



March 24, 2023

Director Martha Williams
U.S. Fish and Wildlife Service
1849 C Street Northwest
Washington, D.C. 20240

Re: **Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Gray Wolf in the State of Colorado; Environmental Impact Statement, Docket No. FWS-R6-ES-2022-0100**

Dear Director Williams:

The Arizona Game and Fish Commission (Commission) appreciates the opportunity to provide comments on the U.S. Fish and Wildlife Service (Service) Docket No.: FWS-F6-ES-2022-0100; *Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Gray Wolf in the State of Colorado; Environmental Impact Statement*. Under Title 17 of the Arizona Revised Statutes, the Arizona Game and Fish Department, by and through the Commission, has jurisdictional authority and public trust responsibilities to protect and conserve the State's fish and wildlife resources. In addition, the Department manages threatened and endangered species through authorities in Section 6 of the Endangered Species Act (Act) and the Department's 10(a)(1)(A) permit.

It is the mission of the Department to conserve and protect Arizona's diverse fish and wildlife resources and manage for safe, compatible outdoor recreation opportunities for current and future generations. The Commission recognizes that the Service's effort to establish a statewide Nonessential Experimental Population (NEP) of gray wolves in Colorado under Section 10(j) of the Act is appropriate, and provides the following comments based on statutory authorities, public trust responsibilities, and special expertise related to wildlife resources and wildlife-dependent recreation.

The Commission remains steadfast in protecting the integrity of Mexican wolf recovery efforts in the American Southwest and Mexico, the historical range for this subspecies. It is important to point out that recovery of the Mexican wolf is required of the U. S. Fish and Wildlife Service under the Endangered Species Act and any federal action that jeopardizes Mexican wolf recovery is contrary to both the Service's mission and the Act itself. It is also important to affirm that Arizona is outside the historical range of the Northern wolf and any introduction, intended or otherwise, is an unacceptable action on the part of the Service. As has been stated by Department staff on a number of occasions, the concept that the release of wolves in Colorado is a state action and that the establishment of a 10(j) as solely a separate federal action is a fundamentally flawed approach to an action that is certain to fail legal challenge. In the Department's response to this request for comment, the agency will provide abundant examples of the inextricable tie between the establishment of the proposed 10(j) rule and the release of wolves. Logic should clearly point to the fact that without the release of wolves in Colorado, there is no need for a 10(j) rule and vice versa. Mexican wolf recovery under the established 10(j) population throughout the subspecies historical range will continue to be the focus for the Commission and the Department. The Service must recognize that any action that jeopardizes

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Mexican wolf recovery and conservation must ensure that State trust authorities for recovery of Mexican wolf and management of wolves within Arizona, are not harmed by establishment of an NEP within the State of Colorado.

Dispersal, and/or establishment of Northern gray wolves into unoccupied areas of Arizona poses significant threat to the Mexican Wolf as a legal entity as it currently is identified in the Act itself. Hybridization and genetic swamping of the Mexican wolf must be considered by the Service as it establishes a 10(j) in Colorado to facilitate wolf releases in that state.

One of the clear flaws in the current draft of the EIS is the lack of clarity in how wolves leaving the 10(j) area would be returned to Colorado and not allowed to establish within the historical range of the Mexican wolf. The Service must ensure the genetic integrity of the Mexican Wolf isn't diluted by naturally dispersing wolves that are allowed to establish outside the NEP. The Service must ensure that establishment of the NEP in Colorado, and future recovery efforts do not create unlawful consequences in Arizona and unravel progress made in Mexican wolf recovery.

Dispersal, and/or establishment of Northern gray wolves in Arizona, which is outside of historical range in Arizona also has the potential to negatively impact ungulate populations. The Service must safeguard against unacceptable impacts to these species, species under full Commission and Department responsibility, in the establishment of the Statewide NEP in Colorado.

Further, as part of the establishment of a Statewide NEP in Colorado, the Service must identify all tools and response protocols within statutory purview and 10(j) rules to ensure that all gray wolves that move south and west of the established Colorado statewide 10(j) area, regardless of origin, are immediately captured and returned to the 10(j) area before establishment outside the NEP. The Commission also requests that the Service adequately staff and fund Service personnel or a program in Colorado for the management of Northern gray wolves in Colorado to ensure that the burden is not the Department's to implement tools and/or response protocols for wolves dispersing outside of the established statewide 10(j) area.

Thank you for the opportunity to comment on this rule. For further information, please contact Clay Crowder, Assistant Director of Wildlife Management Division at ccrowder@azgfd.gov.

Sincerely,



James E. Goughnour
Chairman, Arizona Game and Fish Commission

cc: Ty E. Gray, Director, Arizona Game and Fish Department
Heather Disney Dugan, Acting Director, Colorado Parks and Wildlife
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Electronically submitted to:

<https://www.regulations.gov/document/FWS-R6-ES-2022-0100>