

Memorandum of Understanding
For Management of Gray Wolves in Colorado
And
Designation of Colorado Parks and Wildlife as a Designated Agent of the
United States Fish and Wildlife Service

This Memorandum of Understanding (MOU) enables Colorado Parks and Wildlife to serve as a designated agent of the United States Fish and Wildlife Service in the reintroduction and management of a nonessential experimental population of the gray wolf (*Canis lupus*) in Colorado, and to implement a long-term, scientifically-based program to contribute toward the recovery of this endangered species, in accordance with the Colorado Wolf Restoration and Management Plan (Plan).

Signatories

The Signatories to this MOU have regulatory jurisdiction and management authority over gray wolves, and/or regulatory jurisdiction and management over the lands that gray wolves occupy in Colorado, and/or expertise in resolving conflicts between humans and graywolves. They are authorized to enter into this MOU under the following provisions of law:

- 1) Colorado Division of Parks and Wildlife and the Colorado Parks and Wildlife Commission (together, CPW), as authorized under C.R.S. 33-1-105(1)(e) to enter into cooperative agreements for the development and promotion of wildlife programs; and by a Cooperative Agreement executed in 1976 by CPW and USFWS, pursuant to Section 6 of the Endangered Species Act of 1973, as amended, and by 2 Colo. Code Regs. §§ 406-10:1000.A(7) and 406-10:1001.A(1).
- 2) United States Fish and Wildlife Service Region 6 (USFWS), as authorized under the Endangered Species Act (ESA).

Introduction

WHEREAS, the ESA declared the policy of Congress to be that “Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act”; and

WHEREAS, in the State of Colorado, the gray wolf (*Canis lupus*) is a federally endangered species, and the USFWS published the Regulations for the Establishment of a Nonessential Experimental Population of the Gray Wolf (*Canis lupus*) in Colorado (**PROVIDE CITATION WHEN AVAILABLE**) (hereafter “10(j) Rule”); and

WHEREAS, in 2023 the Colorado Parks and Wildlife Commission approved the Plan; and

WHEREAS, the Signatories are committed to establishing and maintaining an ecologically and socially appropriate balance between the conflicting pressures of recovering the gray wolf and preventing or alleviating negative impacts that gray wolf predation might have on livestock and working animals.

NOW THEREFORE, the Signatories enter into this MOU to accomplish its purpose and objectives as stated below:

Purpose

Memorandum of Understanding
Management of Gray Wolves in Colorado

The primary purpose of this MOU is to establish CPW as a designated agent of the USFWS pursuant to the 10(j) rule, [CITE to page #].

This MOU authorizes the State of Colorado, through CPW, to assume lead authority for wolf conservation and management within the borders of the nonessential experimental area for Colorado gray wolves (an area co-terminous with the borders of the State), with the exception of lands within the Southern Ute or Ute Mountain Ute reservations. USFWS acceptance of this MOU authorizes CPW to implement the Plan in a manner consistent with the 10(j) Rule. The 10(j) rule authorizes any CPW staff member to implement provisions of the Plan, and does not require CPW to provide USFWS with a specific roster of employees who are authorized to handle wolves.

Objectives

The objectives of this MOU are as follows:

- 1) Reintroduce and/or manage gray wolves within Colorado (consistent with the Plan) to establish a self-sustaining population of gray wolves in Colorado;
- 2) Ensure that efforts toward establishment of a gray wolf population are productively integrated with, and appropriately balanced by, programs that prevent, reduce, or mitigate negative impacts that gray wolf reintroduction and management might have on lawful uses of Federal, state, and private lands;
- 3) Foster cooperation that improves the science-based foundation for gray wolf recovery by conducting or facilitating research necessary to establish and achieve recovery criteria and the management of the experimental population consistent with the 10(j) Rule;
- 4) Encourage commitment of sufficient resources (including funding, staff, equipment, etc.) to achieve mutually agreeable guidance, practices, performance and results in each of the areas delineated above; and
- 5) Share timely information, as appropriate, with the public regarding the Gray Wolf Restoration Program to foster transparent and effective communications regarding the goals and commitments under this MOU.

Collaborative Roles and Responsibilities of the Signatories to this MOU:

- 1) CPW will :
 - a) Implement the Plan to the extent permitted by state and federal regulations and policy on all lands within Colorado, including lands managed by the USFWS or National Park Service, but excluding lands within tribal reservation boundaries.
 - b) Act as a designated agent of the USFWS in Colorado and be the lead agency on wolf reintroduction and management in the state of Colorado to the extent permitted by appropriate federal regulations while the species is federally listed to:
 - i) Reintroduce gray wolves to the state of Colorado;

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- ii) Monitor the Colorado gray wolf population, using a combination of surveys, capture and radio telemetry, and non-invasive monitoring and survey techniques;
 - iii) Conduct, coordinate and facilitate research involving gray wolves and issue written authorization for such research as appropriate;
 - iv) Conduct public outreach and provide information about gray wolves and gray wolf management in Colorado;
 - v) Implement proactive strategies and conduct or direct non-lethal and lethal control actions to reduce and/or resolve gray wolf-livestock conflicts and human safety concerns;
 - vi) Direct the field work of USDA Wildlife Services when non-lethal or lethal control of gray wolves is warranted as long as such decisions are within the guidelines established by the Rule, as applicable;
 - vii) Provide written authorization to private citizens to take gray wolves in Colorado in accordance with the 10(j) Rule and state statutes and regulations, including for intentional harassment and chronic depredation permits where warranted;
 - viii) Take possession of and dispose of gray wolf parts/specimens (hide, skulls, etc.) in accordance with the Plan, including as appropriate for scientific and educational purposes after consultation and concurrence from USFWS law enforcement agents.
- c) Provide administrative support and adequate staffing, including any CPW volunteers, to carry out these duties.
 - d) Communicate frequently with the USFWS Wolf Recovery Coordinator or appropriate USFWS representative. At a minimum, communication will include: **XXXX**.
 - e) Assist USFWS by providing data as needed for preparation of wolf-related ESA Section 7 consultation throughout Colorado, except on tribal reservations.
 - f) Prepare an annual report on the status of the nonessential experimental population off wolves in Colorado and submit it to the USFWS.
 - g) Lead law enforcement efforts involving Colorado state laws and gray wolves in Colorado while cooperating/coordinating with the USFWS and other agencies as appropriate.
- 2) The USFWS is responsible for federal recovery of the gray wolf and for implementation of the 10(j) Rule. The USFWS will:
- a) Develop any necessary revisions to the 10(j) Rule.
 - b) Develop a recovery plan for gray wolves consistent with the requirements of the ESA.
 - c) Lead the development of appropriate National Environmental Policy Act documents for any revisions to the 10(j) rule.
 - d) Provide all necessary USFWS authorizations and permits to CPW on a timely basis, if any are required, as sanctioned under applicable laws.
 - e) Obtain all necessary authorizations or permits in accordance with applicable Federal law and regulations.
 - f) Be responsible for all wolf-related ESA Section 7 consultation throughout Colorado.
 - g) Conduct law enforcement investigations in cooperation with CPW as appropriate.
 - h) Issue written authorization for gray wolf take by private citizens on tribal reservations when appropriate.
 - i) Coordinate with tribal authorities for non-lethal and lethal gray wolf control, population monitoring, and gray wolf management on tribal reservations.
 - j) Assist CPW, as requested and as resources allow, for overall program administration and assist in coordination on gray wolf issues involving adjacent states.

It is Mutually Agreed and Understood by and among the Signatories to this MOU that:

- 1) The Signatories have agreed through this MOU to collaborate in managing gray wolves in Colorado under the provisions provided by the 10(j) Rule, the Plan, and relevant implementing regulations. Collaboration pursuant to this MOU shall not abrogate nor shall it be construed to abrogate the jurisdictional or other legal authorities of either Signatory or of any other entity, including state authorities for wildlife and wildlife management. All responsibilities, obligations, authorities, liabilities, and discretion granted by applicable law to each of the Signatories shall be maintained.
- 2) Certain discussions or documents provided to the MOU Signatories or their designees will contain information on the Colorado Wolf Restoration Program that is confidential, but is provided to signatories for deliberative and advisory purposes. Signatories to this MOU acknowledge the confidential nature of this information and that it is, accordingly, not intended for distribution or discussion outside of the signatories. The Signatories agree to maintain the confidentiality of the information they receive, to the extent permitted by law (e.g., FOIA or state public records law), and to limit its distribution or discussion outside of the Signatories, and solely to their organizational leadership, as required and appropriate, on a strictly need-to-know basis.
- 3) The terms of this MOU are contingent upon sufficient resources being available to the Signatories for performance of this MOU, and nothing in this MOU commits a party to the expenditure of funds that are not appropriated or allocated. Decisions as to whether sufficient resources are available to each Signatory shall be determined by each Signatory, shall be accepted by the other Signatory, and shall be final.
- 4) Specific work projects or activities that involve transfer of funds, services or property among the Signatories shall require execution of separate agreements or contracts and be contingent upon the availability of appropriated or other funds. Appropriate statutory authority must independently authorize such activities; this MOU does not provide such authority. Negotiation, execution and administration of each such separate agreement or contract must comply with all applicable statutes and regulations. Nothing in this MOU shall obligate the Signatories to encumber or transfer any funds, expend appropriations, or to enter into any contract or other obligations.
- 5) This MOU is not intended to, and does not create or establish, any substantive or procedural right, benefit, trust responsibility, claim, cause of action enforceable at law, or equity, in any administrative or judicial proceeding by a Signatory or non-party against any other Signatory or against any employee, officer, agent, or representative of any Signatory.
- 6) The Signatories to this MOU and their respective agencies and offices will handle their own activities and use their own resources, including the expenditure of their own funds, in pursuing the objectives of this MOU, except when transfers of funds are authorized by separate agreements or contracts. Employee assignment under this MOU is subject to approval by the employing agency.
- 7) Any information provided to any Federal Agencies under this instrument may be subject to release under the Freedom of Information Act (5 U.S.C. 552) (FOIA). However, nothing in this MOU shall be construed to affect the applicability of the exemptions set forth in 5 U.S.C. 552 (b).

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- 8) Conflicts between or among Signatories concerning this MOU that cannot be resolved at the lowest possible level shall be referred to the next higher level, as necessary, for resolution.
- 9) This MOU is not a Federal contract, rule or regulation. This MOU shall not be construed as or interpreted to be final Federal agency action.
- 10) This MOU is subject to all Federal statutes relating to nondiscrimination. These include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352); and (b) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683 and 1685-1686).
- 11) No member of or delegate to Congress shall be entitled to any share or part of this MOU, or to any benefit that may arise from it.
- 12) The provisions of any statutes and/or regulations cited in this MOU contain legally binding requirements. The MOU itself does not alter, expand, or substitute for those provisions or regulations, nor is it a regulation itself. Thus, this MOU does not impose legally binding requirements on the Signatories that conflict with statute or regulations, nor does it create a legal right of action for the Signatories or any third party.
- 13) Unless expressly provided by law, personnel or volunteers of one Signatory shall not be considered to be employees of the other Signatory for any purpose, and no joint venture or principal-agent relationship shall be deemed to exist. The personnel and volunteers of one Signatory are not entitled to any of the benefits that the other Signatory provides for its employees or volunteers. This MOU shall not make, or be deemed to make, employees of one Signatory subject to supervision by employees of another Signatory.
- 14) On behalf of itself, its officers, directors, members, employees, agents and representatives, each Signatory agrees that it will be responsible for its own acts and omissions and the results thereof and that it shall not be responsible for the acts or omissions of the other Signatory, nor the results thereof. Each Signatory therefore agrees that it will assume the risk and liability to itself, its agents, employees and volunteers for any injury to or death of persons or loss or destruction of property resulting in any manner from the conduct of the Signatory's own operations and/or the operation of its agents, employees and/or volunteers under this MOU. Each Signatory further releases and waives all claims against the other Signatory for compensation for any loss, cost, damage, expense, personal injury, death, claim, or other liability arising out of the performance of this MOU, including without limitation any loss, cost, damage, expense, personal injury, death, claim or other liability arising out of the other Signatory's negligence, provided, however, that either Signatory may agree to voluntarily compensate the other for damage to equipment.

IN WITNESS WHEREOF:

The Signatories hereto have executed the MOU as of the last written date below.

Jeff Davis

Director,
Colorado Parks and Wildlife

Date

Matt Hogan

Region 6
Regional Director
U.S. Fish and Wildlife Service

Date