke,

I would like to bring to your attention to the comments submitted by the Arizona Cattlemen's Association (Docket No. FWS-R2-ES-2017-0036-0001) on August 29, 2017, in response to the Department of Interior's (DOI) call for public comment on the Mexican Gray Wolf Draft Recovery Plan.

While I was encouraged to see DOI release this long overdue plan, I have a number of serious concerns about the content of the plan and the process by which the plan was developed. Cattlemen in Arizona are disproportionately affected by the recovery of the Mexican Gray Wolf. It is not hyperbole to say that if done wrong, federal actions on the wolf could pose an existential threat to the livelihood of many Arizona ranchers. As such their input is critical to the development of a reasonable recovery plan. That is why I introduced S. 368, the Mexican Gray Wolf Recovery Plan Act, after thoroughly considering input from cattlemen and other affected stakeholders. The attached comments from the Arizona Cattle Growers' Association and others align exactly with my concerns on the draft plan, and the intent of S. 368.

It is of utmost importance to me that local stakeholders such as cattlemen are included in the discussions for planning the wolf's recovery. This includes revising the plan to contain criteria that would delist the wolf after meeting population recovery goals and accurately reflects the historic habitat distribution between Mexico and the United States. The attached comments also highlight portions of the draft plan that are inconsistent with the Endangered Species Act, and draw on lessons learned from other wolf recovery efforts. A plan that confirms to their comments would allow for an acceptable recovery plan that does not disproportionately place a burden on those whose livelihoods are affected by the wolf's recovery. A revised plan that fails to address these concerns is unacceptable.

I thank you in advance for your continued time and attention to these issues. As always, I ask that this matter be handled in strict accordance with all applicable agency rules, regulations, and ethical guidelines.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Flake", is written over a horizontal line.

JEFF FLAKE

United States Senator

Enclosure:

1. Arizona Cattle Growers' Association comments on the Mexican Gray Wolf Draft Recovery Plan, First Revision s

August 29, 2017

*Via Electronic Submission*

Public Comments Processing  
U.S. Fish and Wildlife Service  
MS: BPHC  
5275 Leesburg Pike  
Falls Church, VA 22041-3803

**Attn: FWS-R2-ES-2017-0036**

**Re: Mexican Gray Wolf Draft Recovery Plan, First Revision**

Dear Sir or Madam:

On behalf of the Arizona Cattle Growers' Association, National Cattlemen's Beef Association, Public Lands Council, New Mexico Farm & Livestock Bureau, New Mexico Cattle Growers' Association, and Pima Natural Resource Conservation District (collectively, the ACGA), we are submitting comments on the Draft Mexican Wolf Recovery Plan, First Revision (Draft Recovery Plan). *See Mexican Wolf Recovery Plan, First Revision; Notice and Request for Comments*, 82 Fed. Reg. 29,918 (June 30, 2017).

For the reasons set forth below, the ACGA maintains that the Draft Recovery Plan is flawed and requires extensive revision. In short, it would allow the Mexican gray wolf population in Arizona and New Mexico to expand indefinitely, with no legitimate likelihood of actually delisting the population under the Endangered Species Act (ESA). Further, the Draft Recovery Plan would place the burden of recovering the Mexican gray wolf on landowners and resource users in the United States, including numerous members of the commenters, even though virtually all of the species' historic range lies in Mexico. Additional problems with the Draft Recovery Plan include:

- The plan lacks criteria which, when met, will result in the species' delisting.
- The plan's population goals should be reversed, so that Mexican gray wolf recovery is focused on the wolf's historic range in Mexico with a smaller population goal for the experimental population in the United States.

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- Recovery and delisting of the Mexican gray wolf experimental population in the United States should not depend on Mexico's wolf recovery program or that country's "track record" of protecting wolves.
- The recovery area in the United States should be reduced substantially so that the area Mexican gray wolves may occupy is consistent with the population goal of the recovery plan.
- The plan should contain specific limits and controls on the occupied area and size of the experimental population in the United States, so that the population does not grow well beyond the population goal in the recovery plan, as have the other gray wolf populations in the continental United States, creating conflicts with landowners and resource users.

These problems are discussed in greater detail below.

To address these problems, the ACGA has prepared revised delisting criteria, which are found at the conclusion of these comments as Attachment A. These criteria include:

- For the experimental Mexican gray wolf population in the United States:
  - The recovery area is limited to the Blue Range Wolf Recovery Area and Fort Apache Indian Reservation.
  - The wolf population goal equals or exceeds 100 wolves for four consecutive years.
  - Delisting in the United States will occur notwithstanding the status of the Mexican gray wolf in Mexico if the criteria applicable to the experimental population in the United States are met.
- For the Mexican gray wolf population in Mexico:
  - The population goal is an average of 400 wolves with at least 40 breeding pairs for eight consecutive years.
  - If the criteria in Mexico are met, the Mexican gray wolf will be delisted throughout its range, even if the criteria applicable to the experimental population in the United States are not met.

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These delisting criteria properly focus the recovery of the Mexican gray wolf on Mexico, while allowing the experimental population in the United States to be delisted when a reasonable population goal has been achieved and maintained. The ACGA urges the Service to substitute these delisting criteria for the flawed criteria in the Draft Recovery Plan.

**A. Background on the Gray Wolf and the Failure of the Service to Manage and Control Its Experimental Populations in the Continental United States.**

**I. The Gray Wolf Remains Unlawfully Listed Under the ESA.**

The Mexican gray wolf is believed to be a subspecies of a common wolf species, the gray wolf (*Canis lupus*).<sup>1</sup> The gray wolf has had a checkered history under the ESA. Much of the background concerning the gray wolf is summarized in the Service's proposed rule entitled *Removing the Gray Wolf (Canis lupus) From the List of Endangered Species and Maintaining Protections for the Mexican Wolf (Canis lupus baileyi) by Listing It as Endangered*, 78 Fed. Reg. 35,664 (June 13, 2013) (Proposed Delisting Rule).<sup>2</sup> It will be briefly discussed here to provide context for the ACGA's comments on the Draft Recovery Plan.

Starting in 1967 (before the ESA was enacted), the Service began to list various groupings of gray wolves in the continental United States (i.e., the lower 48 states) and Mexico. See Proposed Delisting Rule at 35,666 (summarizing previous federal actions). Notably, many of these groupings are not recognized as valid wolf subspecies today. *Id.* Due to taxonomic uncertainty, the Service in 1978 published a rule that listed the gray wolf *species* throughout the continental United States as an endangered species. See *id.* at 35,666. The only exception was the gray wolf population in northern Minnesota, which was listed as a threatened species. *Id.* Thus, the previous subspecies listings, including the Mexican gray wolf, were subsumed into the listing of the gray wolf species. The Service ignored the substantial gray wolf population in Canada and Alaska.

The 1978 gray wolf listings were made under the old definition of the term "species," however. When the ESA was enacted in 1973, the definition of "species" included species, subspecies, and "any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature." Pub. L. No. 93-205, § 3(11), *reprinted in* 1973 U.S.C.C.A.N. 981. In 1978, Congress amended the ESA to narrow this definition by removing the vague reference to "groups" of animals "in common spatial arrangement" and substituting "distinct population segment of any species of vertebrate fish or

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<sup>1</sup> As discussed below, however, there is uncertainty about the genetics of the Mexican wolves that have been reintroduced in Arizona and New Mexico as an experimental population.

<sup>2</sup> Notably, the Service has not made a final determination on delisting the gray wolf, and the rulemaking docket for the Proposed Delisting Rule remains open.

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wildlife which interbreeds when mature.” See Pub. L. No. 95-632, § 2(5), 92 Stat. 3752 (1978) (currently at 16 U.S.C. § 1532(16)). This amendment was enacted about eight months after the Service listed gray wolves in the continental United States.

Despite Congress’ amendment of the definition of “species,” the Service did not reconsider whether the gray wolf population in the continental United States actually qualifies as a “species” under the ESA until the Proposed Delisting Rule was issued in 2013. See Proposed Delisting Rule at 35,674. The analysis presented in the Service’s Proposed Delisting Rule highlighted the ongoing problems with wolf “recovery.”

First, the Proposed Delisting Rule discussed the taxonomy of the gray wolf species (*C. lupus*) and its three recognized North American subspecies:

- (1) *C. l. nubilus*, which commonly occurs throughout central Canada and into northern Ontario and Quebec, in the Pacific Northwest (including coastal British Columbia, and southeast Alaska), and in the western Great Lakes region.
- (2) *C. l. occidentalis*, which commonly occurs throughout west-central Canada, Alaska (except coastal southeast Alaska), and in the northern Rocky Mountains region.
- (3) *C. l. baileyi*, which historically occurred in much of Mexico and also in portions of the southwestern United States, but presently occurs only in eastern Arizona and western New Mexico, and in northern Mexico, as introduced populations.

See Proposed Delisting Rule at 35,669-73.<sup>3</sup> The Service’s taxonomic classifications were based on a recent peer-reviewed synthesis of scientific literature by Chambers *et al.* (2012), which was accepted by the Service as the best available science on wolf taxonomy. *Id.* at 35,669-70.

However, the Service also acknowledged that the taxonomy of the gray wolf and other North American wolf species remains unsettled. For example, recent studies have indicated that wolves in the western United States likely are an admixture of *C. l. nubilus* and *C. l. occidentalis* and cannot be differentiated by subspecies. *Id.* at 35,669-70. This is logical given the large areas of overlap between the ranges of *C. l. nubilus* and *C. l. occidentalis* (as well as the eastern timber wolf, *C. lycaon*) where interbreeding has occurred between subspecies. *Id.* at 35,670-71 (discussing the “zones of intergradation” and “fuzzy boundaries” between the gray wolf subspecies). In addition, there is increasing evidence that gray wolves have interbred with

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<sup>3</sup> The proposed rule noted that a fourth subspecies, *C. l. arctos*, may exist in the arctic portions of North America. Proposed Delisting Rule at 35,670.



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coyotes.<sup>4</sup> The ACGA believes that closer evaluation of the taxonomy and genetics of the gray wolf species (including the Mexican gray wolf) should be conducted to determine whether separate subspecies should be recognized and whether these animals are canine hybrids.

Second, the Service has admitted that the current listed gray wolf “species” is an arbitrary grouping of animals that violates the ESA. *Id.* at 35,677 (“the current listed *C. lupus* listed entity is not a “species” as defined by the [ESA]”). As the Service explained, the “species” is not based on biology—it relies on the Canadian border to define its northern limit, and it contains an amalgamation of different wolf subspecies. *Id.* at 35,673-77. Moreover, the bulk of these subspecies are found in Canada and Alaska, where wolves remain common and face few threats. *See id.* at 35,679-80 (discussion of *C. l. nubilus* status), 35,687-88 (discussion of *C. l. occidentalis* status).

In fact, the gray wolf is a common wildlife species that is found in some 46 countries around the world. In some portions of its range, gray wolf populations “are so abundant that they are managed as furbearers with open hunting and trapping seasons.” *Id.* at 35,678. In North America, gray wolves are widespread and common, with tens of thousands of wolves reported or estimated throughout much of Canada and Alaska. *Id.* at 35,679-80, 35,688. The Proposed Delisting Rule stated that there are currently over 30,000 wolves in Canada and another 7,000 to 11,000 wolves in Alaska. *Id.* When combined with the populations that currently exist in the continental United States (discussed below), there are some 50,000 gray wolves in Canada and the United States, including Alaska.

In short, there has never been any need to “recover” the gray wolf species. But despite the gray wolf’s conservation status, including its substantial North American population, its vast range, and the absence of serious threats to the species’ viability, gray wolves remain listed in the continental United States.

### 2. The Service’s Botched Recovery Actions.

Rather than simply delisting the gray wolf in the continental United States when Congress amended the ESA’s definition of “species,” the Service has spent nearly 40 years attempting to “recover” populations of the animal in the Western Great Lakes region (Minnesota, Michigan and Wisconsin) and the Northern Rocky Mountains region (Idaho, Montana and Wyoming); and the Southwest region. *Id.* at 35,666. This unnecessary effort has cost the federal

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<sup>4</sup> See, e.g., Bridgett M. vonHoldt *et al.*, *Whole-genome Sequence Analysis Shows that Two Endemic Species of North American Wolf Are Admixtures of the Coyote and Gray Wolf*, SCIENCE ADVANCES, Vol. 2, No. 2 (July 27, 2016), available at <http://advances.sciencemag.org/content/2/7/e1501714>. The authors explain that Great Lakes region wolves and red wolves (*Canis rufus*), found in the southeastern portion of the United States, are admixed populations composed of various proportions of gray wolf and coyote ancestry. These hybrid animals are not eligible for listing under the ESA.

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government, states, and land and resource users many millions of dollars and has resulted in unnecessary restrictions to protect a species (and its subspecies) that is common.

In 1978, when the gray wolf species was listed, hundreds of wolves occupied northern Minnesota as well as Isle Royale in Lake Superior. The Service initiated a “recovery” program for this wolf population, adopting a recovery plan in 1978 (revised in 1992). *Id.* at 35,666. The program allowed the wolf population to expand dramatically. The number of known wolves in Minnesota increased from about 1,500 animals in 1988-1989 to over 3,000 animals by 2003-2004. The number of known wolves in Wisconsin increased from 31 animals in 1988-1989 to 373 animals in 2003-2004, and to over 800 animals by 2011-2012. Finally, the number of known wolves in Michigan (excluding Isle Royale) increased from 3 animals in 1988-1989 to 360 animals in 2003-2004, and to nearly 700 animals by 2011-2012. *See* U.S. Fish and Wildlife Service, *Wolf Numbers in Minnesota, Wisconsin and Michigan (excluding Isle Royale) – 1976 to 2015*, available at [https://www.fws.gov/midwest/wolf/aboutwolves/mi\\_wi\\_nos.htm](https://www.fws.gov/midwest/wolf/aboutwolves/mi_wi_nos.htm).

In fact, by 2002—15 years ago—the number of wolves in the Western Great Lakes area exceeded the population goals established in the Service’s recovery plan.<sup>5</sup> Yet, these gray wolves remain listed today as a result of Service policies and court decisions in lawsuits brought by environmental groups. *See, e.g., Humane Soc. of the U.S. v. Zinke*, -- F.3d --, 2017 WL 3254932 (Aug. 1, 2017) (affirming the district court’s judgment vacating the Service’s most recent delisting rule for the Western Great Lakes wolf population).

The Service similarly developed a “recovery” program for gray wolves in the Northern Rocky Mountains area, adopting a recovery plan for this population in 1980 (revised in 1987). *See* Proposed Delisting Rule at 35,666. In contrast to the recovery program for wolves in the Western Great Lakes area, however, the Service began importing gray wolves from Canada in 1994 and releasing those wolves pursuant to an experimental population rule. Once again, the goals of the population’s recovery plan were quickly exceeded. In 1994, there were approximately 50 wolves in the Northern Rocky Mountains area. By 2002, the wolf population exceeded 650 animals, and by 2011, the wolf population exceeded 1,700 animals. *See* U.S. Fish and Wildlife Service, *Gray Wolves in the Northern Rocky Mountains*, available at <https://www.fws.gov/mountain-prairie/es/grayWolf.php>.<sup>6</sup> Yet this population was not delisted

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<sup>5</sup> The Service’s recovery plan did not establish a specific population criterion for wolves in Minnesota, but provided for planning purposes a population goal of 1,251-1,400 animals, with the population spread across 40 percent of Minnesota. The recovery plan also required one additional population to be established, containing at least 200 wolves, if located more than 100 miles from Minnesota, or 100 wolves, if located within 100 miles of Minnesota. *See Revising the Listing of the Gray Wolf (Canis lupus) in the Western Great Lakes*, 76 Fed. Reg. 81,666, 81,675 (Dec. 28, 2011).

<sup>6</sup> The recovery goal for the Northern Rocky Mountains gray wolf population was 30 or more breeding pairs of wolves comprising at least 300 wolves in a metapopulation with genetic exchange. *See Removal*



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until 2011 in Idaho and Montana and 2012 in Wyoming, and delisting occurred due to an act of Congress. *See* Department of Defense and Full-Year Continuing Appropriations Act of 2011, Pub. L. No. 112-10, § 1713, 125 Stat. 150.

Thus, the gray wolf remains listed today as an endangered species in 39 states and portions of five other states in the continental United States, even though it is common throughout much of Canada and Alaska, and has “recovered” in Idaho, Michigan, Minnesota, Montana, Oregon, Washington, Wisconsin and Wyoming.<sup>7</sup> Moreover, the gray wolf isn’t even eligible to be protected under the definition of “species” in the ESA, as the Service itself has admitted. This anomalous situation highlights the Service’s dysfunctional administration of the ESA, and indicates that the recovery plan for the Mexican gray wolf needs to contain provisions that will prevent similar mismanagement.

**B. The Draft Recovery Plan Is Badly Flawed and Would Result in Unnecessary Restrictions on Land and Resources Uses.**

**1. The Draft Recovery Plan Fails to Contain Criteria Which, When Met, Will Result in Delisting.**

The Draft Recovery Plan states that the Mexican wolf “will be considered for delisting” (emphasis added) when:

- 1) A minimum of two populations meet abundance and genetic criteria as follows:

*United States:*

- a) MWEPA [Mexican Wolf Experimental Population Area] average population abundance is greater than or equal to 320 Mexican wolves over eight consecutive years, and
- b) Gene diversity available from the captive population has been incorporated into the MWEPA through scheduled releases of a sufficient number of wolves to result in 22 released Mexican wolves surviving to breeding age in the MWEPA.

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*of the Gray Wolf in Wyoming From the Federal List of Endangered and Threatened Wildlife*, 77 Fed. Reg. 55,530, 55,536 (Sept. 10, 2012).

<sup>7</sup> As of December 31, 2015, there were some 200 gray wolves in 34 packs (including 19 breeding pairs) in Oregon and Washington, along with over 1,700 wolves in 282 packs (including 95 breeding pairs) in Montana, Idaho and Wyoming. *See Gray Wolves in the Northern Rocky Mountains, supra*.

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### *Mexico:*

- a) Northern Sierra Madre Occidental average population abundance is greater than or equal to 170 Mexican wolves over eight consecutive years, and
  - b) Gene diversity available from the captive population has been incorporated into the northern Sierra Madre Occidental through scheduled releases of a sufficient number of wolves that results in 37 released Mexican wolves surviving to breeding age in the northern Sierra Madre Occidental.
- 2) Effective State and Tribal regulations are in place in the MWEPA in those areas necessary for recovery to ensure that killing of Mexican wolves is prohibited or regulated such that viable populations of wolves can be maintained. In addition, Mexico has a proven track record protecting Mexican wolves. Based on these protections, Mexican wolves are highly unlikely to need the protection of the ESA again.

Draft Recovery Plan at 10-11. These criteria require revision for a number of reasons, which are addressed below. But as an initial matter, the Draft Recovery Plan states that even if these criteria are met, the Mexican gray wolf will only be “considered” for delisting.

Under ESA Section 4(f)(B)(ii), a recovery plan must include “objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list.” 16 U.S.C. § 1533(f)(B)(ii). It is not enough to set forth criteria which, when met, will result in the species being “*considered*” for delisting. Frankly, this is regulatory double-speak that undermines the plain language and intent of the statute, allowing Mexican gray wolves to remain listed in Arizona and New Mexico regardless of the size of their population and their impact on landowners and resource users.

This error is particularly troubling in light of the Service’s long-standing mismanagement of the recovery programs for the wolf populations in Western Great Lakes and Northern Rocky Mountain areas. As discussed above, the Service failed to control the wolf populations in those areas (or to allow the affected states to do so), permitting those populations to increase well beyond the delisting criteria established in the recovery plans. Furthermore, the Service has allowed the gray wolf to remain listed in the continental United States, even though it is a widespread and common species in much of Canada and Alaska. Given this track record, the Service must comply with the ESA and provide specific criteria which, when met, will result in the species’ delisting.

**2. The Recovery Plan Must Focus on Mexico, Where the Mexican Gray Wolf's Historical Range Is Located.**

As its name indicates, the Mexican gray wolf is a Mexican species. The generally accepted historical range of the Mexican gray wolf included small portions of southeastern Arizona, southern New Mexico and, possibly, western Texas. See James R. Heffelfinger, Ronald M. Nowak, and David Paetkau, *Clarifying Historical Range to Aid Recovery of the Mexican Wolf*, THE JOURNAL OF WILDLIFE MANAGEMENT, Vol. 81, Issue 5 (July 2017), available at <http://onlinelibrary.wiley.com/doi/10.1002/jwmg.21252/full> (discussing the historical distribution of the Mexican gray wolf). Outside of that limited area, all of the species' historical range occurred in Mexico. It extended south from the United States border through the Sierra Madre Oriental and Occidental and the Mexican Plateau into Oaxaca. *Id.*; see also U.S. Fish and Wildlife Service, Draft Biological Report for the Mexican Wolf, 18-20 (June 22, 2017) (Draft Biological Report). At least 90 percent of the Mexican gray wolf's historical range was in Mexico. Therefore, recovery efforts should be focused in Mexico rather than in Arizona and New Mexico.

As the Draft Biology Report explains, however, David Parson, a biologist employed by the Service, published an article in 1996 in which he argued that the Mexican gray wolf's historical range should include central and eastern Arizona, the southern half of New Mexico, and much of Texas. *Id.* Boiled down, Parsons artificially extended the wolf's historical range in the United States by several hundred miles on the basis of potential wolf dispersal. See *Endangered Status for the Mexican Wolf*, 80 Fed. Reg. 2,488, 2,490 (Jan. 16, 2015); Draft Biological Report at 19, Fig. 5. Heffelfinger *et al.*, *supra*. The Service then used this artificial expansion of the wolf's historical range to support the introduction of an experimental population of wolves in east-central Arizona and west-central New Mexico two years later. See Draft Bio. Rpt. at 19; see also *Establishment of a Nonessential Experimental Population of Mexican Gray Wolves in Arizona and New Mexico*, 63 Fed. Reg. 1,752 (Jan. 12, 1998).

Under 50 C.F.R. § 17.81(a), the Service may not introduce an experimental population in an area that is outside the species' historical range, unless the Director finds "in the extreme case that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed." As discussed below, Mexico contains millions of acres of suitable habitat, and, accordingly, there was no basis to declare that the Mexican gray wolf's primary habitat has been destroyed. Consequently, the Service relied on Parsons' artificial extension of the wolf's historical range to reintroduce wolves into the Blue Range Wolf Recovery Area (BRWRA), which is well north of the Mexican gray wolf's generally accepted historical range. See Draft Bio. Rpt. at 19, Fig. 5 (depicting the wolf's generally accepted historical range); Heffelfinger *et al.*, *supra*.

By contrast, in introducing experimental populations under ESA Section 10(j), the Service has maintained that the extent of a species' range is determined by the presence of an established, interbreeding population rather than dispersing animals. See, e.g., *Forest Guardians*

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*v. U.S. Fish and Wildlife Serv.*, 611 F.3d 692 (10th Cir. 2010) (the presence of aplomado falcons dispersing from Mexico did not extend the species' range into the United States,); *Wyo. Farm Bur. v. Babbitt*, 199 F.3d 1224 (10th Cir. 2000) (individual gray wolves dispersing from Canada did not extend the species' range in the United States). Consequently, the presence of dispersing animals does not extend a species' range. The Service's use of dispersal distance to extend the Mexican gray wolf's generally accepted historical range to avoid 50 C.F.R. § 17.81(a) was improper.

The bottom line is that the Service has relied on gimmicks to expand the Mexican gray wolf's range to justify a recovery program in the United States. At most, 10 percent of the wolf's historic range extended into Arizona, New Mexico, and Texas. Moreover, the number of wolves was small and likely consisted of a handful packs in isolated locations near the border, augmented by small numbers of animals dispersing from Mexico. Consequently, the Mexican gray wolf should be treated as a foreign species. Recovery efforts must focus on the country in which the species was historically found, Mexico, rather than forcing Arizona and New Mexico to bear the brunt of wolf recovery.

### 3. Mexico Contains Ample Habitat to Support Recovery.

Mexico contains a significant amount of suitable habitat for the Mexican gray wolf and is certainly capable of recovering the species. According to the Draft Biological Report, there are two areas that contain high quality habitat in the Sierra Madre Occidental that are connected by areas of lower quality habitat and small interstitial patches of high quality habitat. These areas contain 15,293 square miles (9.8 million acres) and 9,773 square miles (6.3 million acres), or a total of about 16.1 million acres. *See* Draft Bio. Rpt. at 25. If the additional interstitial areas are included, the amount of suitable habitat in this area likely approaches 17 million acres.

The Draft Biological Report omits other areas in Mexico that, according to the Service, are capable of supporting Mexican gray wolves. The Proposed Delisting Rule, for example, explains that researchers and officials recently identified priority sites for reintroduction in the Mexican states of Sonora, Durango, Zacatecas, Chihuahua, Coahuila, Nuevo Leon, and Tamaulipas, "based on vegetation type, records of historical wolf occurrence, and risk factors affecting wolf mortality associated with proximity to human development and roads." Proposed Delisting Rule at 35,698 (citing Araiza *et al.* (2012)). Similarly, the Service's final environmental impact statement for the revised experimental population identifies six wolf reintroduction areas in Mexico. U.S. Fish and Wildlife Service, *Environmental Impact Statement for the Proposed Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf (Canis lupus baileyi)*, Ch. 1, p. 16 (Nov. 2014). Thus, it appears that, conservatively, there is 20 to 25 million acres of suitable wolf habitat in Mexico.

Furthermore, there is no indication in the Draft Biology Report that a lack of prey would significantly limit the size of the Mexican gray wolf population in Mexico. *See* Draft Bio. Rpt.



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at 26-29. Wolves are highly adaptable prey generalists that can efficiently capture a range of prey species of widely varying size. Mexican wolves historically preyed on white-tailed deer, mule deer, elk, collared peccaries (javelina), pronghorn, bighorn sheep, jackrabbits, cottontails, wild turkeys, and rodents. Draft Bio Rpt. at 27. Recent surveys in Mexico have indicated that white-tailed deer was the most important prey in terms of frequency of occurrence and percentage biomass consumed. Other prey items included cattle, cottontail, yellow-nosed cotton rat, woodrats, skunks, and other rodents and birds. *Id.* at 26.

To put the amount of suitable habitat in Mexico in context, under the 1998 experimental population rule, the primary area for Mexican wolf reintroduction and recovery was the BRWRA. *See* Delisting Rule at 35,695. The BRWRA consisted of the Gila and Apache National Forests, and contained 6,845 square miles or about 4.4 million acres of land. *Id.* The Service estimated, based on ungulate populations, that the BRWRA can support between 203 to 354 wolves. *Id.* at 35,697. The amount of suitable wolf habitat in the Sierra Madre Occidental is nearly four times the size of the BRWRA. While other factors may limit how many wolves can be supported on the landscape (*see id.*), the Sierra Madre Occidental appear capable of supporting some 600 to 800 wolves. And, as stated, there are several other areas that may be capable of supporting smaller wolf populations.<sup>8</sup> Recovery of the Mexican gray wolf, therefore, can be accomplished in Mexico.

In the Draft Recovery Plan, however, the recovery criteria for Mexico focus solely on the northern Sierra Madre Occidental area, and contains a population goal of only 170 wolves. The Service has ignored much of the higher quality habitat in Mexico, and instead focused recovery on Arizona and New Mexico, in areas outside the Mexican gray wolf's historical range. The Service appears to be intent on marginalizing the ability of Mexico to support a sizeable Mexican gray wolf population.

The ACGA also notes that the estimated cost of the recovery program exceeds \$262 million dollars, the vast majority of which is to support recovery in the United States. *See* Draft Recovery Plan at 37-39. Given that these sorts of estimates are often substantially understated, the cost to "recover" an experimental population of a foreign species in the United States may well exceed \$500 million. This is absurd, given that the Mexican gray wolf can be recovered in Mexico, within the species' historic range.

In short, because the Mexican gray wolf is a Mexican species, recovery efforts should be focused on areas that lie within the historical range of the species in Mexico that are capable of supporting the species, rather than placing the burden on Arizona and New Mexico. In its

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<sup>8</sup> To put these figures in context, the recovery goal for the Northern Rocky Mountains gray wolf population was 30 or more breeding pairs of wolves comprising at least 300 wolves in a metapopulation with genetic exchange. Mexico is capable of supporting two or more wolf populations that, in total, exceed that population goal.

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revised delisting criteria, attached to these comments, the ACGA has corrected this error by requiring delisting of the Mexican gray wolf once the average Mexican gray wolf population in Mexico is greater than or equal to 400 animals with at least 40 breeding pairs for eight consecutive years. As explained below, a smaller population of wolves would be required for delisting in the United States, which would be treated as a distinct population segment and delisted independently of the Mexican population once that population goal is met. This approach properly focuses recovery on Mexico and places a reasonable numeric limit on the experimental population in the United States.

#### **4. The Recovery Plan Should Contain Reasonable Goals for Recovery of the Experimental Population in the United States, Which Are Independent of Recovery in Mexico.**

As discussed above, Mexico is capable of recovering the Mexican gray wolf. There is ample habitat and prey in Mexico to support a sizeable wolf population, and, therefore, there is no legitimate scientific reason to focus recovery efforts on the southwestern United States, much of which lies outside of the wolf's historical range. In the Draft Recovery Plan, however, the Service has not only placed the burden of recovery on the southwestern United States, but has done so in the way that would make delisting dependent on recovery in Mexico. In the United States, the experimental population must average at least 320 Mexican gray wolves over eight consecutive years. In Mexico, the population in the "northern" Sierra Madre Occidental must average 170 Mexican wolves over eight consecutive years. Wolves in other locations in Mexico are not considered. In addition, sufficient regulations must be in place in both the United States and Mexico to control killing of wolves. *See* Draft Recovery Plan at 10-11. These requirements are problematic in several important respects and require revision.

##### **a. Delisting Should Not Be Contingent on Mexico.**

As written, the Draft Recovery Plan makes delisting in the United States contingent on recovery in Mexico. It provides that delisting may not occur, regardless of the number of wolves in the United States and Mexico, unless "Mexico has a proven track record [of] protecting Mexican wolves." *Id.* at 11 (emphasis added). There could be several thousand Mexican gray wolves in the United States and yet the species would not be delisted because the Service dislikes Mexico's "track record." Clearly, this is improper.

First, as explained above, a recovery plan must include "objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list." 16 U.S.C. § 1533(f)(B)(ii). The use of "proven track record" as a critical delisting requirement violates this provision. It is not objective or measurable, and will allow the Service essentially unfettered discretion in deciding whether to delist the species.

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Second, the Service has a 25-year history of mismanaging gray wolf recovery in the United States, allowing wolf populations to grow well beyond the population goals in their recovery plans. The agency has refused to control (or to allow the states to control) the size of the gray wolf populations, despite the substantially larger population of the same animal in Canada and Alaska. In this case, by making recovery and delisting in the United States dependent on Mexico's "track record" of protecting wolves, the Mexican gray wolf will remain listed in the United States while its population continues to grow well beyond the population goal in the recovery plan. This would be unlawful.

To eliminate this problem and comply with the ESA, the final recovery plan should authorize delisting of the Mexican gray wolf in the United States when the population goal and related criteria for delisting in the United States are reached. This can be accomplished by treating the experimental populations as a distinct population segment, i.e., as a separate "species" under the ESA. See 16 U.S.C. § 1532(16); *Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act*, 61 Fed. Reg. 4,722 (Feb. 7, 1996). The ACGA's revised delisting criteria include this requirement.

### **b. The Goal for the Mexican Gray Wolf Population in the United States Should Be Reduced.**

The population goal for the experimental population of Mexican gray wolves in the United States should be reduced to a more reasonable amount. Because Mexico has initiated its own recovery program for the wolf, with support from the Service and other interested parties, there is no legitimate reason to impose a population goal of 320 wolves for the experimental population in the United States. As discussed, the United States contains no more than 10 percent of the Mexican gray wolf's historic range, and there is no evidence that substantial numbers of wolves ever occupied Arizona and New Mexico. The population goal for the southwestern United States should be consistent with the limited historical range and the numbers of wolves that occupied southern Arizona and New Mexico.

Moreover, the Mexican gray wolf population in the United States is a nonessential experimental population that was introduced under ESA Section 10(j), 16 U.S.C. § 1639(j). A "nonessential" population is a population that is not "essential to the continued existence of an endangered species or a threatened species." 16 U.S.C. § 1639(j)(2)(B). As such, recovery of the experimental population should have a lower priority than recovering the population in Mexico, where virtually all of the wolf's historical range is located.

Accordingly, the ACGA has revised the population goal for the experimental population in the United States to require a population of Mexican gray wolves that is greater than or equal to 100 wolves for four consecutive years. This revision appropriately reflects the limited contribution that the southwestern United States made historically to the conservation and survival to the Mexican gray wolf subspecies. It also reflects the rapid population growth

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observed in other wolf populations, which makes it unnecessary to require that the population goal be achieved for eight consecutive years, as proposed in the Draft Recovery Plan.

**c. The Recovery Area in the United States Should be Reduced to a Reasonable Size, Consistent With the Recovery Plan's Population Goal.**

When the Service revised the experimental population rule for the Mexican gray wolf in 2015, it grossly overestimated the amount of land needed to effectuate recovery in the United States. In the 1998 experimental population rule, the BRWRA was chosen as the recovery area. As discussed, the BRWRA contains 6,845 square miles of land, or nearly 4.4 million acres, virtually all of which is located in the Apache and Gila National Forests. *See* Proposed Delisting Rule at 35,695, 35,696. The Service has explained:

The . . . BRWRA has consistently been identified as one of the highest quality sites for *C. l. baileyi* establishment in the Southwest based on its size, public-land status, prey abundance, low road density, and additional characteristics such as topography, water availability, and historical inhabitation by wolves.

*Id.* at 35,696 (citations omitted); *see also* U.S. Fish and Wildlife Service, *Mexican Wolf Conservation Assessment* 44 (2010) (The “BRWRA was selected for the reintroduction effort based on its size and abundance of native prey species, as well as its topography, water availability, Federal land status, human density, road density, and historic inhabitation by wolves.”).

After the experimental population rule was issued, in 2000, the White Mountain Apache Tribe entered into an agreement that authorizes the release, dispersal and establishment of Mexican gray wolves on the Fort Apache Indian Reservation (FAIR), which is adjacent to the western boundary of the BRWRA. Proposed Delisting Rule at 35,696. This added an additional 2,500 square miles of high quality habitat for wolf occupancy and releases. *Id.* Consequently, the recovery area (including the FAIR) contained approximately 9,345 square miles or about 6.0 million acres of land in eastern Arizona and western New Mexico. To put the size of this area in context, it is larger than the State of Connecticut.

As explained above, the Service has estimated that current ungulate populations in the BRWRA are capable of supporting 203 to 354 Mexican gray wolves. *Id.* at 35,697. The Service also acknowledged that other factors may limit the number of wolves that can be supported on the landscape, including interactions with livestock and humans. *Id.* Nonetheless, when combined with the additional 1.6 million acres of high quality habitat in the FAIR, the original recovery area is capable of supporting about 250 Mexican gray wolves.



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Unfortunately, the Service overreached in its 2015 revision to the experimental population rule, increasing the area wolves may occupy by over 2000 percent. The revised rule created three zones that may be occupied by wolves:

Zone 1	12,507 sq. miles (8.0 million acres)
Zone 2	78,756 sq. miles (50.4 million acres)
Zone 3	62,590 sq. miles (40.1 million acres)

U.S. Fish and Wildlife Service, *Environmental Impact Statement for the Proposed Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf (Canis lupus baileyi)*, Ch. 2, 11-13 (Nov. 2014) (Mex. Wolf EIS). Thus, the area that may be occupied by Mexican gray wolves was expanded from 4.4 million acres (6.0 million acres if the FAIR is included) to 98.5 million acres (100.1 million acres if the FAIR is included). Even if Zone 3 is excluded because it is primarily desert land, the total area is still 60 million acres, or 10 times the size of the BRWRA (including the FAIR).

In revising the experimental population rule, the Service provided no legitimate rationale for this incredible increase. In the revised rule, the Service established a population objective of 300-320 Mexican gray wolves. See *Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf*, 80 Fed. Reg. 2,512, 2,514-15 (Jan. 16, 2015) (2015 Revised Rule). Yet the BRWRA and FAIR are capable of supporting close to that number of wolves. The revised population goal certainly didn't justify the drastic expansion of the recovery area.

The Service also explained that it does not intend to actively manage Mexican gray wolves because the removal of dispersing animals may disrupt the animals' social structure or require their removal from the wild. *Id.* at 2,513. However, this discussion is cursory and fails to provide any data or studies that address this purported management issue in detail. And, in any case, the Service's unwillingness to control wolves doesn't justify a ten-fold increase in the area that wolves may occupy when the revised population goal is 300-320 wolves. A recovery area containing 7.0 to 8.0 million acres of high quality habitat should be adequate, rather than 60 million acres (or more, if Zone 3 is included).

At the same time, the Service acknowledged its inability to predict the rate of wolf population growth, and simply speculated about future wolf population size, wolf dispersal, and the impacts of the experimental population on the environment when it revised the experimental population rule. See U.S. Fish and Wildlife Service, *Draft Environmental Impact Statement for the Proposed Revision to the Nonessential Experimental Population of the Mexican Wolf*, Ch. 4, 7 ("We recognize that growth of the wolf population is highly variable and difficult to predict. Because other effects are based on the wolf population projections, we also recognize that the

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effects on the biological resources will be even more difficult to predict and that the environmental impacts are speculative.”), 8 (“Wolf numbers and distribution are expected to increase through time. USFWS is uncertain of how rapidly the wolf population will grow . . .”).

In fact, since 2009, the number of known Mexican gray wolves in the BRWRA and FAIR increased by 140 percent, from 42 wolves in 2009 to 109 wolves in 2015.<sup>9</sup> This growth pattern is very similar to the growth pattern of the wolf population in the Northern Rocky Mountains, which initially grew slowly and erratically, before increasing rapidly to levels that far exceeded the population goal in the recovery plan, without delisting taking place.<sup>10</sup> While the Service’s stated population goal is 300-320 Mexican gray wolves, wolves can be released in an area the size of the State of Maryland (Zone 1) and occupy an area larger than the State of Minnesota (Zones 1 and 2). This makes no sense if the Service actually intends to achieve and maintain a population of approximately 300 animals.

In short, the stated population objective of 300-320 wolves in the revised rule, and the Draft Recovery Plan’s population goal of 320 wolves, are disingenuous. It is apparent that the revised experimental population rule was intended to allow a substantially larger number of Mexican gray wolves to inhabit Arizona and New Mexico. This situation is remarkably similar to the Service’s mismanagement of the wolf populations in the Northern Rocky Mountains and Great Lakes areas, where little attempt was made to control the wolf populations and, as a result, the number of wolves dramatically exceeded the recovery goals for those populations without delisting. *See, e.g.*, Figure 7a, Northern Rocky Mountain Wolf Population Trends in Montana, Idaho and Wyoming: 1982-2014 (copy attached hereto). The final recovery plan must address this problem to ensure that the wolf population is controlled and managed within an area that corresponds to the stated population goal.

The simplest way to address this problem is to limit wolf occupancy to the BRWRA and the FAIR. As explained, these areas contain high quality habitat and are capable of supporting a population of at least 200 wolves, which is more than sufficient to achieve an appropriate recovery goal for the experimental population in the United States. The Service explained in its 1998 experimental population rule:

A limited and defined area is considered necessary to allow the wolf the highest degree of acceptance and recovery and to allow the Service and cooperating

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<sup>9</sup> These numbers reflect only those animals that were visually seen, however. Biologists know that more wolves exist that were not counted.

<sup>10</sup> *See* U.S. Fish and Wildlife Service, Figure 7a, Northern Rocky Mountain Wolf Population Trends in Montana, Idaho and Wyoming: 1982-2014, available at [https://www.fws.gov/mountain-prairie/es/species/mammals/wolf/annualrpt14/figures/Fig7a\\_2014.pdf](https://www.fws.gov/mountain-prairie/es/species/mammals/wolf/annualrpt14/figures/Fig7a_2014.pdf) (copy attached).

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agencies to plan for wolf management. Allowing the recovery areas to expand out would defeat this purpose.

*Establishment of a Nonessential Experimental Population of Mexican Gray Wolves in Arizona and New Mexico*, 63 Fed. Reg. 1,752, 1,758 (Jan. 12, 1998). The recovery plan should specify the BRWRA and the FAIR as the primary recovery area, and allow wolves to occupy additional areas in Arizona and New Mexico only when the need to enlarge the recovery area is clearly demonstrated.

In addition, the recovery plan must provide that the Mexican gray wolf population introduced in Arizona and New Mexico will not be allowed to expand beyond the population criteria established in the recovery plan. In accordance with ESA Section 4(f)(B)(i), 16 U.S.C. § 1533(f)(B)(i), the recovery plan must contain “site-specific management actions” to control the wolf population so that it is maintained at or near the population criteria, rather than being allowed to expand indefinitely. It should provide, for example, that limitations on take of wolves will be relaxed or eliminated in appropriate situations in accordance with 50 C.F.R. § 17.82 (because the wolves are an experimental population), and specify other management actions, such as wolf capture and removal, that will be used to control the wolf population prior to delisting.

### **5. The Recovery Plan Should Contain Specific Management Controls so that the Population Does Not Grow Well Beyond the Stated Population Goal.**

Another serious problem with the Draft Recovery Plan is that it fails to provide any specific guidelines and direction for the management of the Mexican wolf population in the United States as well as compliance with state law requirements. As discussed previously, the ESA requires that each recovery plan contain a description of “site-specific management actions” that are “necessary to achieve the plan’s goal for conservation and survival of the species.” 16 U.S.C. § 1533(f)(1)(B)(i). The Service, however, has abdicated its responsibility for actively managing the Mexican gray wolf population. It will allow the Mexican wolf population to grow without limit and occupy a substantial portion of two states, notwithstanding the Service’s stated population objective of 300-320 animals.

The Service’s refusal to actively manage and control the Mexican gray wolf population in the United States is troubling for several reasons. Congress did not enact Section 10(j) to allow the Service to force endangered species on non-federal landowners, particularly wolves—a dangerous and widely feared predator. The Service has explained:

Congress enacted the provisions of section 10(j) to mitigate fears that reestablishing populations of threatened or endangered species into the wild would negatively impact landowners and other private parties.

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*Proposed Revision to the Nonessential Experimental Population of the Mexican Wolf*, 78 Fed. Reg. 35,719, 35,731 (June 13, 2013). In its parallel rulemaking concerning reclassification of the gray wolf species, the Service also stated: “We have long recognized that control of wolf numbers and especially depredating wolves is central to maintaining public support for wolf conservation.” Proposed Delisting Rule at 35,692.

In addition, the Service is required to consult with the States and comply with any state permitting requirements in carrying out “programs involving reintroduction of fish and wildlife.” 43 C.F.R. § 24.4(i)(5). The release and management of an experimental population of wolves is a discretionary action that is subject to this requirement. Both Arizona and New Mexico prohibit the importation and release of non-domesticated animals without a permit from that State’s wildlife agency. *See, e.g.*, A.R.S. § 17-306(A) (“No person shall import or transport into this state or sell, trade or release within this state or have in the person’s possession any live wildlife except as authorized by the commission.” (emphasis added)); N.M.A.C. §§ 19.35.7.19 (it is unlawful to release from captivity an imported animal without permit); 19.31.10.13 (it is unlawful to release any non-domestic mammal, bird, fish, reptile or amphibian without a permit). The Service has ignored these requirements, in violation of 43 C.F.R. § 24.4(i)(5).

Here, by contrast, the Service has not only announced that it will not control wolves, but has declared that wolves may occupy non-federal land—regardless of whether the landowner consents. *See* 2015 Revised Rule, 80 Fed. Reg. 2,525 (“Under this rule, we are allowing Mexican wolves to occupy Federal and non-Federal land in the MWEPA”), 2,527 (“We will not remove a Mexican wolf if a landowner (other than tribes on tribal trust lands) requests removal and the wolf is not engaging in activities that fit the definition of ‘problem wolf.’”). Nearly 50 percent of the land within the MWEPA is privately owned or owned by the States of Arizona and New Mexico. But the Service has refused to allow these landowners to object to having wolves occupy their land. Furthermore, the Service has refused to comply with Arizona and New Mexico requirements and obtain permits for the release of wolves. This is contrary to ESA Section 10(j), which is intended to address landowner concerns and to reduce controversy about the impact of releasing endangered species on land and resource uses. *See, e.g.*, H.R. Conf. Rep. No. 97-835, at 33-35 (1982), *reprinted in* 1982 U.S.C.C.A.N. 2860, 2874-76; *Wyo. Farm Bur.*, 199 F.3d at 1231-32 (discussing legislative history of Section 10(j)).

At the same time, the revised experimental population rule allows wolves to be introduced into and occupy areas near substantial human populations. The Service is authorized to release wolves anywhere within Zone 1, which contains the communities of Show Low-Lakeside-Pinetop in the White Mountains; Linden, Pinedale and Clay Springs; Heber-Overgaard; Forest Lakes; and Star Valley, Payson and Pine-Strawberry (from east to west), in addition to numerous smaller developments, inholdings, campgrounds and recreational areas. Moreover, this area is bisected by State Highway 260 and U.S. Highway 60, which are heavily used, and contains other state highways, numerous improved roads and Forest Service roads, including a road network that provides access to popular recreational spots, such as lakes and streams



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stocked with sport fish. Because of the proximity of these areas to Phoenix—one of the largest metropolitan areas in the United States—these areas receive heavy recreational use. Candidly, it appears that the Service is deliberately flaunting federal and state requirements in order to create conflicts with landowners and resource users.

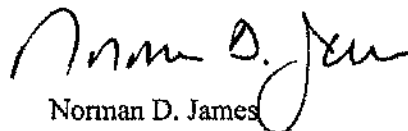
The likelihood of human-wolf conflicts can be reduced dramatically by adopting a recovery plan that contains reasonable management guidelines and direction, which would be incorporated into an amended experimental population rule. The recovery plan should establish a population ceiling to ensure that the population doesn't grow well beyond the population goal. The recovery plan should also restrict wolves to a specific recovery area, rather than allowing them to occupy an area the size of Minnesota. The BRWRA and FAIR are capable of supporting some 200 wolves, which exceeds an appropriate recovery goal for the experimental population in the United States. Wolves do not need to occupy areas with substantial human use levels for the experimental population to achieve an appropriate recovery goal.

Finally, the recovery plan should require active management and control of released wolves. The recovery plan should acknowledge state permitting requirements, and provide that the Service will coordinate closely with the Arizona and New Mexico Departments of Game and Fish and obtain all required state permits and authorizations before releasing any wolves. And, landowners should have the right to object to the presence of wolves on their property. The Service has allowed Indian tribes to request the removal of wolves from their land. States and private landowners should have the same right.

We appreciate the opportunity to provide comments on the Draft Recovery Plan. If you have questions or require any additional information, please feel free to contact Patrick Bray, the Executive Vice President of the Arizona Cattle Growers' Association, or me.

Sincerely,

FENNEMORE CRAIG, P.C.



Norman D. James

Attachments

13130818.2

**Attachment A**

**Revised Delisting Criteria for the Mexican Gray Wolf Recovery Plan**

The Mexican gray wolf will be delisted when the following sets of criteria are met, as set forth below:

- (1) The Mexican gray wolf population in the United States will be delisted when the following criteria are met:
  - (a) The population of Mexican gray wolves in the Blue Range Wolf Recovery Area and Fort Apache Indian Reservation is greater than or equal to 100 wolves for four consecutive years;
  - (b) Gene diversity available from the captive population has been incorporated into the wolf population within the Blue Range Wolf Recovery Area and Fort Apache Indian Reservation through scheduled releases of a sufficient number of Mexican gray wolves to result in 18 released wolves surviving to breeding age;
  - (c) The captive breeding program remains in effect and supports at least 200 Mexican gray wolves with a reasonable level of genetic diversity; and
  - (d) Effective State and Tribal regulations are in place in the Blue Range Wolf Recovery Area and Fort Apache Indian Reservation necessary for recovery to ensure that killing of Mexican gray wolves is prohibited or regulated such that a viable population of wolves can be maintained.

Delisting in the United States will occur notwithstanding the status of the Mexican gray wolf in Mexico if the foregoing criteria are met. For the purpose of delisting, the Mexican gray wolf population in the United States will be treated as a distinct population segment or the equivalent under the Endangered Species Act.

- (2) The Mexican gray wolf will be delisted throughout its range when the following criteria are met:
  - (a) The average Mexican gray wolf population in Mexico is greater than or equal to 400 animals with at least 40 breeding pairs for eight consecutive years;
  - (b) Gene diversity available from the captive Mexican gray wolf population has been incorporated into the Mexican wolf population in Mexico through scheduled releases of a sufficient number of wolves to result in 50 released wolves surviving to breeding age in Mexico;

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- (c) The captive breeding program remains in effect and supports at least 200 Mexican gray wolves with a reasonable level of genetic diversity; and
- (d) Effective regulations are in place in those areas in Mexico necessary for recovery to ensure that killing of Mexican gray wolves is prohibited or regulated such that a viable population of wolves can be maintained within those areas.

The inability of the Mexican gray wolf population in Mexico to meet the foregoing criteria does not preclude the delisting of the Mexican gray wolf population in the United States when the criteria in the Section (1), above, have been met.

**Figure 7a. Northern Rocky Mountain Wolf Population Trends  
in Montana, Idaho and Wyoming: 1982-2014**  
(excludes Oregon and Washington)

