

STATE OF MONTANA COMMENT

Submitted By Ken McDonald, Wildlife Division Administrator, Department of Fish, Wildlife and Parks

U.S. Fish and Wildlife Service Proposed Rule 73 FR 63926 Designating the Northern Rocky Mountain Population of Gray Wolf as a DPS and Removing the DPS from the Federal List of Endangered and Threatened Wildlife

Montana has worked hard to recover and manage wolves and is committed to do so upon delisting and into the future. Montana strongly advocates that wolves are recovered in the northern Rocky Mountains and meet the criteria for delisting – they are no longer threatened with extinction. We urge the United States Fish and Wildlife Service (USFWS) to delist at least the Montana population and provide information herein to support delisting. This is in addition to information previously submitted in 2007 in response to the proposed rule.

The United States Fish and Wildlife Service (USFWS) requested data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party concerning the February 8, 2007 proposed rule designating the northern Rocky Mountain Distinct Population Segment (DPS) of the gray wolf and delisting all or most of that DPS.

Montana will focus its comments on (A) the adequacy of its regulatory framework, (B) the Montana wolf program, (C) connectivity, and (D) the delisting process.

A. Adequacy of Montana's Regulatory Framework.

Montana has multiple layers of regulatory mechanisms in place that guide wolf conservation and management. The State has taken progressive steps legislatively and administratively to ensure and maintain wolf recovery. Montana's constitution, state statutes, administrative rules, and its Wolf Conservation and Management Plan offer the same type of multi-layered regulation that the Endangered Species Act (ESA) provides.

The Montana Department of Fish, Wildlife and Parks (MTFWP) implements programs that manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under the state or federal endangered species acts. § 87-1-201(9), MCA. The MTFWP Commission oversees land acquisition, adopts hunting regulations, and sets policies for the MTFWP. See § 87-1-301, MCA.

Montana's constitution ensures that the State manages and conserves the wildlife within its borders not only in trust for the benefit of the people of the state, but also in a way that maintains Montanan's right to a clean and healthful environment. Montana's constitution and statute require that the MTFWP inform the public and seek public participation in its wolf program. This public process is crucial to public acceptance of wolves and support for Montana's wolf program.

Montana's statutory framework includes the Nongame and Endangered Species Conservation Act which sets out a step by step approach to species conservation. See § 87-5-101 et seq., MCA. Under current administrative rule, the wolf is still listed as an endangered species in Montana. See § 12.5.201, ARM.

Montana statute provides a process that Montana must follow once the wolf is delisted from the ESA. Once the FWS removes the wolf from its list of threatened and endangered species, MTFWP "may remove the wolf from the state list of endangered species upon a determination by [MTFWP] pursuant to this part that the wolf is no longer endangered." Following state delisting, MTFWP is first required to manage the wolf as a "species in need of management." § 87-5-131, MCA.

Montana statute defines "species in need of management" as:

the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining those levels. The term includes the entire

range of activities that constitute a modern scientific resource program, including but not limited to research, census, law enforcement, habitat improvement, and education. The term also includes the periodic or total protection of species or populations as well as regulated taking. § 87-5-102(5), MCA.

§87-5-106, MCA, prohibits any person from taking, possessing, transporting, exporting, or selling wildlife deemed in need of management, except as provided in regulations. §87-5-105, MCA, mandates MTFWP to issue management regulations for a species in need of management establishing limitations on the take, possession, and transportation of species deemed in need of management. Montana promulgated administrative rules that reclassify the wolf as a species in need of management and regulate take of wolves. These rules are not in effect until the wolf is removed from the federal list of threatened and endangered species. See ARM 12.2.501, 12.5.201, and 12.9.1301 through 12.9.1305. These administrative rules govern wolf livestock conflicts state-wide, including non-lethal tools, state authorized control actions, and a private citizen's ability to take a wolf that is attacking, killing, or threatening to kill livestock. These administrative rules mirror the 10(j) regulations that are currently in place in southwestern Montana.

§ 87-3-130, MCA, allows a private citizen to take wildlife that is attacking, killing, or threatening to kill a person or livestock. The main difference between the ESA and state law is this defense of property statute that allows a private citizen to kill a wolf in the act of killing or threatening to kill livestock. The 10(j) regulations currently in place under the ESA in southwestern Montana allow for the same defense of property as the statute, however, the 10(j) regulations do not apply to northwestern Montana. Thus, Montana law would allow the same defense of property as provided for in the 10(j) regulations throughout the state as a whole. To get a perspective on the impact of the defense of property statute on the wolf population as a whole, in 2007, private citizens killed 7 wolves under the 10(j) regulations. The state administrative rules, when implemented, will provide consistency throughout the state, which in turn reduces ambiguity and therefore animosity towards wolves.

In June of 2008, Montana started an administrative rulemaking process to codify and guide how it manages wolves within the state. The federal judge issued a preliminary injunction returning the gray wolf to the list of endangered species and thus returning the wolf to split status in Montana. Montana finished its rulemaking process, but made the final rules effective upon delisting. These administrative rules provide an additional layer of regulatory mechanisms that will be in place upon delisting and in that event would replace the 10(j) regulations.

For example, the administrative rules state that “[t]he department will manage wolves to assure that recovery criteria are met or exceeded. Montana will ensure maintenance of at least 15 breeding pairs and assist natural dispersal and connectivity between gray wolf populations in Canada, Montana, Idaho, and Wyoming.” The rules codify the Department’s adaptive management approach of allowing lethal control of wolves if the statewide number of wolves exceeds 15 breeding pair, but if numbers are lower, the Department will only allow conservative management. The rules are similar to the 10(j) regulations but call for more proactive measures to ensure wolf recovery.

B. The Montana Wolf Program.

Montana developed its Wolf Conservation and Management Plan over a three and a half year period. It underwent extensive public comment and professional peer review and is regarded as balanced in its tone and approach to addressing the new opportunities and challenges of a restored wolf population. The final Montana plan recognizes the wolf as a native species and aims to manage it similar to other wildlife in Montana. Wolves are allowed to find their place on the landscape, as are other wildlife, yet MTFWP still carefully manages them, balancing biological and social factors.

Montana’s goal and commitment is to maintain a secure, recovered wolf population into perpetuity through an adaptive management framework within which the wolf population drives management decisions. Monitoring efforts determine the status and trajectory of the population. Changes in population status provide the feedback mechanism to decision makers so that management is commensurate with the population in an iterative way through time.

Under the adaptive management framework, as the number of breeding pairs decreases towards 15, management decisions governing wolf take become more conservative. As the number of breeding pairs increases beyond 15, management decisions governing take can become more liberal. The trigger for changing management direction is 15 breeding pairs, establishing a safety margin of 5 breeding pairs so that the population does not go below the minimum of 10 breeding pairs. While an adaptive management approach offers flexibility, its strength lies in the clear linkage between the wolf population and decisions that affect it.

Montana's plan created a buffer of five breeding pairs. By adopting the more stringent definition of "breeding pair" rather than the more generic group of wolves called a "pack," MTFWP ensures it will manage a larger population of wolves than the USFWS recovery plan requires. Only about 43% of packs qualify as a breeding pair in an average year. Montana seeks to conserve and manage a robust wolf population to preserve flexibility and to adequately buffer inadvertent mistakes, account for random environmental variation, and allow for the unexpected. A larger wolf population also increases the likelihood of connectivity requirements because more packs on the landscape serve as a source of dispersers. These dispersers can start new packs or replace breeding adults in existing packs.

Montana does not attempt to restrict or cap the total number of wolves in the state, nor does it limit wolf distribution. The plan recommended that the wolf be reclassified from state endangered to a "species in need of management" upon delisting. Montana amended its administrative rules to delist the gray wolf from a state endangered species to a state species in need of management, with an effective date upon delisting. This makes sure that upon delisting, there is no gap in protection for the gray wolf. This classification protects the species throughout Montana, yet also allows for take associated with defense of livestock or domestic dogs, protection of human safety, and regulated public harvest. Montana laws and administrative rules carefully set out allowable and prohibited forms of take. Montana law outlines penalties for unlawful take.

The Plan's adaptive management framework is anchored in wolf biology and provides the flexibility necessary to adapt to the changes in wolf population status quickly through actions of MTFWP and its MTFWP Commission.

1. Program Overview

Montana's wolf program employs 4.5 full time, field level wolf specialists. These wolf management specialists are based in Kalispell, Missoula, Butte, and Bozeman. They are assigned to specific geographic areas, but can and do travel as priorities change and situations emerge. Wolf specialists' work integrates wolf monitoring efforts, landowner relations (particularly for packs that use private lands), wolf-livestock conflict resolution, and public outreach. With nearly 65 percent of the land held in private ownership, landowners are central to the work of conserving Montana's wildlife and important habitats. For species like wolves and bears, MTFWP has had great success with these community-based efforts by dedicated staff.

The program coordinator is based in Helena. MTFWP's game wardens have been working with USFWS special agents. MTFWP block management staff and area wildlife biologists have been learning and gaining expertise as well. USDA Wildlife Services investigates the cause of reported injured or dead livestock and works under the direction of MTFWP to carry out management responses if wolves are confirmed as causing injury or death of livestock.

MTFWP's wolf program is complemented by other MTFWP programs that emphasize habitat. Examples include Habitat Montana, Wildlife Mitigation Trust, and Montana's Forest Legacy Program. A variety of funding sources enable MTFWP to protect habitats and provide recreational opportunities through purchased or donated conservation easements and purchases of land. MTFWP also works collaboratively with land conservation organizations and other state and federal agencies to protect and manage habitat and open spaces for wildlife and in particular, lower elevation foothill areas important for wintering ungulates.

The wolf program, in conjunction with other work units in MTFWP, emphasizes public outreach and education. Efforts are varied, but significant. The goal is to foster a balanced understanding

of the species, reduce conflicts, and maintain public safety. Access to accurate factual information is important because wolves can evoke strong emotions. Outreach activities take a variety of forms and include: meeting people in the field, visiting landowners on their ranches, phone conversations and emails, putting information about wolf identification in Montana hunting and trapping regulations, doing interviews with the media, writers, and others. MTFWP wolf staff gave a minimum of 47 public presentations to about 2100 people in 2007. MTFWP also prepared and distributed a variety of printed outreach materials and media releases to help Montanans become more familiar with the wolf population and the state's plan. MTFWP prepares a "wolf weekly report" and summarizes important wolf-related MTFWP / USDA Wildlife Services activities in Montana. Though sometimes published bi-weekly, it is distributed widely and also made available on the MTFWP website.

The MTFWP website (www.mtfwp.mt.gov) has had wolf-specific content for many years. At the present time, there are 92 wolf-specific pages. The pages are updated with new information on a variety of subjects related to wolf conservation and management. Examples include wolf biology, wolf / coyote identification, wolf-livestock interactions, wolf-big game relationships, human safety, the wolf weekly report, and annual reports. From April 15 – November 16, 2008, there was a total of 42,906 visits to the MTFWP wolf web pages. Diagnostic statistics suggest that the public visitors spend more time on the wolf pages than the average of all other MTFWP web pages. Additionally, visitors directly access the wolf-specific pages at a higher rate (48%) than the average for all other MTFWP web pages (33%). This suggests that visitors may have the MTFWP wolf pages bookmarked and visit them directly for specific information periodically -- e.g. visitors go to a wolf page directly and then exit the MTFWP website without visiting any other MTFWP web pages. For additional information, see (www.fwp.mt.gov/wildthings/wolf/default).

2. Wolf Population Status

The Montana wolf population is secure, but dynamic. Like other wildlife species, the wolf population is subject to checks and balances, including strong reproduction in some areas, disease, vehicle strikes, and mortality due to conflicts with people. The population has steadily

increased since 2004 when MTFWP assumed responsibility for management. By December 2007, MTFWP had estimated a minimum of 422 wolves in 73 verified packs, 39 of which qualified as a breeding pair by the federal recovery definition. See Sime et al. 2008.

In mid-September 2008, MTFWP estimated a minimum of 360 wolves in 74 packs, 36 of which met the breeding pair criteria according to the federal recovery definition, which was slightly below the mid-September 2007 estimate. However, counting conditions improve from September through December with snow cover and MTFWP receives many hunter reports that facilitate its own pack verification and pack size estimates. For example, last year, the minimum estimated population increased from 394 to 422 between September and December as counting conditions improved.

In 2008, as counting conditions improved and with additional effort, MTFWP estimated a minimum of 421 wolves in 79 verified packs, 38 of which have met the breeding pair criteria as of November 7. The size and breeding status of many packs are still unknown and improved estimates will be reported in the final 2008 annual report.

3. Regulated Public Harvest

Within the context of the overall conservation and management program, MTFWP intends to implement hunting as a wolf management tool. Over 100 years of wildlife history in Montana demonstrates that hunters are strong advocates for conservation of species that are hunted -- philosophically, culturally, and financially.

Implementation of fair chase, regulated public hunting is the final test of integrating wolves in Montana's natural and human landscape as one of the many species under state management. By participating in wolf management in alignment with their wildlife conservation ethic and hunting heritage, the public will more widely accept wolves. It also develops a new, additional constituency much in the way MTFWP witnessed for mountain lions when their management transitioned from a bounty system for a predator similar to coyote to a big game animal.

See Attachment 1 for an in-depth chronological treatment and discussion of Montana's harvest framework (Montana's Rulemaking for Wolf Management and Regulated Public Harvest). MTFWP carefully considered wolf biology (e.g. timing of dispersal, breeding, and denning) when determining season opening and closing dates, bag limits, wolf management unit boundaries, and the requirements for connectivity and maintenance of about 400 wolves (or more if tolerance allows).

Regulated public harvest of wolves can help MTFWP more proactively manage wolf numbers, particularly in areas of higher livestock density. Within the context of the Montana plan, licensed public hunting can occur so long as there are at least 15 breeding pairs statewide. If the number of breeding pairs falls below 15, MTFWP will terminate hunting opportunities out of concern for the population's status. MTFWP's intent is to maintain the current population, and under an adaptive management framework, more opportunity will be available commensurate with increases in the Montana wolf population.

The MTFWP Commission established the framework for a regulated wolf hunting season, though it did not establish final quotas or authorize a season for fall 2008 because of the court-ordered injunction issued July 2008. The MTFWP Commission did not adopt a framework for trapping. In MTFWP Commission establishes its hunting season framework (e.g., dates, bag limit, unit boundaries) every other year. The MTFWP Commission sets quotas annually so that it may consider the most current information. MTFWP will consider the following when establishing tentative (in July) and final quotas (in August): wolf population size and distribution, number of breeding pairs, other sources of mortality, timing of that mortality, reproduction, the population status and management of wolves in Idaho, Wyoming, and the national parks, livestock conflict patterns and trends, levels of agency control and citizen take, disease, status of prey populations, and previous hunter success.

Combined, the season framework and the statewide quota will determine the total number of wolves that could be legally harvested and where. The season will occur in each of three units, each with its own quota (which sum to the total statewide quota). MTFWP also has the ability to delineate even smaller areas with their own subquotas within each of the three larger units.

MTFWP established the three large wolf management units based on true biological differences in the populations.

MTFWP uses a quota system to biologically tailor harvest of animals. For example, mountain lion harvest is managed on a quota system that allows significant participation by lion hunters within specific lion harvest units, but the quotas determine the maximum number of lions that could be harvested within each unit. MTFWP's experience in managing mountain lion harvest on a quota system suggests that a quota system is also appropriate for the wolf. Quotas allow MTFWP to direct or alleviate hunting harvest pressure and distribute hunter kills geographically so that animals are not over harvested or under harvested in critical areas. This allows MTFWP to consider special conservation needs or conflict areas uniquely. Establishment of subquotas or smaller areas allows MTFWP to more proactively manage wolf harvest numbers and packs in a spatially explicit way that facilitates connectivity.

The MTFWP Commission also prohibited more than 25% of the total allowable wolf management unit quota (WMU) to be taken during the month of December. This limits total wolf harvest during a time period when wolves are known to disperse.

Within the season framework and quota-setting process, safety nets are imbedded to make sure that wolves would not be overharvested. These include: 1) establishing quotas at a time of year (tentative in July and final in August) so that the most current monitoring data could be considered; 2) creation of a 1-800 hotline update so that hunters would know whether or not wolf harvest was legal (i.e. quota was open) prior to going hunting; 3) mandatory reporting of successful harvest within 12 hours so MTFWP can closely monitor hunter success and quota status; 4) mandatory carcass inspection within 10 days to verify age / sex of harvested animals and collect other biological information; 5) closure of the season upon a 24-hour notice when the quota is filled in a WMU; 6) MTFWP authority to initiate a season closure prior to reaching a quota when conditions or circumstances indicate the quota may be reached within 24 hours; 7) definite season-ending closure date, regardless of whether the quotas were reached; and 8) emergency season closure at any time by order of the MTFWP Commission.

When contemplating a season structure for wolf harvest, MTFWP completed simulation modeling to provide insight into the effects an initial harvest season would have on wolf population in the following year. The primary goal of the simulations was to gauge the risk posed by implementing a quota-based harvest system in three wolf management units by predicting the population the following year. The sideboards were to determine potentially appropriate harvest levels that would not jeopardize the population or cause it to drop below 15 breeding pairs if hunters successfully harvested 100% of the allowable quota.

The basis for the simulations was a model of wolf population dynamics that included output on the number and size of wolf packs, the number of breeding pairs, and the total number of wolves. The model included birth rate, death from all causes, immigration, and emigration for each of the three wolf management units, as well as the pack-living social structure of wolves. Many assumptions were necessary, though they were made conservatively.

In its initial exploration of potential harvest quotas, MTFWP ran the model to determine harvest levels that would not reduce current wolf numbers (422 wolves, 39 breeding pairs in 73 packs as of December 2007). To keep the wolf population at its current level, the model predicted that a total of 115-160 wolves could be harvested in the fall of 2008 and the population would remain stable.

MTFWP carefully considered the need to begin wolf harvest conservatively due to uncertainty. Therefore, MTFWP proposed and the MTFWP Commission adopted a more conservative total tentative statewide quota of 75 wolves. MTFWP re-ran the models and determined that a total quota of 75 wolves equates to about an 18% harvest rate in each of the three WMUs. A quota of 75 is approximately one-half of the harvest that the model predicted would maintain the current wolf population. This harvest rate is well within the range of sustainable harvest rates based on the literature and the current Montana wolf population level (Fuller et al. 2003). One year after implementation of the first season, the model predicted that there would be about 497 wolves, between 93 and 100 packs, and between 44 and 61 breeding pairs. Therefore, even if hunters filled the quotas, the population would be expected to stay about the same or increase from its current level.

MTFWP also proposed and the MTFWP Commission adopted a North Fork Flathead Subunit adjacent to Glacier National Park within Wolf Management Unit 1 (Northern Montana). The MTFWP Commission approved a tentative subquota of 2, so that a maximum of 2 wolves may be legally taken within this area during an established hunting and/or trapping season in any given license year. The subunit quota would count towards the total quota for WMU 1. When a total of two wolves were harvested in the subunit, the subunit would be closed, although the larger WMU 1 could remain open until the total quota was reached or the season closed on the predetermined date. Core habitats such as Glacier National Park provide the most secure areas for wolf packs to persist on the landscape and function as a source of dispersing wolves. Persistence of these packs and the ability of wolves to successfully disperse from these core areas are important considerations with respect enabling connectivity between northwest Montana, Canada, central Idaho, and the Greater Yellowstone area.

Through the Plan's adaptive framework, the model can be adjusted based on the experience of each season and other important factors such as population status. An important underpinning of the Montana Plan is that monitoring efforts and population status are linked to the decision-making process through adaptive management so that results of management decisions can be more objectively evaluated with confidence intervals to measure uncertainty, particularly the uncertainty about the effects of a wolf harvest.

To summarize, MTFWP and the MTFWP Commission will regulate harvest and proposed taking a conservative approach for the first two years of wolf hunting. There will not be a trapping season for the first two years. The season is a quota-based system in which all resident and non-resident hunters may purchase a wolf license and participate; however, total wolf mortality is strictly controlled through a mandatory – reporting system which requires successful hunters to report harvesting a wolf and the progress towards filling the quota is tracked carefully and made available to hunters on a 1-800 phone recording. Each wolf management unit will have its own quota. The MTFWP Commission may establish sub-quotas within sub-units that count towards the total for the management unit as a whole (e.g. North Fork Flathead Sub-area).

For the 2008 and 2009 fall hunting seasons (rifle), the season would open on the last Sunday of October and close on the Sunday after Thanksgiving in each of three wolf management units. The winter hunting season, December 1 through December 31, would also be a rifle season with the harvest limited to no more than 25% of the total season quota. Trapping would not be allowed. Backcountry deer/elk hunting units within the larger wolf management units open September 15 and close the Sunday after Thanksgiving. Total bag limit is one wolf per hunter per year. Harvest may not legally be facilitated by the use of domestic dogs, spotlights, or other artificial light, two-way communications devices, night vision equipment, electronic calls, use of aircraft for spotting or harvesting. It would also be illegal to place any bait for the purpose of attracting wolves to hunt, along with use of artificial scents or lures intended to attract wolves while hunting. Other regulations that apply to other big game species (e.g., legal shooting hours, unlawful to shoot from a vehicle or across a road) will also apply to the wolf.

In conclusion, MTFWP and the MTFWP Commission adopted a fair chase wolf hunting season framework and a tentative quota that would not jeopardize the Montana wolf population, nor is it expected to reduce wolf pack distribution. More proactive management of pack sizes through regulated harvest may result in fewer injured / dead livestock and a decreased level of agency lethal control. Between a conservative quota and closing the season at the end of December, wolves will still be able to successfully disperse and fill pack vacancies prior to the breeding season.

4. Wolf-Livestock Conflicts

USFWS has long been aware of the ability of wolves to injure and kill livestock. For wolves to fully recover and be accepted by people, USFWS recognized the need to address wolf livestock conflicts and has through the years gained knowledge and expertise in addressing those conflicts. The Montana Wolf Advisory Council, MTFWP, and the Montana Legislature all recognized the need for a comprehensive conservation strategy to address wolf livestock conflicts.

Montana statute provides “[f]ollowing state delisting of the wolf, the department, or the department of livestock, pursuant to 81-7-102 and 81-7-103, may control wolves for the protection and safeguarding of livestock if the control action is consistent with a wolf

management plan approved by both the department and the department of livestock.” § 87-5-131(3), MCA. The Montana plan designates MTFWP as the lead agency. Therefore, MTFWP interprets this statutory language as requiring approval by MTFWP, the lead agency under the Plan, to authorize agency lethal control. Furthermore, the gray wolf falls within the purview of MTFWP because it is a species classified and protected under Title 87 as a “species in need of management.”

Montana’s defense of property statute is similar to the 2005 and 2008 10(j) regulations in the way it allows a livestock owner the ability to haze, harass, or kill a wolf seen actively killing or threatening to kill livestock. § 87-3-130, MCA, allows a private citizen to take wildlife that is attacking, killing, or threatening to kill a person or livestock. Montana adopted administrative rules governing resolution of wolf-livestock conflicts state-wide, including non-lethal tools, state authorized control actions, and a private citizen’s ability to take a wolf that is attacking, killing, or threatening to kill livestock. The administrative rules define “threatening to kill” as “the actual chasing, testing, molesting, harassing of livestock or livestock herding/guarding animals that would indicate to a reasonable person that an attack was imminent.” The definition of threatening to kill includes chasing, testing, molesting, and harassing because this language describes the behavior wolves exhibit as they initiate hunting with the intent to kill their prey. The wolf has to be witnessed killing or threatening to kill livestock, physical evidence is required, and the incident has to be reported to allow authorities to investigate.

The 10(j) regulations definition of “in the act of attacking” includes threatening – they define attacking as “the actual biting, wounding, grasping, or killing of livestock or dogs, or chasing, molesting, or harassing by wolves that would indicate to a reasonable person that such biting, wounding, grasping, or killing of livestock or dogs is likely to occur at any moment.” 70 FR 1286, 2005. So compare “chasing, molesting, or harassing” under the 10j regulation to Montana administrative rule “the actual chasing, testing, molesting, or harassing of livestock or livestock herding / guarding animals that would indicate to a reasonable person that an attack was imminent”.

MTFWP's experience shows that only a few wolves were killed each year in defense of property when the 10(j) regulation applied in southwest Montana. In 2006, four wolves were killed by private citizens when caught actively chasing or attacking livestock, and six wolves were similarly killed in 2007. In 2008 from January 1 to November 7, a total of six wolves have been killed by private citizens. Removal of these animals during the act of depredating is appropriate in that known problem wolves are killed and that behavior has a decreased likelihood to be learned by other pack members, lending efficiency to government efforts to control problem wolves.

MTFWP and the MTFWP Commission recently completed an administrative rulemaking effort and adopted ARM 12.9.1301 – 12.9.1305 (Attachment 1). These rules will guide MTFWP decision making on wolf-livestock conflicts upon delisting and provide criteria for how MTFWP will exercise its discretion for lethal control. The rules also provide definitions. The criteria for lethal control are similar to those used by USFWS in the Greater Yellowstone and Central Idaho experimental areas and do not permit unregulated killing of wolves. Lethal control may be implemented on an incremental basis after confirmed losses and for a period of 45 days. These administrative rules also affirm MTFWP's commitment to proactive nonlethal tools that help to decrease the risk of wolf-caused losses.

The Montana Plan and ARM rule recognize that non-lethal tools can decrease risk of loss and in some situations may prevent depredation altogether. However, MTFWP believes some removal of depredating wolves will be necessary (Sime et al. 2007). USFWS and MTFWP have both confirmed that removal of depredating wolves does not jeopardize the security of the population if implemented in an incremental, judicious manner.

Once delisted, Montana statute, administrative rule, and plan would apply on a statewide basis, the very same framework that the current 10(j) regulations impose in southwestern Montana. A few more wolves will likely be killed across northern Montana under statute and administrative rule after delisting compared to the time period in which wolves in northern Montana were classified as endangered and Montana implemented the federal Northwest Montana 1999 Interim Control Plan. This is because livestock owners are currently prohibited by federal regulations

from hazing, harassing or killing wolves actively chasing or killing livestock in the endangered area. Upon delisting, those livestock owners could lawfully haze, harass or kill wolves seen actively killing or threatening to kill livestock under MCA and ARM.

However, lethal control is possible under the current 1999 Interim Control Plan for endangered wolves. In 2007, six of 36 packs (17%) were confirmed to have killed livestock and a total of 19 wolves were killed (8% of the minimum population) through agency control efforts. Through November 7, 2008 eight out of 43 packs (19%) are confirmed to have killed livestock and a total of 15 wolves have been killed (7% of the population) in response. Livestock density on the landscape (numbers of cattle and sheep per square mile) is much lower in northwest Montana compared to southwest Montana, so there are typically fewer wolf-livestock incidents even though about half of the Montana wolf population lives in northwest Montana. Thus, fewer wolves are killed in agency control efforts across northern Montana than in southern Montana. MTFWP does not expect to be any more liberal in its taking of wolves to resolve conflicts than would have been the case prior to delisting when MTFWP or USFWS applied the respective federal regulations.

In conclusion, Montana laws and administrative rules will regulate wolf take within the context of livestock or domestic dog conflicts statewide using similar standards as USFWS. These are also the same standards Montana applies to mountain lions or black bears. Application of the state framework in the current endangered area will result in a few more wolves being killed by private citizens if seen actively chasing or attacking livestock. However, Montana does not expect this to jeopardize the wolf population, to impede the ability of wolves to disperse through the landscape, or to decrease wolf distribution.

C. Connectivity.

The Montana regulatory framework ensures that wolves may find their place on the landscape of their own choice, and MTFWP will work within the local setting and with the local public to help wolves fit in. Furthermore, Montana's regulatory framework protects wolves and allows individuals to move through areas where they could be more vulnerable to human killing and

through areas having a very high potential for conflict. MTFWP does not assume or determine in advance what is or isn't wolf habitat or attempt to limit their distribution, just as MTFWP does not for other resident wildlife species. Wolf packs can and do live in "marginally suitable" habitat or even habitat predicted as unsuitable; however, packs will persist for a shorter period of time. Adequate regulation of human mortality is standard practice for all classified and managed wildlife species in the state, not just wolves. In this way, MTFWP will manage wolves throughout Montana and address conflicts where and when they occur.

Wolves are capable of moving through marginal habitat or settling in areas unlikely to sustain a pack long term so long as human mortality is adequately regulated. Montana recognizes that importance of allowing a wolf to move through the landscape. Furthermore, in Montana, where adequate natural prey exists, wolves can live just about anywhere for some period of time. Depending on the level of conflicts incurred with livestock, a pack in marginal habitat could persist long enough (1-3 years, maybe longer) to provide a source of dispersing wolves to other areas.

Montana's plan and administrative rule recognize the importance of connectivity to the long-term viability of wolf populations in the northern Rocky Mountains and further recognize Montana's unique place on the landscape. Montana is an important geographic and physical "connection" linking the three subpopulations of the northern Rocky Mountains with contiguous wolf populations in Canada and farther north. Dispersal is the connectivity mechanism that allows demographic and genetic mixing to occur and guarantees the long-term genetic diversity of the northern Rocky Mountains wolf metapopulation.

Wolves are great travelers and adequate regulation of human caused mortality combined with public tolerance and careful management of deer / elk / moose populations, even as wolves pass through habitat thought to be unsuitable, assures connectivity and genetic diversity through time. MTFWP's emphasis on landowner relations, habitat conservation, and management of ungulate populations for a harvestable surplus also contribute to a framework that will sustain Montana's wolf population and facilitate connectivity.

Monitoring of radio collared wolves through the years has resulted in documented dispersal events within Montana and throughout the northern Rocky Mountains. See Attachment 2 (map of wolf dispersal 1995 – 2005). Attachment 3 shows the proximity of wolf packs just north of the international border in Alberta and the dispersal of two different wolves into Montana. MTFWP and the Alberta Ministry of Sustainable Resource Development (Alberta SRD) recently met and agreed to share information and collaborate on mutual topics of interest regarding wolf packs shown in Attachment 3 (Alberta wolf map). Topics discussed included wolf-livestock conflicts resolution, public outreach, the mutual importance of maintaining natural connectivity, wolf monitoring and dispersal. The shared need of effectively addressing wolf-livestock conflicts and facilitating tolerance for wolves on private lands was also discussed during a joint meeting between southwest Alberta area livestock producers, MTFWP, and Alberta SRD. Alberta SRD may renew efforts for a focused agency effort at wolf conservation and management for packs along the Canadian Rocky Mountain Front. Wildlife representatives from the Blackfeet Nation, though not present at the time, have had similar contacts with Alberta SRD colleagues.

Montana has documented dispersal since 2005. Many of these dispersals resulted in the formation of new packs in Montana. In 2006, MTFWP documented six dispersal events in northwest Montana alone and several new packs formed as a result. In 2007, MTFWP documented that four collared wolves dispersed from their Montana natal pack and three of those wolves started new packs.

MTFWP and the MTFWP Commission committed to address specific conservation concerns on connectivity and the ability for wolves to disperse through the landscape with adequate protection. The Montana Fish, Wildlife and Parks will consider connectivity within the context of its management tools, hunting in particular. MTFWP addressed the issue when establishing the wolf hunting season structure by securing the authority to designate smaller sub-units with sub-quotas within the larger management units. MTFWP created a North Fork Flathead subunit and the MTFWP Commission adopted a tentative subquota of 2 wolves for that subunit. While MTFWP did not propose a southwest Montana subunit in the areas around Yellowstone National Park at the same time it proposed a North Fork Flathead subunit, MTFWP received public

comments in support of creating one. The court-ordered injunction pre-empted further MTFWP and MTFWP Commission consideration of an additional subunit.

Montana has taken other affirmative steps to ensure connectivity, including coordinating management of boundary packs with Idaho, Yellowstone National Park, Glacier National Park, Wyoming, Tribes, Alberta, and British Columbia. Wolf managers share monitoring information routinely and meet periodically.

MTFWP's emphasis on habitat conservation complements efforts of non-governmental wildlife conservation organizations, non-profit private land conservation organizations and state / federal land management agencies. Through protection and management of landscape-level conditions that preserve landscape permeability allowing for dispersal and/or seasonal migrations of many wildlife species. Several organizations have dedicated staff and programs intended to decrease wolf-livestock conflicts on public grazing allotments and private lands. One in particular has been working with land management agencies and "willing sellers" to retire public grazing allotments in the Greater Yellowstone Ecosystem that experience chronic conflicts between wildlife (i.e. grizzly bear and wolf in particular) and livestock. From 2002 to 2008, a total of 551,940 acres have been retired. Decreasing or eliminating sources of chronic livestock conflict (and decreasing risk of conflict to the extent practical) on both public and private land and subsequently decreasing the levels of agency lethal wolf control will also facilitate connectivity and contribute to the goal of maintaining genetic diversity in the northern Rocky Mountain wolf population.

The MTFWP wolf program has also worked directly with watershed groups in western and southwestern Montana. MTFWP representatives attend the meetings and exchange information about local wolf packs with area landowners. Many of these watershed group meetings also result in implementation of proactive steps intended to reduced risk of wolf-livestock conflicts. Furthermore, many of the watershed groups with which MTFWP has developed collaborative relationships are in crucial areas for maintaining landscape permeability for dispersing wolves in the Montana portion of all three recovery areas, contributing to connectivity goals, including the

Blackfoot River valley, Madison River valley, Shields River valley, and the Flint Creek valley (Phillipsburg).

MTFWP recently began an initiative to assess crucial habitat areas containing important fish and wildlife habitat, terrestrial and aquatic corridors providing connectivity across these landscapes, and areas designated for conservation with high recreational and cultural values. The Assessment will produce a set of practical tools, including: (1) digital GIS-layer maps depicting important species and habitat information; (2) an assessment of risks to fish, wildlife and their habitats; (3) recommendations for best planning, development, and management practices in or near crucial areas; and (4) policy recommendations for effective use of the tools. The effort will also enhance Montana's Comprehensive Fish and Wildlife Conservation Strategy with practical tools for use by local and regional decision makers and others who routinely consider residential, transportation, energy or other development proposals. Of four of the working groups, two will specifically address wildlife connectivity and climate adaptation. Products are expected in late 2009.

In conclusion, MTFWP will manage wolves to ensure they stay recovered. Montana also commits to encouraging connectivity and effectively resolving wolf-livestock conflicts to maintain human tolerance and the long-term success of wolf recovery.

D. Delisting Process.

Montana is committed to wolf recovery. In fact, Montana has to date taken the necessary steps to demonstrate its ability to manage a recovered wolf population. Montana will continue to take steps to encourage and monitor connectivity and will continue to uphold its regulatory mechanisms that address defense of property, wolf conflicts, and education and outreach.

With Montana's goal of managing a recovered population in mind, Montana would like to see delisting the northern Rocky Mountain gray wolf done right. Thus Montana supports efforts to attain delisting as soon as defensible and not longer. However, Montana does not support hasty or flawed efforts that cause more delay in the long run. Therefore, if it appears that the process

for gathering comment and making a final decision on the February 8, 2007 Rule needs to slow down to be done properly, Montana supports such a decision. In addition, if an interstate compact or a discussion among the three states of Montana, Idaho, and Wyoming would lead to a more timely, successful delisting and a more effective delisting process than the current federal rulemaking effort, Montana would participate.

If the USFWS continues its current process of delisting the northern Rocky Mountain DPS, Montana suggests delineating the northern Rocky Mountain DPS boundary as the state boundaries of Montana, Idaho and Wyoming where the gray wolf has achieved biological recovery goals. This delineation would retain ESA protection where the gray wolf is gaining a foothold in Oregon, Washington, and UT. Montana further suggests delisting the gray wolf in Montana and Idaho where USFWS has determined that regulatory mechanisms are adequate.

Outside of the DPS policy, Montana has long believed that a status review of a population that has met or exceeded recovery goals and for which the states have adequate regulatory mechanisms in place may be the most effective way to delist recovered species in the west. The DPS policy has proved to be poorly suited to the delisting process and has become a quagmire for states that take the necessary regulatory steps to protect a biologically recovered population. Montana asserts that the ESA allows for this approach and that congressional testimony from the adoption of the ESA specifically mentions the need to address a flourishing population in one state and a population in peril in another state. Practically, applying the listing/delisting criteria through a status review would provide the USFWS a means to apply the ESA in a more straightforward fashion while adhering to the Act's purpose. This more straightforward approach would provide incentive to states to get their regulatory mechanisms in place and manage for a recovered species while also providing ESA protection for species in the areas where they need it.

ATTACHMENTS

1. Montana's Rulemaking for Wolf Management and Regulated Public Harvest, 95pp.
2. Map of Wolf Dispersal in the Northern Rocky Mountains 1995-2005.

3. Map of SW Alberta Wolf Packs and Dispersal to Montana.

References Cited

- Fuller, T. K., L. D. Mech, and J. F. Cochran. 2003. Wolf population dynamics. Pages 161-191 *in* Wolves: Behavior, Ecology and Conservation. L. D. Mech and L. Boitani, eds. University of Chicago Press, Chicago. 448pp.
- Montana Fish, Wildlife & Parks. 2003. Montana gray wolf conservation and management plan. Final environmental impact statement. C. Sime, ed. Montana Fish, Wildlife & Parks, Helena. 420pp.
- Sime, C.A., E.E. Bangs, L. Bradley, J.E. Steuber, K. Glazier, P.J. Hoover, V. Asher, K. Laudon, M. Ross, and J. Trapp. 2007. *In press*. Gray wolves and livestock in Montana: a recent history of damage management: 1987-2006. Proceedings of The Wildlife Society Wildlife Damage Management Working Group Conference, Corpus Christi TX. April 2007.
- Sime, C. A., V. Asher, L. Bradley, K. Laudon, M. Ross, J. Trapp, MJ. Atkinson, and J. Steuber. 2008. Montana gray wolf conservation and management 2007 annual report. Montana Fish, Wildlife & Parks. Helena, Montana. 137pp.

MONTANA'S RULEMAKING FOR WOLF MANAGEMENT AND REGULATED PUBLIC HARVEST

Summary

The Department of Fish, Wildlife and Parks (Department) and the Fish, Wildlife and Parks Commission (Commission) have adopted rules to reclassify the gray wolf as a species in need of management under Montana statutes and concurrently remove the gray wolf from the state's list of endangered species. The rules also outline and commit the Department and Commission to preserving the gray wolf as a resident species in need of management, to implement conservation and management strategies to make sure that wolves continue to thrive and are integrated as a valuable part of Montana's wildlife heritage. Furthermore, the rules outline how wolf/livestock conflicts are resolved within the adaptive management framework. The rules outline the manner and types of nonlethal and lethal wolf control methods that would be used. However, the rules are effective only when the gray wolf is delisted under the federal Endangered Species Act.

The Commission also considered adopting a harvest quota for the fall hunting seasons in 2008. The Commission had earlier adopted a hunting season framework. The Commission tentatively adopted a conservative harvest quota that would be approximately one-half of the harvest that the Department's model predicted would maintain the present wolf population. However, the wolf hunting quota, and therefore the wolf hunting season, was not approved by the Commission because the United States District Court of Montana had issued a preliminary injunction reinstating the protection of the federal Endangered Species Act for the gray wolf.

The following chronology outlines the rulemaking process of the Department and Commission in adopting the wolf management rules and rulemaking process of the Commission in adopting a wolf hunting season framework, in adopting a tentative or proposed harvest quota, and in considering, but not adopting, a final harvest quota. Included are the documents that were before the Commission and the minutes of the Commission's decisions.

Chronology

December 19, 2007

FWP met with the Montana Wolf Advisory Council to provide a program update and get its recommendations regarding public harvest

December 20, 2007

FWP proposed wolf season structure as part of biennial season-setting process to the FWP Commission. FWP also presented results of a simulation model for future quota discussions. FWP Commission adopted a tentative wolf season and requested public comment.

February 20, 2008

FWP proposed final wolf season structure after additional technical analysis and reviewing public comment. FWP made changes to its original proposed wolf season structure. FWP also proposed additional language to the regulations that would give it authority to define specific areas (sub-areas) within larger wolf harvest management units and assign harvest sub-quotas during annual quota-setting processes.

FWP Commission modified the FWP recommended final wolf season structure slightly, took additional public comment, and approved a final wolf season structure, including giving authority to FWP to define sub-areas with sub-quotas for a regulated, fair chase hunting season for fall 2008 and 2009 if wolves were successfully delisted.

June 12, 2008

FWP recommended initiation of formal rulemaking and annual tentative wolf hunting quotas to the FWP Commission. Quotas were recommended for each of three wolf management units and a sub-area quota in the North Fork of the Flathead River. The proposed administrative rule, effective upon delisting, would reclassify wolves from a state endangered species to a species in need of management. The proposed rule also outlined how wolf-livestock conflicts would be addressed.

FWP Commission approved the tentative quota for the fall of 2008 hunting season and requested public comment. The FWP Commission also approved the proposed administrative rule and directed FWP to conduct formal hearings and gather public comment.

August 5, 2008

FWP recommended to the FWP Commission that it suspend action on a final harvest quota after a preliminary injunction placed wolves back under the umbrella of the federal Endangered Species Act. FWP also recommended to the FWP Commission that it adopt the proposed administrative rule.

The FWP Commission suspended action on the final quota because of the injunction. The Commission also voted to delay adoption of the final administrative rule.

September 25, 2008

FWP recommends finalizing the administrative rule, as amended, based on public comment and with an effective date upon delisting. The FWP Commission adopted the final rule.

MEMORANDUM

DATE: 12/19/2007
TO: FWP Director Hagener
CC: FWP Commissioners, Chris Smith, Ken McDonald
FROM: Chase Hibbard and the Montana Wolf Advisory Council
RE: Meeting Summary

At your request, the Montana Wolf Advisory Council met on December 9 and 10, 2007 in Helena. You asked us to discuss the appropriateness of using the biennial season-setting process to develop a wolf season structure at this time, harvest objectives, and the elements of a tentative wolf hunting and trapping season structure.

Ten of the original 12 members attended. On December 9, Carolyn Sime provided an overview of the status of the delisting process, Montana wolves, and implementation of Montana's plan to date. On December 10, the Council discussed the topics requested and adjourned at 3:00pm. Our deliberations were focused and cordial, picking up where we left off several years ago.

Several interested members of the public attended. On December 9, they participated in a question / answer session after Carolyn's presentation. On December 10, they were provided an opportunity to address the Council. Several provided written comments.

The Council was grateful for the opportunity to learn more about the topics at hand and appreciated being consulted. On their behalf, I am forwarding a summary of our meeting and our specific recommendations.

Attachment

Montana Wolf Management Advisory Council

Meeting Summary

December 9 and 10, 2007

Meeting Context

The U.S. Fish and Wildlife Service is expected to announce a decision to delist gray wolves in the northern Rockies in February 2008. Montana Fish, Wildlife & Parks (FWP) has been developing a tentative wolf hunting and trapping season in anticipation of delisting so that it could be completed in a thoughtful, professional way and so that there would be adequate opportunity for public comment through the FWP Commission biennial season setting process.

A wolf season could not be implemented until delisting. FWP has based the tentative wolf season on the approved State plan but wanted to consult with the Wolf Advisory Council and gather feedback and any more specific recommendations. More specifically, FWP sought Council input on: the appropriateness of using the biennial season-setting process to develop a wolf season structure at this time, harvest objectives, and elements of a wolf season (e.g. draft management unit boundaries, season dates, means of take etc.).

Summary

The Montana Wolf Advisory Council reaffirms the principles and provisions of the Montana Gray Wolf Conservation and Management Plan. Its particular strength is the adaptive management framework which will maintain a secure population, manage wolves similar to other wildlife species, and yet allow FWP the flexibility to adjust the management program as it gains more experience in balancing the social, economic, and biological aspects of a recovered wolf population.

The adaptive management framework establishes an iterative process by which management tools and their applications are based on the status of the wolf population. In an incremental fashion, management tools become progressively more liberal if there are more than 15 Breeding Pairs statewide and more conservative as they decline toward the minimum of 15 Breeding Pairs.

Monitoring efforts will help gauge the effects and outcomes of management (including public harvest) so that adjustments could be made. That flexibility will ensure that the population remains secure while also attempting to maintain the delicate balance of social tolerance, livestock damage, human safety, the status of prey populations, and other habitat factors.

When the numbers of Breeding Pairs (an adult male and an adult female and 2 pups on December 31) in Montana exceeds 15, FWP shall establish regulated hunting and trapping with FWP Commission oversight. Public harvest will be regulated on a quota or permit system with mandatory reporting. The harvest quota should become more liberal as the number of Breeding Pairs increases above 15. The Montana wolf plan provides an appropriate safety net in that it is

based on the federal definition of Breeding Pair and not all Montana packs qualify as a “Breeding Pair” by the more restrictive definition. Furthermore, the 15 Breeding Pair benchmark exceeds the 10 Breeding Pair minimum required to maintain a recovered population.

Accordingly, the Council supports the establishment of seasons and regulations for hunting and trapping of wolves to be implemented upon successful delisting. The Council suggests that FWP begin cautiously due to the initial uncertainty about how effective a public harvest will be. With implementation of this new tool – public hunting and trapping – FWP should consider current wolf numbers a starting point against which to measure the effects of harvest and then adjust harvest opportunity in the future in accordance with the provisions of the Montana Wolf Management Plan, considering biological and social factors and the status of the wolf population.

Specific Recommendations

The Council agrees that hunting and trapping should be management tools, but recommends initial implementation should only include hunting quotas. Inclusion of trapping quotas should be considered later based upon experience and results of the initial hunting season.

The Council agrees with the initial framework of three management units but recommends maintaining flexibility to direct harvest pressure to existing and potential areas of conflict with humans, livestock and prey. Smaller management units may be appropriate in the future in order to more efficiently direct harvest pressure.

According to the scientific literature, wolf populations can sustain an annual human-caused mortality rate of 30-40% (or greater depending on the geographic area and other factors) and remain stable (Fuller et al. 2003). Consequently, the Council recommends, for the purpose of setting quotas, an initial take of approximately 30% of known wolves (estimated by FWP as 400 currently in Montana). This would include other forms of human caused mortality. Harvest objectives and harvest opportunity may change in the future relative to biological and social factors.

Subsequent season quotas should reflect the philosophy and intent of the Montana Wolf Management Plan which recommends integrating and sustaining wolf populations in suitable habitats occurring within the complex biological, social, economic, and political landscape of Montana, while ensuring human safety, safeguarding Montana’s livestock industry, maintaining wildlife population, and upholding the support of people with diverse public interests.

Citation:

Fuller, T. K., L.D. Mech, and J.F. Cochrane. 2003. Wolf Population Dynamics. Pages 161-191 in L. D. Mech and L. Boitani, editors. *Wolves: behavior, ecology, and conservation*. The University of Chicago Press, Chicago, Illinois, USA.

Montana Wolf Advisory Council Members

Chase Hibbard, Chair*

Robin Hompesch*

Dr. Charles Buehler*

Jim Cross*

Hank Fischer*

Dan Carney*

Bruce Malcolm*

Nelson Wert*

Terry Beaver*

Bruce Tutvedt*

Jay Kirkpatrick

Darlyne Dascher

* attended this meeting

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: December 20, 2007

Agenda Item: Tentative Wolf Season Structure

Division: Wildlife

Action Needed:

Approval of Tentative Rule **Approval of Final Rule/Action** **Endorse**

Course of Action **None - information only**

Time Needed on Agenda for this Presentation: 60 minutes

Background

The U.S. Fish and Wildlife Service is expected to delist gray wolves from the Endangered Species Act in early 2008. Regulated public harvest was first endorsed as a management tool by the Governor's Wolf Advisory Council in 2000 and eventually included in Montana's management plan. The 2001 Legislature passed SB 163, reclassifying the wolf as a nongame species in need of management automatically upon federal delisting. The 2007 Legislature created a wolf license (SB 372). Other statutes within MCA enable the FWP Commission to adopt rules and regulations pertaining to the taking of wolves by hunting and trapping as a species in need of management. This tentative rule would create the basic season structure for public harvest (e.g. management units, season dates, and other general regulations) for implementation upon successful delisting. Actual harvest levels would be determined through the adoption of specific quotas or permits (i.e. the number allowed to be taken and where) by the FWP Commission at a later date and as appropriate relative to the population status and other factors. FWP intends to proceed cautiously and conservatively and would not jeopardize wolf recovery.

Public Involvement Process & Results

The state's wolf plan is based on the recommendations of the Wolf Advisory Council. From 2001-03, FWP received thousands of public comments while preparing an environmental impact statement on the conservation and management plan. The U. S. Fish and Wildlife Service approved Montana's regulatory mechanisms (state laws and plan) in 2004. Public comments were solicited at all seven FWP regional Citizen Advisory Committee (CAC) meetings during August and September 2007. CAC members supported wolf hunting and trapping.

Alternatives and Analysis

Alternatives include do not adopt a tentative wolf season structure at this time. However, adoption of a tentative season structure now enables FWP to solicit public comment on a detailed hunting/trapping proposal as suggested by the state's wolf plan. It would facilitate timely adoption of a final wolf season structure and appropriate quota or permit levels (decided at a later time) for implementation upon successful delisting.

Agency Recommendation & Rationale

Under the biennial season-setting process, this proposal is presented to the Commission for the 2008-09 and 2009-10 seasons in anticipation of successful delisting sometime during this two-year period. The season structure is designed similar to other game animals. When combined with a subsequent quota / permit system, public harvest is expected to more proactively manage numbers and help address livestock depredations.

Proposed Motion

I move that the Commission adopt the tentative wolf season structure as proposed by the Department.

MONTANA FISH, WILDLIFE AND PARKS

HUNTING / TRAPPING SEASON SUPPORTING INFORMATION

Species: Gray Wolf

Statewide: Wolf Management Units 1-3

Year: Unknown, but upon successful delisting from the federal Endangered Species Act, with concurrent delisting from the Montana Endangered Species Act; potential implementation during the 2008-09 and 2009-2010 biennial season time frame.

1. Describe the proposed season and provide a summary of prior history.

EXISTING REGULATION:

None.

Historical and Legal Context: The gray wolf was probably extirpated from Montana by the 1930s. Currently, the wolf is listed under the federal Endangered Species Act of 1973 and under Montana's Nongame and Endangered Species Conservation Act passed in 1973. Species recovery efforts through legal protection, natural recolonization in northwest Montana beginning in the late 1970s, and reintroduction into Idaho and Yellowstone National Park in the mid-1990s resulted in the northern Rockies gray wolf population achieving the numeric, biological recovery criteria in 2002.

A second requirement to delist the northern Rocky Mountain wolf population was the development of adequate regulatory mechanisms (state laws and management plans) by the states of Montana, Idaho, and Wyoming to assure that the population remained viable and self-sustaining. Each state is expected to maintain at least 10 Breeding Pairs (by the federal recovery definition) and contribute to the overall maintenance of a recovered, genetically connected population in the tri-state region in perpetuity.

Montana's planning effort for conservation and management of a delisted wolf population began with a Governor-appointed diverse stakeholder group called the Wolf Advisory Council in 2000. The group deliberated the complex social and biological aspects of wolf management and adopted a set of Guiding Principles by consensus. Their Guiding Principles were presented to former Governors Racicot and Martz in 2000 and 2001, respectively. The Department then formally developed and adopted a management plan based on the work of the Council through completion of an environmental impact statement (Montana Fish, Wildlife & Parks 2003). The final plan establishes an adaptive management framework and provides direction to implement public hunting and trapping as management tools within the overall program, similar to how other wildlife species are managed.

The final Montana Wolf Conservation and Management Plan was approved by the Commission with a final record of decision signed by the FWP Director in September 2003. The plan was submitted to the U.S. Fish and Wildlife Service for review and was approved in January 2004. Idaho's management plan was also approved, but the Wyoming plan was not. Thus, delisting in the northern Rockies was officially delayed in early 2004.

Later that year, the Department and the U.S. Fish and Wildlife Service began discussing the possibility of an Interagency Cooperative Agreement that would delegate federal authority to Montana and allow the Department to begin implementing as much of its federally-approved plan as allowed under federal regulations. When that possibility was affirmed and the Department began getting federal funding, FWP amended the Record of Decision in May 2004. FWP selected the Contingency alternative (i.e. implement as much of the federally-approved plan as possible and within the constraints of the applicable federal regulations). By mid-2005, a statewide agreement was finalized and the Department has been the lead agency for all wolf conservation and management activities statewide, implementing most aspects of the state's plan but not all due to the federally-protected status. Thus, the Department was prohibited from implementing the regulated public hunting and trapping component for as long as wolves remain listed under the federal Endangered Species Act.

The Department has had a full-time wolf program coordinator since 2000 and hired field staff to facilitate transition from the U.S. Fish and Wildlife Service to FWP beginning in fall, 2004. FWP has led all monitoring, coordinated research activities outside national parks, done public outreach, and addressed wolf-livestock conflicts as the lead decision maker regarding lethal control as guided by the state's plan and the federal guidelines. The Department has gained considerable experience and knowledge about wolves on the Montana landscape since that time. FWP has prepared 2 annual reports (2005, 2006), and the 2007 annual report will be completed by March 1, 2008. The most recent annual report available covering all of the northern Rockies was published in March 2007 for the 2006 calendar year. See U.S. Fish and Wildlife Service et al. 2007.

In February 2007, the U.S. Fish and Wildlife Service published a proposal to delist the gray wolf in the northern Rockies Distinct Population Segment pending the approval of adequate regulatory mechanisms (management plans and state laws) from Montana, Idaho, and Wyoming. While the Montana and Idaho plans had been approved in 2004, the Wyoming plan was only recently approved. In February 2008, the U.S. Fish and Wildlife Service is expected to issue a final rule officially delisting the gray wolf in the northern Rockies. It takes effect 30-days from publication.

At that time, Montana's federally-approved Gray Wolf Conservation and Management Plan becomes fully implementable and Montana Code Annotated takes effect. Under MCA, the wolf will automatically be reclassified from state endangered to a nongame species in need of management for which the FWP Commission and Department can establish rules and regulations pertaining to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment considered necessary to manage nongame.

Contemporary Context and Montana's Plan:

Montana's Wolf Conservation and Management Plan was developed over a 3.5-year period and was widely vetted and closely scrutinized. It underwent extensive public comment and professional peer review and is regarded as balanced in its tone and approach to addressing the new opportunities and challenges of a restored wolf population. The Department has demonstrated during the interim period leading up to federal delisting that it will manage and conserve wolves in a socially and biologically responsible way.

The plan itself is based on adaptive management principles, providing direction to offer opportunities for regulated public hunting and trapping when there are greater than 15 Breeding Pairs statewide. Harvest opportunity should be proportional to the population status and consistent with sustaining viable wolf populations into the future, thereby precluding reclassification under federal law. If the number of Breeding Pairs drops below 15, public harvest is precluded and all management options become more conservative to prevent a population decline that triggers an emergency relisting.

Incorporating public hunting and trapping into the overall wolf management program will enable the Department to more fully incorporate wolves into Montana's wildlife heritage by enabling sportsmen and women to participate in wolf conservation and management similar to other wildlife species. This will help develop an additional constituency to advocate for its conservation, as has been the case for mountain lions. Wolves would be managed more proactively and in conjunction with natural prey populations and other carnivores in a more ecological manner.

Montana wolves routinely encounter livestock and cross private property. Public hunting and trapping will also help the Department more proactively address the risks to livestock posed by a recovered wolf population. Wolf depredation on livestock, while difficult to predict and prevent, tends to increase with an increasing wolf population. Collaboration between private landowners and licensed hunters / trappers has the potential to decrease the risk of livestock depredations by decreasing localized wolf density and/or through harvest of wolves with a depredation history. See Sime et al. 2007a.

The Department will fulfill its commitment to maintain the recovered status of wolves in Montana and contribute to maintenance of a recovered northern Rockies population. To sum up Montana's wolf management program in the words of the Wolf Advisory Council from *The Report to the Governor*:

“We, the Council, recognize wolves as a species native to Montana. Integrating and sustaining wolf populations in suitable habitats will occur within the complex biological, social, economic, and political landscape of Montana. The State of Montana must ensure human safety, safeguard Montana's livestock industry, maintain viable wildlife populations, and uphold the support of people with diverse public interests. The State intends to implement positive management programs to make sure that recovery is complete and wolves are integrated as a valuable part of our wildlife heritage.” (Montana Wolf Advisory Council, 2000).

The Department is undertaking the development of a new tentative wolf hunting / trapping season concurrent with the federal delisting process so that adequate time could be afforded for technical staff work, data analysis, and public involvement. This also allows the process could proceed and be completed within a transparent, thoughtful, and deliberative atmosphere through the traditional agency / Commission decision-making processes rather than through political, legislative or judicial venues.

PROPOSED REGULATION:

Under the biennial season-setting process, this tentative wolf season structure proposal is presented to the Commission for the 2008-09 and 2009-10 seasons, with the assumption that wolves would be successfully delisted sometime during this two-year period.

This proposed tentative regulation creates the basic season structure for a public wolf harvest. Two different time periods would be created, with legal means of take to include firearms, archery and leg-hold traps. The tentative season structure suggests opening and closing dates, 3 management units, and other general rules and regulations pertaining to licensed harvest.

The proposed wolf season would run from September 15 through December 31 of a calendar year. Firearms and bow/arrow would be a legal means of take from September 15 to November 30. A leg hold trap would be a legal means of take under a special trapping permit from December 1 through December 31. There would be a bag limit of one wolf per license holder. Opening the season on September 15 assures that young of the year will have learned how to kill natural prey. Closing the season on December 31 insures adequate time for a pack to replace a breeding adult prior to the peak of breeding activity in mid-February. Partitioning also addresses concerns about conflicts between user groups.

Wolf harvest under a special wolf trapping permit would be on a limited entry basis (finite number of special permits available) due to an assumed higher success rate through trapping compared to opportunistic taking by hunters.

In year one of the biennial wolf regulations, no special wolf trapping permits would be offered. The total wolf harvest quota will be allocated to the fall hunting season that runs from September 15 to November 30.

Wolf Management Unit boundaries were determined on the basis of real biological differences in the wolf sub-populations in each of the three areas. Differences were found with respect to human caused mortality patterns, wolf-livestock conflicts, population growth rates (immigration and birth), influence of adjacent wolf populations and wolf dispersal to/from Idaho, Canada, and Yellowstone National Park into Montana (Mitchell et al. *in press*).

Wolf harvest may not be facilitated by the use of artificial baits, domestic dogs, spotlights or other artificial light, two-way communications devices, night vision equipment, electronic calls, use of aircraft for spotting or harvesting. This proposed basic structure and the accompanying more detailed regulations are modeled after those for game or furbearing animals, consistent with MCA and the principles of fair chase.

The Department would provide the opportunity to harvest a wolf through the combination of a quota / permit system that will closely monitor and track total harvest, enabling the Commission and/or the Department to close the season when the pre-determined quota has been reached and upon 24-hour notice. Hunters and trappers can obtain harvest status and closure information by calling a 1-800 number or checking the FWP website. Progress towards filling quotas will be closely tracked by the mandatory requirement for a hunter or trapper to personally report their kill within 12 hours by calling the 1-800 Wolf Reporting Number.

The Department is not proposing tentative quota or permit levels (i.e. how many wolves taken and where) at this time due to the uncertainty about when a season could be implemented for the first time and what the actual wolf population minimum estimated size will be at the time of

successful delisting. Therefore, the Department will defer the actual quota / permit setting decision process. However, this tentative season structure proposal will provide information about the Department's efforts to consider a range of harvest scenarios to determine the appropriately conservative levels that would not jeopardize the population or cause it to drop below 15 Breeding Pairs. When considering quota / permit recommendations in the future, the Department will consider other sources of mortality, reproduction, and other factors such as wolf-livestock conflict patterns, disease, etc. See #4 below.

2. Why is the proposal necessary?

This tentative proposal, as it advances through the biennial season setting process, is vehicle by which the Department is developing the step-down details about how wolves would be hunted or trapped in Montana post delisting and when there are greater than 15 Breeding Pairs. Adoption of a tentative season structure now enables FWP to solicit public comment on a more detailed hunting / trapping proposal than that presented in the state's wolf plan.

It would also facilitate timely adoption of a final wolf season structure and appropriate quota or permit levels (eventually) for implementation upon successful delisting.

3. What is the current population's status in relation to management objectives?

Biological recovery was first achieved in 2002 and the northern Rockies population has exceeded recovery goals each year since. Both the Montana and the northern Rockies populations have increased each year, respectively. The Department monitors the statewide population and reports a minimum estimated number of total wolves and Breeding Pairs on December 31 of each calendar year. Figures 1 and 2 show trends 1979 – 2006. At the end of 2006, Montana had a minimum of 316 wolves and 21 Breeding Pairs.

The increase in the Montana wolf population since 2004 is due in part to the Department's increased monitoring efforts compared to previous federal efforts. It is also due in part to real numeric increases in the population, as reflected by the increased number of verified packs (defined as any two or more wolves traveling together and holding a territory).

In recent years, the increase in the Montana population has occurred in western Montana, and particularly along the Montana-Idaho border. For example, there were an estimated 11 packs with a territory that straddled the state border in 2007. Each border pack is tallied in the state minimum population estimate within which it dens, respectively. Therefore, each pack is counted in the Northern Rockies totals and towards a state, but no pack is counted twice in two different states. The southwest Montana population in the seven counties surrounding Yellowstone National Park has been relative stable, although there is turnover in the population at the individual and pack level. FWP has also documented growth from within the Montana population as individual collared wolves dispersed from natal packs and started new packs. At the time of successful delisting, the Department anticipates that Montana's wolf population will exceed the December 2006 levels. Complete information about wolf population trends, individual packs, dispersal, wolf-livestock interactions, and recent wolf-related research can be found in Sime et al. 2007b.

Montana is committed to maintaining a minimum of 10 Breeding Pairs by the federal recovery definition. Under the Montana wolf plan, public hunting and trapping can be implemented if there are greater than 15 Breeding Pairs statewide. Between 10 and 15 Breeding Pairs, no harvest opportunity is offered. Falling below 10 Breeding Pairs would likely trigger an emergency relisting under the federal Endangered Species Act.

In general, only about 1/3 of Montana wolf packs of two or more wolves qualify as a Breeding Pair -- the more specialized federal recovery definition (an adult male and an adult female and at least two pups on December 31). This can be due to a variety of reasons, including: death of one of the adults and/or pups, the pair didn't breed and den, or the pups were born but didn't survive due to diseases such as canine parvo virus. Because of this observed natural and human-related variability, Montana will always need to maintain more "packs" than Breeding Pairs.

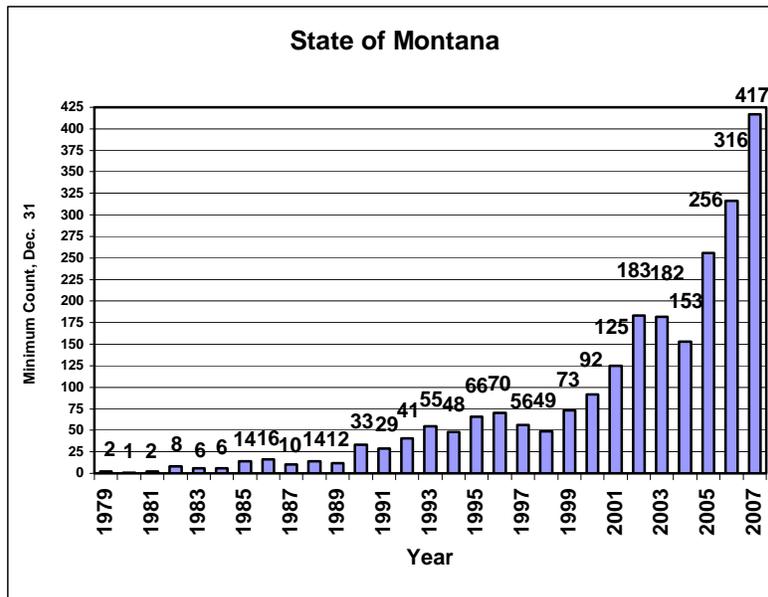


Figure 1. Minimum estimated number of wolves in Montana. The preliminary 2007 minimum estimate is around 400 wolves.

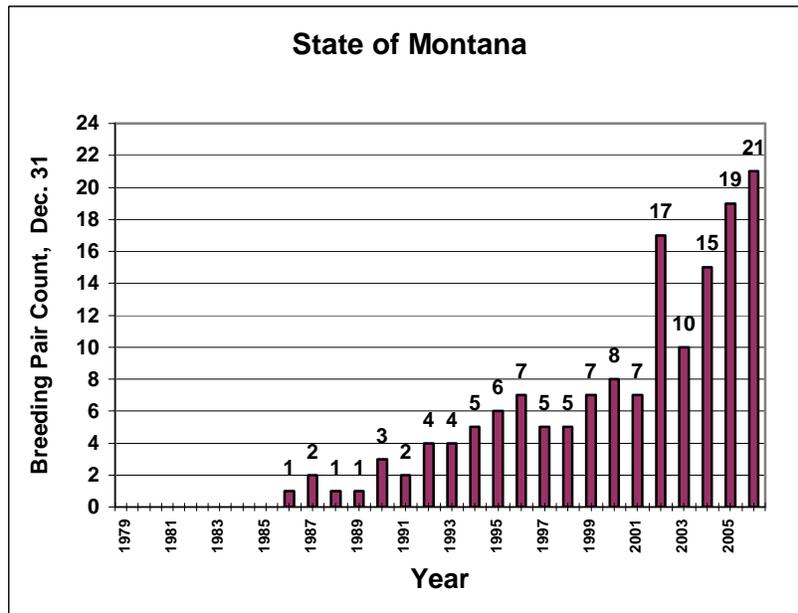


Figure 2. Estimated number of Breeding Pairs by the federal recovery definition in Montana (an adult male and an adult female and at least 2 pups at the end of the year). The preliminary 2007 minimum estimate is around 40 breeding pairs.

4. Provide information related to any other factors that have relevance.

Wolves are one of the best studied of large carnivores, and scientific studies have been conducted in a wide variety of habitats and biological systems. As a canid, wolves are ecologically adapted to withstand higher mortality rates and have a higher reproductive potential than other large carnivores such as black or grizzly bears. For example, wolves have a younger age at first reproduction (yearling), average litter sizes between 4 and 6 pups, the potential for multiple litters per pack, and an annual reproductive interval. Therefore, wolf populations have the potential to increase or decrease rapidly. Important mitigating factors are due to natural prey density, domestic livestock density, mortality due to all causes, birth rates, and immigration / emigration rates.

The Department is aware of the connectivity requirement of successful wolf recovery in the northern Rockies and Montana's unique place on the landscape to facilitate connectivity between the Canadian provinces and the northern Rockies wolf population. Monitoring of radio-collared and unmarked wolves by managers in Montana, Idaho, Wyoming, and Yellowstone National Park has documented wolf dispersal within and among the three states, two Canadian provinces, and national parks. Non-invasive genetic sampling can also help document dispersal and connectivity.

Primary natural prey species populations (e.g. white-tailed deer in western Montana and elk in southwest Montana) are secure and generally exceed population objectives in many hunting units.

Similar to the Midwest states (Minnesota, Michigan, Wisconsin), as wolf numbers have increased in the northern Rockies, so has the number of confirmed livestock depredations. Typically, the number of wolves killed in response to depredations increased, too. Montana is no different. Yet, despite the increase in the absolute number of wolves killed, even when combined with other mortality causes (e.g. vehicle strikes, disease, or other causes), the Montana wolf population has continued to increase.

The Department has been monitoring wolves and conducting routine disease surveillance since the mid-1990s. Data and field observations to date indicate that disease has not been a significant factor affecting wolf reproduction and/or mortality patterns or the increasing population trend even though individual wolves may be affected. The continuation of monitoring efforts will help the Department detect significant events or population level effects.

As noted previously, the Department is not proposing quotas / permit levels at this time. Nonetheless, it is appropriate to describe how that would be approached in the future. The Department establishes actual quotas / permit levels (the prescribed number of animals to be harvested) as tentative and final proposals annually for all species in the late spring and late summer, respectively.

Department has been carefully considering the need to begin wolf harvest conservatively due to uncertainty. It is important that the Department fully considers potential harvest quotas relative to the commitment to maintain a recovered Montana population and that its secure status not be jeopardized after the first year of public harvest or at anytime thereafter. Therefore, the Department completed a simulation modeling exercise to provide insight into the effects of an initial harvest season on wolf population parameters in the following year.

The simulations were designed to reconcile the fact that harvest of wolves operates on individual wolves, while state and federal policy dictates that the status of the wolf population in Montana is measured by successfully Breeding Pairs (BP), which is a characteristic of wolf packs. The

primary goal of the simulations was to gauge the risk posed by implementing a quota-based harvest system in the three wolf management areas for one year by considering the population's status the following year.

The basis for the simulations was a model of wolf population dynamics that included output on the number and size of wolf packs and the total number of wolves. The model includes birth, death, immigration, and emigration vital rates for each of the three wolf management areas, as well as the pack-living social structure of wolves. The model assumes that these vital rates are known with certainty, constant, and equal to those observed in each area in the previous year. Additionally, the model assumes that mortality rates are constant for individual wolves, that immigration results in the formation of new packs of a consistent age structure and at a constant rate within each area, and that reproduction results in a consistent number of pups and only in packs that existed in the previous year in each area. Additionally, the minimum population size in each area was increased by 10%, which represents a minimum number of individual, non-pack wolves in most populations according to the literature. Given these constraints and assumptions, the size and trend of the wolf population in the following year were predicted using this model.

Using predictions from the population model, a simulated harvest season was used to estimate how harvest might affect the number of wolves, number of packs, and the number of BPs in the following year. The simulations represented quotas for the following year, set as percentages of the minimum known wolf population size in each area, ranging from 0% to 75% of the population in each area, and included all possible combinations of these rates at 5% increments (for a total of 4096 combinations of harvest rate quotas). The harvest simulations made the simplifying assumptions that wolf mortality due to public harvest is random and is additive to wolf dispersal and all other forms of mortality, including natural mortality, illegal wolf harvest, and mortality due to depredation in each area.

After the simulated harvest was implemented, the algorithm dealt with the fact that wildlife managers do not have perfect knowledge of the number of BP's in the state due to the logistical challenges associated with monitoring a wide-ranging, low density carnivore. The statewide number of BP's, along with lower 95% confidence interval endpoints, were estimated under three scenarios representing different levels of knowledge about the number of BP's from the field. These included the "status quo" scenario, under which managers know the BP status of approximately 75% of the packs in each area, the "half status quo" scenario, under which managers know the BP status of approximately 33% of the packs in each area, and the "poor info" scenario, under which managers know the BP status of no packs at the end of the year. In all three scenarios, the BP estimator (Mitchell et al. *in press*, Gude et al. *in review*) was used to estimate the number of BP's amongst the packs for which there was no field knowledge.

Each combination of harvest rates was simulated 1000 times, and the number of wolves, wolf packs, and BPs of wolves after one harvest season was estimated after each simulation run. Risk was defined as the percentage of simulation runs in which lower confidence interval endpoints for the estimated number of BP under the three field knowledge scenarios fell below 15 BP. This threshold represents a boundary below which a harvest season in the following year would be cancelled, as dictated by the state management plan. The general results thus far indicate that the Northwest Montana wolf management area is the most sensitive area for the random harvest of wolves, if the goal is to maintain at least 15 BPs in the state. Also, differential harvest rates in each of the three management areas could be implemented and resulted in similar population-level results, implying that public harvest could be a useful tool to address other management considerations such as livestock depredation or connectivity. The simulations also indicate that

the Montana wolf population can support a harvest season and remain stable to increasing for one year, given the population vital rates observed in 2007.

5. Briefly describe the contacts you have made.

As described previously, the idea of using hunting and trapping as a management tool similar to other wildlife is not new and has been a part of the public conversation about Montana wolf conservation and management since 2000. It was included in the preferred alternative in the environmental impact statement, completed in 2003. In 2004, the U.S. Fish and Wildlife Service approved Montana's plan. Since then U. S. Fish and Wildlife Service representatives have consistently and repeatedly expressed support for regulated public hunting and trapping as viable management tools (Bangs et al. *In press*).

More generally, FWP wolf program staff as well as other FWP staff frequently give programs or provide information about wolves or their management to the public, diverse advocacy and trade organizations, other state / federal agencies, and private landowners in a wide variety of formal and informal settings.

In August and September 2007, Department representatives presented some concepts and solicited input from all seven of FWP's Regional Citizen's Advisory Committees. These meetings were announced and advertised. Other public attendees had the opportunity to comment, if desired.

Also in the fall 2007, the Department created an email in box especially intended to receive public comments about the wolf program and the tentative season proposal. Special provisions will be made to accommodate a potentially high volume of electronic public comment.

The original Wolf Advisory Council will meet December 9/10, 2007 to provide feedback to the Department on hunting / trapping concepts and more specific harvest objectives.

The Department has also been working very closely with the University of Montana Cooperative Wildlife Research Unit over the last two years to develop and test alternative wolf population estimation methods that would not require radio collars in each wolf pack. This collaboration resulted in one peer reviewed journal article that will be published in the Journal of Wildlife Management in spring 2008. A second journal article testing the robustness of alternative population estimation procedures is undergoing an informal peer review and will be submitted for publication to a peer reviewed professional journal within 1-2 months.

Other collaborative efforts underway with the UM Cooperative Wildlife Research Unit include: 1. developing and testing alternative monitoring strategies; 2. modeling potential outcomes of the first season of harvest implementation under various scenarios and combinations of monitoring intensity and harvest rates as described above; 3. providing funding and collaborating in a regional research project on wolf monitoring / population estimation; and 4. initiating research specific to Montana and as a part of the larger regional study.

References:

- Bangs, E. M. Jimenez, C. Niemeyer, J. Fontaine, C. A. Sime, S. Nadeau, and C. Mack. *In press*. The art of wolf restoration in the northwestern United States: Where do we go now? Pages 000-000 in 'The World of Wolves', eds. M. Musiano, P. Paquet, and L. Boitani. University of Calgary Press. Calgary, AB.
- Gude, J.A., M. S. Mitchell, D. E. Ausband, C. A. Sime, and E. E. Bangs. *In review*. Internal validation of predictive logistic models for decision making in wildlife management.
- Mitchell, M. S., D. E. Ausband, C. A. Sime, E. E. Bangs, J. A. Gude, M. D. Jimenez, C. M. Mack, T. J. Meier, M. S. Nadeau, and D. W. Smith. *In Press*. Estimation of successful breeding pairs for wolves in the U.S. northern Rocky Mountains. *Journal of Wildlife Management*.
- Montana Fish, Wildlife & Parks. 2003. Montana gray wolf conservation and management plan. Final environmental impact statement C. A. Sime, ed. Montana Fish, Wildlife and Parks, Helena. 420 pp.
- Montana Wolf Management Advisory Council, 2000. Report to the Governor. C. A. Sime, ed. Montana Fish, Wildlife and Parks, Helena. 12 pp.
- Sime, C.A., E. E. Bangs, L. Bradley, J.E. Steuber, K. Glazier, P.J. Hoover, V. Asher, K. Laudon, M. Ross, and J. Trapp. 2007a. *In press*. Gray wolves and livestock in Montana: a recent history of damage management: 1987-2006. Proceedings of The Wildlife Society Wildlife Damage Management Working Group Conference, Corpus Christi TX. April 2007.
- Sime, C.A., V. Asher, L. Bradley, K. Laudon, M. Ross, J. Trapp, L. Handegard, and J. Steuber. 2007b. Montana gray wolf conservation and management 2006 annual report. Montana Fish, Wildlife & Parks. Helena, Montana
- U. S. Fish and Wildlife Service U.S. Fish and Wildlife Service, Nez Perce Tribe, National Park Service, Montana Fish, Wildlife & Parks, Idaho Fish and Game, and USDA Wildlife Services. 2007. Rocky Mountain Wolf Recovery 2006 Annual Report. C. A. Sime and E. E. Bangs, eds. USFWS, Ecological Services, 585 Shepard Way, Helena, Montana. 59601.

Wolf Harvest Model Simulations for Future Quota Discussions

— Informational Supplement —

Introduction

FWP is recommending that wolf hunting and trapping seasons be established in two steps. First, the basic components, such as season dates, management units, means of take etc. would be determined through the regular biennial season setting timeline and process. These are the rules and regulations that outline what's legal and what is not with respect to licensed public harvest. FWP is proposing a tentative wolf season structure for FWP Commission consideration and public comment in December 2007 to begin the process of determining a wolf season structure that would be implemented upon delisting.

The second step is to determine the actual number of wolves that could be harvested. This would be addressed in a separate decision process. FWP is recommending that total wolf harvest be finite and regulated through a quota and special permit system. The actual quota and number of special permits available would be determined through the regular annual quota-setting process at future FWP Commission meetings. FWP would recommend tentative quotas in June and the FWP Commission would adopt final quotas in August of each calendar year. FWP is not proposing actual quotas for a 2008-2009 season at this time.

However, in order to formulate the basic wolf season components, FWP needed to explore a wide variety of alternatives and potential outcomes. By analyzing existing data sets and making some assumptions, FWP developed an initial wolf harvest model simulation to consider a range of harvest rates and the potential effects on the wolf population and the number of Breeding Pairs (BP) in the state in the first year after implementation only. This effort is intended to help determine sideboards around what could be appropriate harvest levels that would not jeopardize the population or cause it to drop below 15 BPs. Montana is required to maintain at least 10 BPs and 100 wolves as its contribution to a recovered northern Rockies wolf population. At least 15 BPs statewide is required to offer public hunting and trapping opportunities. Harvest would be implemented in such a way as to not jeopardize population viability and species recovery.

FWP monitors the wolf population on an ongoing basis throughout the year through a combination of radio telemetry, public wolf reports, track surveys, etc. At the end of the calendar year, FWP estimates and reports the minimum number of BPs, individual named packs, and total wolves. December 31 of each calendar is considered the snapshot population estimate for purposes of demonstrating maintenance of a recovered population and establishing future adaptive management direction.

This document provides additional information and details about the modeling effort. It is meant to supplement the FWP Wolf Hunting / Trapping Season Supporting Information and provide the preliminary basis for future discussions about wolf quota / permit levels.

Harvest Model

FWP explored the potential outcomes of a quota-based wolf hunting and trapping season by simulating various harvest rates in each of three wolf management units as described in the proposed wolf season framework (2007). The simulations were intended to gauge the response of Montana wolves to harvest in the year immediately following implementation and do not reflect an approach to long-term sustainability of wolf harvest. A four -step process was used. The primary goals were to:

- Examine various combinations of harvest rates to determine population sensitivity by adding harvest mortality to existing causes of death for each of the three management units and statewide, given the 2006 – 2007 population data.
- Gauge the risk of the statewide number of BPs (the federal recovery definition) dropping below 15 in the year following the first year of implementation.
- Consider various combinations of harvest rates that result in a predicted wolf population increase, population stability, or a population decrease one year later.
- Predict the number and size of wolf packs, the number of BPs, and the total number of wolves statewide in the first year following harvest.

1. Determine Population Baselines

The Montana wolf population has increased from a minimum of 66 wolves (6 BPs) in 1995 to approximately 394 wolves (37 BPs) in September 2007. But in order to simulate the effects of harvest, a general baseline understanding of wolf population dynamics is the required first step. Therefore, a population model was created and was largely based on the biological features of wolves in each of the three management units (Mitchell et al. *in press*). The model incorporated birth, death, immigration, and emigration for each unit using actual data from 2006 and 2007. Several assumptions were necessary, however. They were:

- Rates of birth, death, immigration, and emigration are known with certainty, constant and equal to those observed in each area in the previous year.
- Mortality rates are constant for individual wolves.
- Immigration results in the formation of new packs of a consistent age structure and at a constant rate within each area.
- Reproduction results in a consistent number of pups and only in packs that existed in the previous year in each area.
- About 10% of the wolf population is comprised of single wolves not associated with a pack – thus the minimum known population was increased by 10% in each area.

2. Simulate Effects of Harvest

Once the basic wolf population dynamics are determined and predicted, FWP then simulated how harvest might affect the number of wolves, number of packs, and the number of BPs in the first year following harvest.

Quotas were set as percentages of the previous year's minimum known wolf population in each area. Thus, reproduction, immigration / emigration, and mortality in the year of harvest are not considered in the simulation exercise itself but will be at the time quotas/ permit levels are set. This allows FWP to be more conservative when recommending tentative quotas in June of the year of harvest. Final quotas would be established in August immediately prior to a season. This allows current year's data to be incorporated in case there are significant, unexpected

developments such poor pup survival due to disease or increased mortality due to conflicts with livestock. See Figure 1.

Harvest quotas ranging from 0% to 75% of the population in each area were simulated. The simulation included all possible combinations of these rates at 5% increments for a total of 4096 combinations. Each combination of harvest rates was simulated 1000 times. The number of wolves, wolf packs, and BPs after one harvest season were estimated after each simulation run.

The harvest simulations made the simplifying assumptions that:

- Wolf mortality due to public harvest is random and is additive to wolf dispersal and all other forms of mortality, including natural mortality, illegal wolf harvest, and mortality due to depredation in each area.
- Managers do not know the statewide number of BPs with 100% certainty; therefore the BP probability estimator was used to estimate the number of BPs for those packs lacking field observations to confirm BP status (Mitchell et al. *in press*, Gude et al. *in review*). This approach generates an estimate of the number of BPs in Montana, as well as lower and upper confidence limits that reflect the uncertainty involved in estimation (i.e., we are 95% certain that the true number of BPs falls between the upper and lower confidence limits (Figure 2).

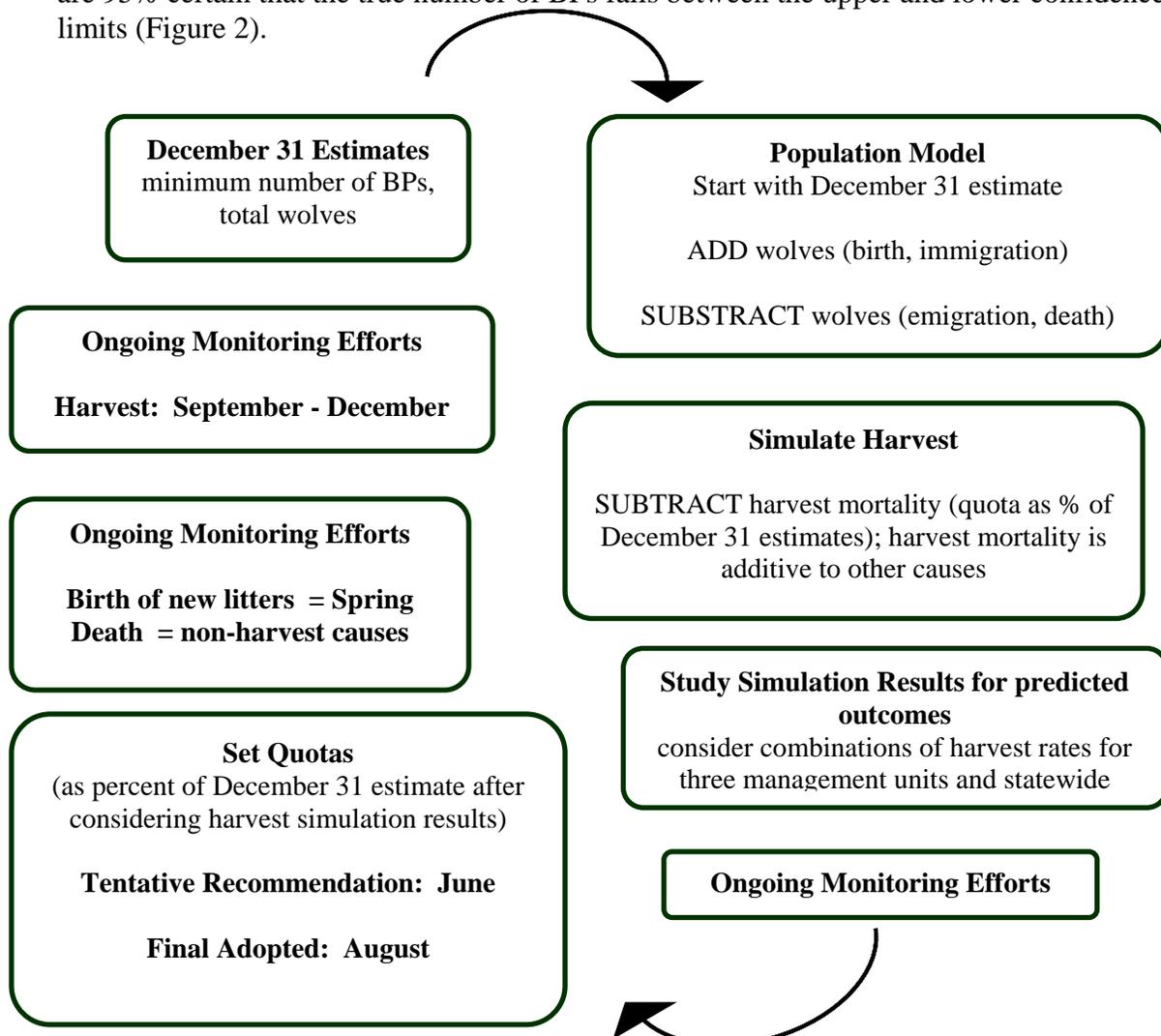


Figure 1. A flow chart of wolf harvest simulation model and quota setting process.

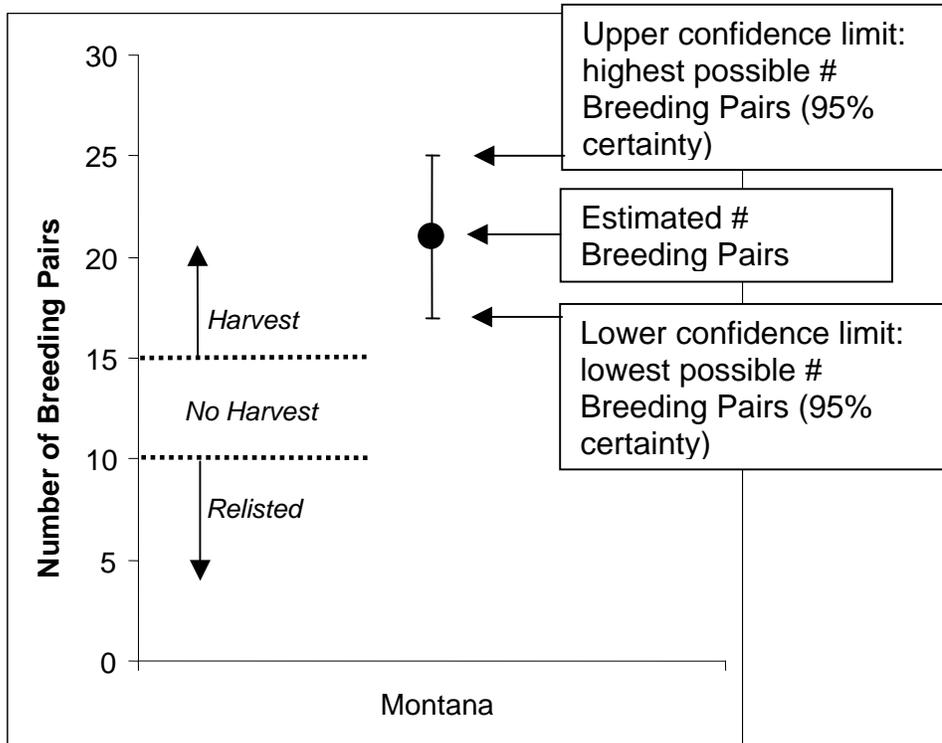


Figure 2. Example of hypothetical estimate of the number of Breeding Pairs for Montana, with upper and lower confidence limits.

3. Simulation Results

The results of each combination of harvest rates were scrutinized to determine whether it resulted in a “risky” outcome in which the lowest possible number of BPs within the 95% confidence limit went below 15. This threshold represents a boundary below which a harvest season in the following year would be cancelled, as dictated by the state management plan. By accounting for uncertainty through confidence intervals, assuming that harvest would be additive to all other forms of mortality, and only considering “no risk” harvest scenarios, FWP is taking a conservative approach.

The simulations indicated that the Montana wolf population can support a harvest season and remain stable to increasing for one year, given the population vital rates observed in 2006 and 2007. Generally speaking, progressively higher harvest rates resulted in progressively steeper population declines, although the relationship was not linear. This is because of baseline population differences between each of the three units (Mitchell et al. *in press*) and other types and levels of wolf mortality. The Northern Montana Wolf Management Unit (#1) is the most sensitive area for the random harvest of wolves if the goal is to maintain at least 15 BPs in the state.

4. Consider Combinations of Harvest Rates

Based on the 2006-2007 population model, nearly all combinations of harvest rates resulted in a “no risk” outcome where the 95% lower confidence limit for the BP estimate did not drop below 15. Wolf population dynamics and current levels of human-caused mortality are different in each of the three management units (Mitchell et al. *in press*). Therefore, various combinations of harvest rates yielded similar predicted statewide outcomes. However, these results suggested that harvest rates could vary within each of the proposed management units to reflect local social and biological factors such as the status of wolf and/or prey populations, livestock damage, social tolerance, etc. while still maintaining a secure population statewide and assuring connectivity within Montana and the northern Rockies wolf populations, respectively.

Quota percentages were based on the minimum number of wolves that FWP knew were present on December 31 of the previous year. There will likely be more wolves present at the start of the current year’s hunting/trapping season due to the current year’s reproduction and immigration adding to the population. Current year’s mortality could be accounted for at the time final quotas are set. Increasing population trends to date demonstrate that reproduction and immigration have exceeded emigration and total mortality. In this way, the model and quota-setting process is conservative -- it is based on known wolves plus an estimated 10% lone wolves not affiliated with a pack and accounts for wolf mortality up until final quotas are set.

There is considerable variation in the level of human-caused mortality that a wolf population can withstand and remain relatively stable. Important factors include overall wolf density and population size, immigration / emigration rates, other types and levels of mortality (e.g. livestock-related), prey base, and birth rates (Fuller et al. 2003).

Depending on the desired goal or outcome one year later, various combinations of harvest rates could be selected to facilitate a population increase, population stability, or population decrease. The following bar graphs illustrate the predicted outcomes of various combinations of harvest rates in each of the three areas one year immediately following harvest. They are based on current levels of monitoring effort.

References

- Fritts, S.H., and L. N. Carbyn. 1995. Population viability, nature reserves, and the outlook for gray wolf conservation in North America. *Restoration Ecology* 3(1):26-38.
- Fuller, T. K., L.D. Mech, and J.F. Cochrane. 2003. Wolf Population Dynamics. Pages 161-191 *in* L. D. Mech and L. Boitani, editors. *Wolves: behavior, ecology, and conservation*. The University of Chicago Press, Chicago, Illinois, USA.
- Gude, J.A., M. S. Mitchell, D. E. Ausband, C. A. Sime, and E. E. Bangs. *In review*. Internal validation of predictive logistic models for decision making in wildlife management.
- Mitchell, M. S., D. E. Ausband, C. A. Sime, E. E. Bangs, J. A. Gude, M. D. Jiminez, C. M. Mack, T. J. Meier, M. S. Nadeau, and D. W. Smith. *In Press*. Estimation of successful breeding pairs for wolves in the U.S. northern Rocky Mountains. *Journal of Wildlife Management*.

Graphical Results

The following bar graphs illustrate a variety of scenarios of various harvest rates in each of the three proposed wolf management units (Figure 3). The graphs illustrate the expected statewide number of BPs, the percent of the simulations that resulted in a “risky” outcome (defined as the 95% lower confidence limit dropping below 15 BP), the number of wolves living in packs, and the expected number of packs one year after implementation.

Of the 4,096 combinations of harvest rates simulated, most did not result in risky outcomes. FWP selected a few representative combinations that predicted a population increase, population stability, or a population decrease. Not all simulations predicting a population decrease resulted in an unacceptable or risky decline below 15 BP, but a few did. These are also presented.

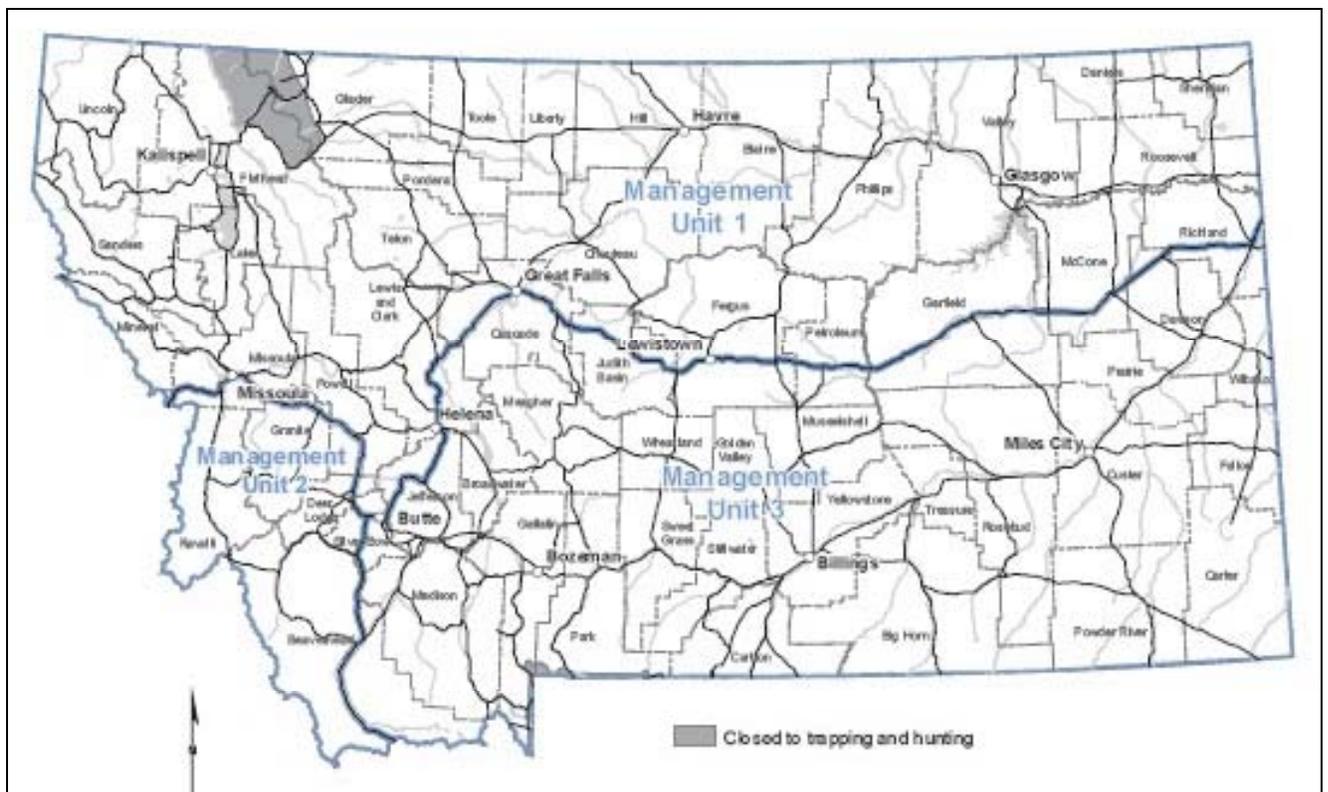


Figure 3. Proposed Wolf Management Units.

Population Increase Scenarios – No and Low Harvest – NO RISK -- Figures 4 and 5

- No harvest or low harvest rates in each of the three management units
- Increase defined as outcomes greater than 40 BPs
- No risk of the lower confidence limit dropping below 15 BP
- Monitoring at current level of effort

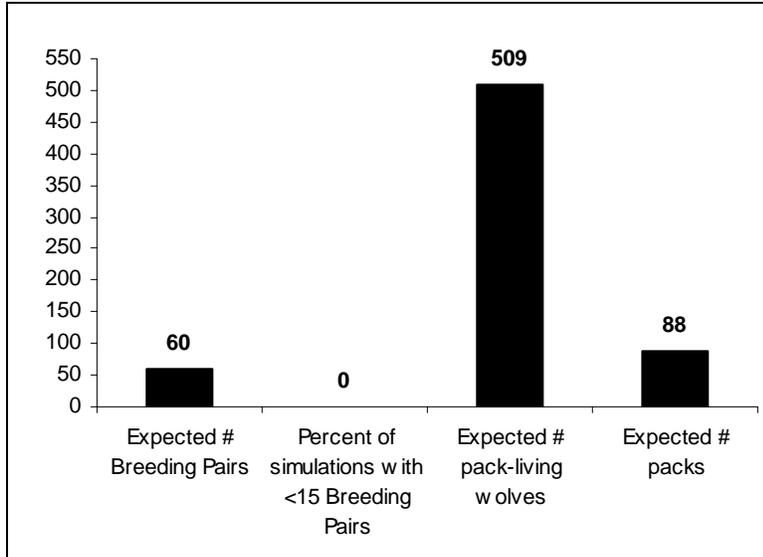


Figure 4	Harvest Rate	Number
Northern Montana Unit 1	0	0
Western Montana Unit 2	0	0
Southwestern Montana Unit 3	0	0

Figure 4. Model simulation statewide results if harvest quotas were set to zero for all three proposed wolf management units.

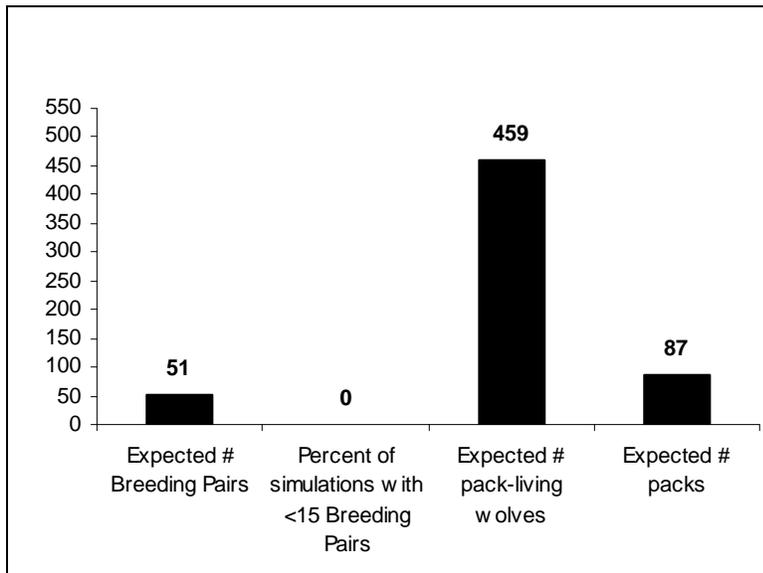


Figure 5	Harvest Rate	Number
Northern Montana Unit 1	15%	30
Western Montana Unit 2	15%	14
Southwestern Montana Unit 3	15%	11

Figure 5. Model simulation statewide results if harvest quotas were set at 15% in each of the three proposed management units.

Population Stability Scenarios – NO RISK -- Figures 6 and 7

- Harvest rates could vary within each management unit and still maintain population stability
- Stability defined as outcomes between 35 and 40 BPs (the actual September 2007 preliminary estimate)
- No risk of the lower confidence limit dropping below 15 BPs
- Monitoring at current level of effort

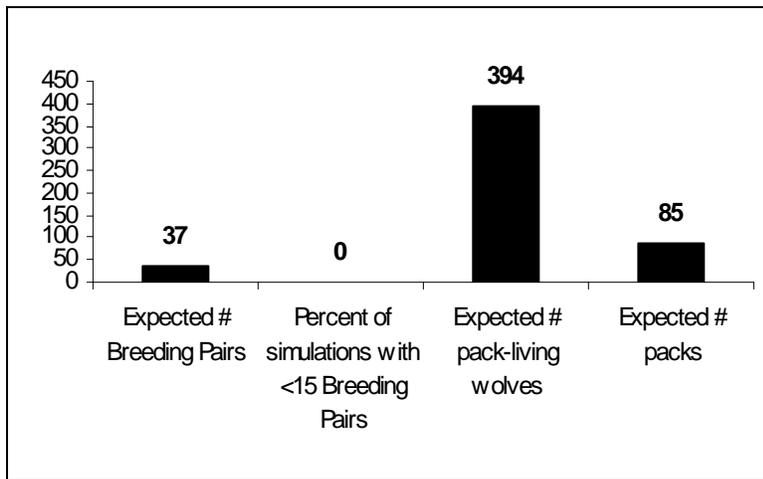


Figure 6	Harvest Rate	Number
Northern Montana Unit 1	30%	60
Western Montana Unit 2	40%	38
Southwestern Montana Unit 3	40%	30

Figure 6. Model simulation statewide results if harvest quotas were set at different rates in each of the three proposed management units.

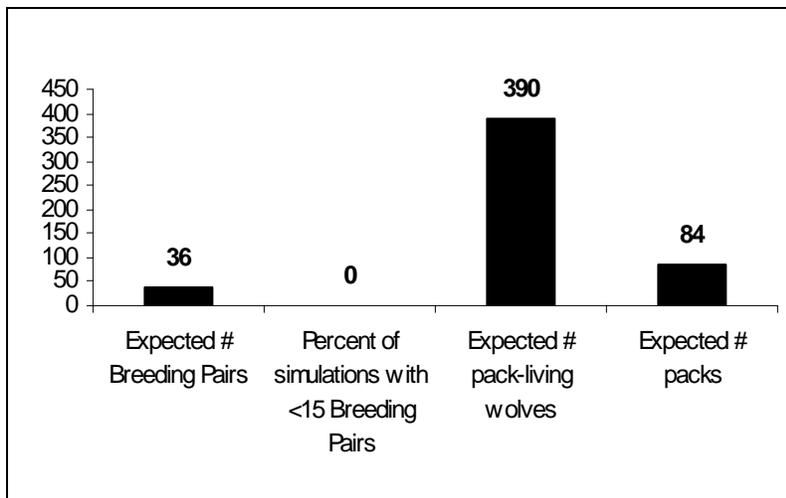


Figure 7	Harvest Rate	Number
Northern Montana Unit 1	30%	60
Western Montana Unit 2	30%	29
Southwestern Montana Unit 3	60%	44

Figure 7. Model simulation statewide results if harvest quotas were set at different rates in each of the three proposed management units.

Population Decrease Scenarios – NO RISK – Figures 8 and 9

- Harvest rates could vary within each management unit, yet still maintain minimum of 15 BPs statewide
- Decrease defined as outcomes less than 30 BP
- No risk of the lower confidence limit dropping below 15 BP
- Monitoring at current level of effort

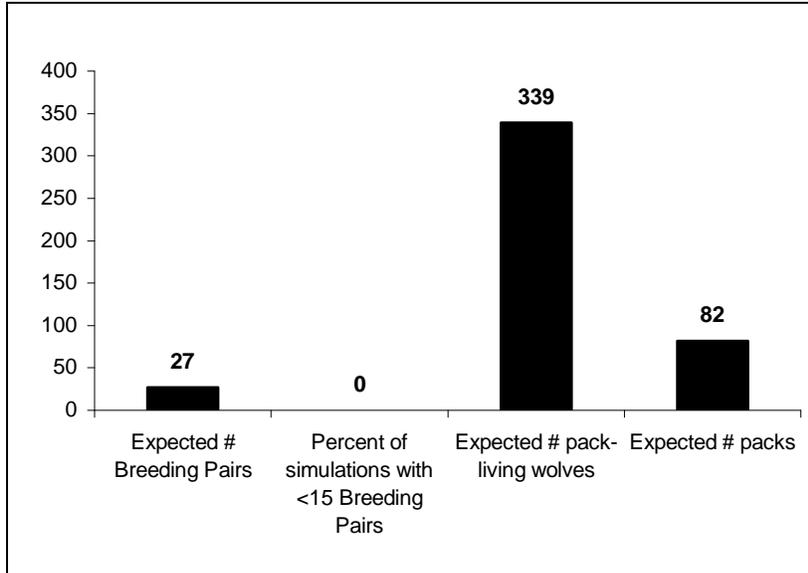


Figure 8	Harvest Rate	Number
Northern Montana Unit 1	55%	109
Western Montana Unit 2	45%	43
Southwestern Montana Unit 3	50%	37

Figure 8. Model simulation statewide results if harvest quotas were set at different rates in each of the three proposed management units.

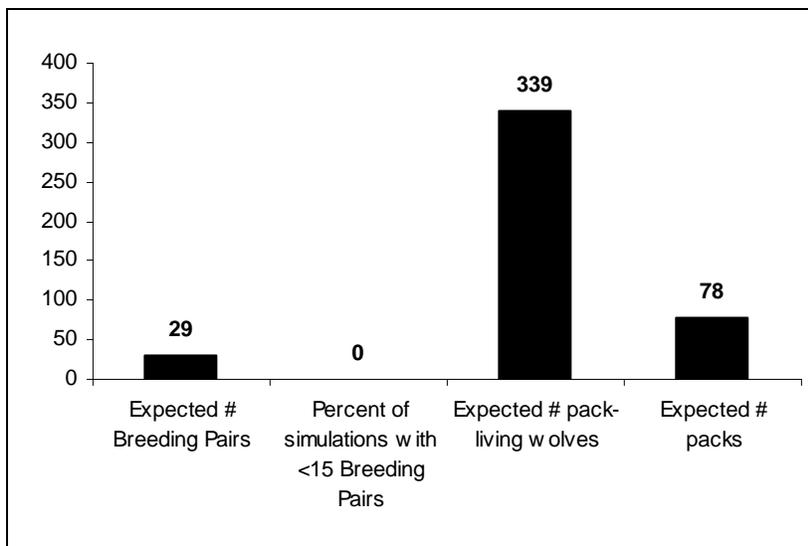


Figure 9	Harvest Rate	Number
Northern Montana Unit 1	35%	70
Western Montana Unit 2	70%	67
Southwestern Montana Unit 3	70%	52

Figure 9. Model simulation statewide results if harvest quotas were set at different rates in each of the three proposed management units.

Population Decrease Scenarios – RISK – Figures 10 and 11

- Harvest rates could vary within each management unit, but outcomes much more variable
- There is a risk that the 95% lower confidence limit drops below 15 BP
- Monitoring at current level of effort

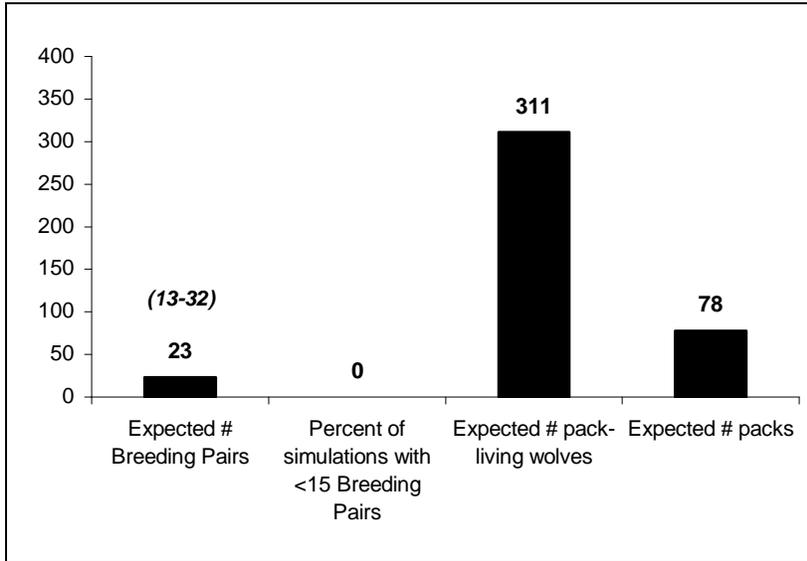


Figure 10	Harvest Rate	Number
Northern Montana Unit 1	60%	119
Western Montana Unit 2	60%	58
Southwestern Montana Unit 3	60%	44

Figure 10. Model simulation statewide results if harvest quotas were set at high enough levels in each of the three proposed management units that would cause the lower confidence limit to drop below 15 BP. In this example the 95% confidence interval spans from 13 BPs to 32 BPs.

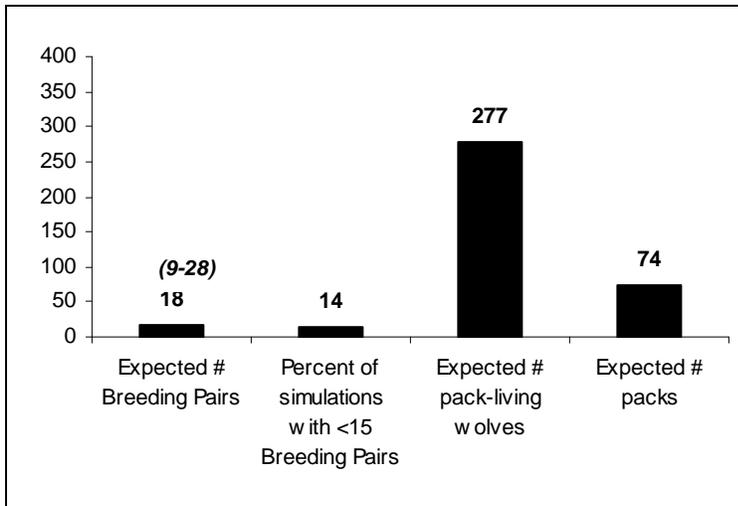


Figure 11	Harvest Rate	Number
Northern Montana Unit 1	70%	139
Western Montana Unit 2	70%	67
Southwestern Montana Unit 3	70%	52

Figure 11. Model simulation statewide results if harvest quotas were set at high enough levels in each of the three proposed management units that would cause the lower confidence limit to drop below 15 BP. In this example the 95% confidence interval spans from 9 BPs to 28 BPs.

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
Red Lion Colonial Inn – 2301 Colonial Drive
Helena, MT
DECEMBER 20, 2007

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chair; Vic Workman; Dan Vermillion; Willie Doll.

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director, and FWP Staff.

Guests: See December 20, 2007 Commission file folder for those who signed in.

Topics of Discussion:

- 1. Call to Order - Pledge of Allegiance**
- 2. Approval of Commission Meeting Minutes of November 29, 2007**
- 3. Approval of Commission Expenses through November, 2007**
- 4. 2008 Commission Meeting Locations**
- 5. Sun River / Lewis Fishing Access Site Land Acquisition – Final**
- 6. 2008-2009 Hunting Season Dates – Tentative**
- 7. 2008-2009 Quotas - Tentative**
- 8. 2008-2009 Deer, Elk and Antelope Seasons and HD Boundaries – Tentative**
- 9. 2008/2009 Lion Seasons and HD Boundaries – Tentative**
- 10. 2008-2009 Upland Game Bird and Turkey Seasons and Quotas - Tentative**
- 11. 2008-2009 Wolf Seasons and Boundaries – Tentative**
- 12. 2008-2009 Moose, Sheep and Goat Seasons and HD Boundaries – Tentative**
- 13. 2008-2009 Black Bear Seasons, HD Boundaries and Quotas – Tentative**
- 14. 2008-2009 Game Damage Permit Authorizations – Tentative**
- 15. Resolution on Delisting and Funding for Grizzly Bears**
- 16. Open Microphone – Public Opportunity to Address Additional FWP Issues**

Director Hagener introduced Mike Gurnett, FWP Film Production Supervisor, who showed a beautiful outdoor power point presentation.

1. Opening - Pledge of Allegiance. Chairman Doherty called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.

2. Approval of November 29, 2007 Commission Meeting Minutes.

Action: Workman moved and Colton seconded the motion to approve the November 29, 2007 minutes. Motion carried.

Reamer is opposed to permits. His kids will have to wait and will lose interest.

Brad Schultz is opposed to permits.

Workman stated that the Commission heard the same arguments when Region 1 went to the permit system, and it has been a success. Houndsmen who were against it have since thanked him for it.

Mike Thompson, FWP Region 2 Wildlife Manager, said the quota system has worked well. The quota system became a predictable means.

Jim Williams, FWP Region 1 Wildlife Manager, said the permit system has been successful, however Region 1 does not have the private landowner issues that Region 2 has.

Action on Motion: Motion carried. (Workman's motion)

10. 2008-2009 Upland Game Bird and Turkey Seasons and Quotas – Tentative. Jeff herbert Statewide

Clarify that falconry limits are NOT in addition to hunting bag and possession limits.

Action: Workman moved and Doll seconded the motion to approve the tentative Statewide Upland Game Bird regulations as recommended by the Department. Motion carried

Regions 1, 2 and 3 - Turkey

Lincoln County – Implement over-the-counter either sex licenses for Fall Season and propose 400 Gobbler permits for Spring.

West Sanders County – Implement over-the-counter either sex licenses for Fall Season and propose 300 Gobbler permits for Spring.

East Sanders County – No Fall Season and propose 10 Gobbler permits for Spring.

Mineral County – Implement Fall Season with permits and increase permits as follows:

282-20: Issue 25 Male Turkey Permits for Spring Season (Shotgun/Archery Only)

282-50: Issue 25 Either-sex Turkey Permits for Fall Season (Shotgun/Archery Only)

Missoula County - Implement Fall Season with permits and increase permits as follows:

283-20: Issue 50 Male Turkey Permits for Spring Season (Shotgun/Archery Only)

283-50: Issue 50 Either-sex Turkey Permits for Fall Season (Shotgun/Archery Only)

Ravalli County – Remove Ravalli County from General License Area in regulations; maintain permit structure.

HD 365 – Implement new HD that is Lewis and Clark and Broadwater Counties (Lower Missouri Unit); Spring permits would be 20 (365-20) and 2 (365-21); Fall permits would be 25 (365-50) and 2 (365-51).

HD 375 - Implement new HD that is Gallatin County and Madison County east of Madison River (Gallatin County Unit); Spring permits would be 5 (375-20) and 2 (375-21); Fall permits would be 10 (375-50) and 2 (375-51).

HD 385 – No change.

HD 395 – Implement new HD that is Beaverhead, Silver Bow, Jefferson Counties and Madison County west of Madison River (Upper Missouri Unit); Spring permits would be 15 (395-20) and 2 (395-21); Fall permits would be 20 (395-50) and 2 (395-51).

Action: Workman moved and Colton seconded the motion to approve the tentative Turkey proposals as recommended by the Department. Motion carried.

11. 2008-2009 Wolf Seasons and Boundaries – Tentative. The final decision on the delisting of wolves is to be determined by the end of February, after which it will become the state's responsibility if they are delisted. The Wolf Management Plan that was finalized in 2003, and approved by the USFWS in 2004. The Plan consists of an adaptive framework. There are three management units in Montana – Northern, Western, and Southwestern – which are biologically based. The current estimate is 85 packs and 400 wolves – 37 breeding pairs. The Plan calls for 15 breeding pairs. The goal is to fold wolves into the traditional wildlife management process. It is premature to establish numbers. This proposal is only for the structure. The Wolf Advisory Council advised caution, and

recommended no trapping for at least one year. The purpose is to stabilize the wolf population rather than reduce it.

Action: Workman moved to approve the wolf season structure as proposed by the Department. No second to the motion. Motion failed.

Action: Colton moved and Vermillion seconded the motion to accept the season and quotas recommendations by the Wolf Advisory Council including a one-year moratorium on trapping.

Chairman Doherty asked for public comment.

Derek Goldman, Endangered Species Coalition, said hunting wolves will eventually be a part of management, however it is premature. He is concerned about what the other two states will do. The effects of hunting are unknown on their social structure. They are social animals. Many questions will surface when one breeding wolf is eliminated. Hold off on hunting until more is known.

Edward Heavy, Montana Trapper's Association, said at the organization's meeting in Lewistown they had voted that they are opposed to trapping wolves until there is need.

Lisa Upson, Natural Resources Council, said she appreciates the wolf advisory council's efforts and FWPs time and efforts. NRC supports the concept of the season, but does not feel the time is now. NRC urges the state to be independent of federal criteria. Social carnivores require a different approach than other wildlife. Use non-lethal deterrents. If Montana did nothing in two years, we would have less than Idaho - wolf season is premature. Urged denial of the proposal.

Gary Carvajal is in favor of the proposal.

Mac Minard, MOGA, said that MOGA passed a position statement in response to legislation that has been proposed that supports where FWP and the Commission is headed. Also, they felt it appropriate to get started with the season structure.

Tim Ravndal said it is wonderful to have an opportunity to trap. Must move forward with a positive solid plan. Use caution. Protect private property. Monitoring of the wolves is important. Must develop a structure.

Action on Motion: Motion carried.

12. 2008-2009 Moose, Sheep and Goat Seasons and HD Boundaries – Tentative.

Regions 1 and 5 - Moose

No proposed changes

Action: Colton moved and Workman seconded the motion to approve the Regions 1 and 5 tentative Moose regulations as recommended by the Department. Motion carried.

Region 2 - Moose

HD 210 – Convert antlerless moose licenses to Either Sex.

HD 211 - Eliminate antlerless moose licenses.

HD 214 – Convert antlerless moose licenses to Antlered Bull.

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: February 20, 2008

Agenda Item: Final Wolf Season Structure

Division: Wildlife

Action Needed: Approval of Final Rule/Action

Time Needed on Agenda for this Presentation: 30 minutes

Background: The U.S. Fish and Wildlife Service (USFWS) is expected to delist gray wolves from the Endangered Species Act in early 2008. Regulated public harvest was first endorsed by the Governor's Wolf Advisory Council in 2000 and eventually included in Montana's wolf conservation and management plan. The 2001 Legislature passed SB 163, reclassifying the wolf as a species in need of management upon federal and state delisting (MCA 87-5-131). The 2007 Legislature created a wolf license (SB 372). Other statutes within MCA enable the FWP Commission to adopt rules and general regulations and specific regulations pertaining to wolf hunting and trapping as a species in need of management. This final rule, in combination with MCA, would create the basic regulatory framework and season structure for public harvest (e.g. management units, season dates, and other general regulations) for implementation upon successful delisting. Actual harvest levels would be determined by the Commission through the adoption of specific quotas or permits (i.e., the number allowed to be taken and where) at a later date and as appropriate relative to the population status and other factors. FWP intends to proceed cautiously and conservatively and would not jeopardize wolf recovery.

Public Involvement Process & Results: The state's wolf plan is based on the recommendations of the Wolf Advisory Council. From 2001-03, FWP received thousands of public comments while preparing an environmental impact statement on the plan. USFWS approved Montana's state laws and plan in 2004. Public comments were solicited at all seven FWP regional Citizen Advisory Committee (CAC) meetings during August and September 2007. FWP held 44 public hearings statewide during January, which were attended by 2,000 people. FWP also received direct written and electronic correspondence through Feb. 1. Upon request, on Jan 21, FWP announced an extension the comment deadline to Feb. 13. More than 645 individual comments pertaining to the wolf regulation were received through Feb. 4.

Alternatives and Analysis: Alternatives include modifying the proposal or not adopting a final wolf season structure at this time. However, adopting a final wolf season structure now would enable implementation at any point in the biennium should wolves be successfully delisted. Decisions about appropriate quota or permit levels would still be made separately and at a later time.

Agency Recommendation & Rationale: Under the biennial season-setting process, this proposal is presented to the Commission for the 2008-09 and 2009-10 seasons in anticipation of successful delisting sometime during this two-year period. The season structure is designed similar to other game or furbearing animals. When combined with a subsequent quota / permit system, public harvest is expected to more proactively manage numbers and help address livestock depredations.

Proposed Motion: I move that the Commission adopt the final wolf season structure as proposed by the Department.

MONTANA FISH, WILDLIFE AND PARKS

HUNTING / TRAPPING SEASON SUPPORTING INFORMATION

Species: Gray Wolf

Statewide: Wolf Management Units 1-3

Year: Unknown, but upon successful delisting from the federal Endangered Species Act, with concurrent delisting from the Montana Endangered Species Act; potential implementation during the 2008-09 and 2009-2010 biennial season time frame.

1. Describe the proposed season and provide a summary of prior history.

EXISTING REGULATION: None.

Overview

The historical, contemporary, and legal context of gray wolves in Montana was previously described for the Commission as a part of the supporting documentation provided for the December 20, 2007 meeting. The following is a brief summary and includes new information.

This proposal is vehicle by which the Department is developing the step-down details about how wolves would be hunted or trapped in Montana post delisting and when there are greater than 15 Breeding Pairs. Adoption of the proposed final season structure now enables FWP to implement a hunting season during the 2008-09 and 2009-10 seasons, with the assumption that wolves would be successfully delisted sometime during this two-year period. This proposal is consistent with the principles and foundations of the approved state plan. It also serves as vehicle by which the Commission fulfills its duties and powers to adopt rules and regulations pertaining to wolves as a species in need of management when the species is delisted from the state and federal Endangered Species Acts, respectively.

This proposal should not be confused with a recent U. S. Fish and Wildlife Service decision to revise the regulations that apply to the southern Montana Experimental Area [also known as the 10(j) regulations]. Revisions set to take effect late February 2008 have already been challenged in the court system and litigation will be ongoing. The pending 10(j) regulation would provide additional flexibility to FWP to kill wolves to address ungulate populations not meeting state objectives and for which wolf predation is determined to be one of the major factors affecting that population. FWP is not advancing this current proposal under the revised 10j regulation and the authority delegated to the State of Montana. The current proposal before the Commission in February 2008 is for a fair chase hunt of a delisted wolf population.

FWP is recommending that wolf hunting and trapping seasons be established in two steps. First, the basic components, such as season dates, management units, means of take etc. would be determined through the regular biennial season setting timeline and process. These are the rules and regulations that outline what's legal and what is not with respect to licensed public harvest as well as other regulations pertaining to gray wolves classified as a species in need of management under Montana Code Annotated.

The second step is to determine the actual number of wolves that could be harvested. This would be addressed in a separate decision process. FWP is recommending that total wolf harvest be finite and regulated through a quota system. Within that quota system, general licenses would be

available for hunting with limited special permits for trapping. The actual quota would be determined through the regular annual quota-setting process at future FWP Commission meetings. At a later time and depending on delisting progress, FWP would recommend tentative quotas and would gather public comment. The FWP Commission would then adopt final quotas in the late summer of each calendar year. FWP is not proposing actual quotas for a 2008-2009 season at this time.

In adopting a tentative wolf season proposal in December 2007, the Commission enabled FWP to gather public comment. Upon request, the comment period for the wolf season was extended to February 13, 2008. A wide cross section of the public participated from around the state, resulting in a wide variety of comments and ideas. Some comments were also received from non-residents. In response to public comment, FWP amended the proposal, and these changes will be highlighted below. While FWP did not and could not make changes to accommodate all parties and the wide variety of preferences expressed in the comment, FWP recognizes that public wolf harvest will be a work in progress. Ultimately, the changes represent a fine-tuning of the proposal and affirm the value of public involvement in accomplishing that. The changes also reflect FWP's increasing awareness of the wide spectrum of the public with an interest in Montana wolf conservation and management.

PROPOSED REGULATION:

Under the biennial season-setting process, this wolf season structure proposal is presented to the Commission for the 2008-09 and 2009-10 seasons, with the assumption that wolves would be successfully delisted sometime during this two-year period.

This proposed tentative regulation creates the basic season structure for a public wolf harvest. Two different time periods would be created, with legal means of take using firearms and archery equipment during a fall and a winter hunting season. The tentative season structure suggests opening and closing dates, 3 management units, and other general rules and regulations pertaining to licensed harvest. Licenses would be offered over the counter and each license holder has a bag and possession limit of one wolf per season. A predetermined level of total harvest is controlled and managed through a quota system with mandatory reporting.

Wolf harvest may not be facilitated by the use of domestic dogs, spotlights or other artificial light, two-way communications devices, night vision equipment, electronic calls, use of aircraft for spotting or harvesting. It would also be illegal to place any bait for the purpose of attracting wolves to hunt, along with use of artificial scents or lures intended to attract wolves while hunting. This proposed basic structure and the accompanying more detailed regulations are modeled after those for big game or furbearing animals, consistent with MCA and the principles of fair chase.

The Department would provide the opportunity to harvest a wolf through the quota system that will closely monitor and track total harvest, enabling the Commission and/or the Department to close the season when the pre-determined quota has been reached and upon 24-hour notice. Hunters can obtain harvest status and closure information by calling a 1-800 number or checking the FWP website. Progress towards filling quotas will be closely tracked by the mandatory requirement for a hunter or trapper to personally report their kill within 12 hours of harvest by calling the 1-800 Wolf Reporting Number. When a quota is full or when conditions and

circumstances indicate that the quota may be reached within the 24-hour period, the Commission has authorized FWP to initiate a season closure prior to reaching the quota.

A fall wolf hunting season would open concurrent with the opening of the vast majority of general deer/elk season districts in late October and close with the closing of the general deer/elk season (e.g. October 26 – November 30, 2008). A fall wolf season in established deer/elk backcountry hunting districts (150, 151, 316 only) would open on September 15 and close with the closing of the general deer/elk season. The fall hunting season would be on a quota system, with up to 100% of the total allowable WMU quota available for the fall season in the absence of trapping. Not more than 25% of the total WMU quota would be available to hunters in December in the absence of trapping. Quotas would be adopted at the statewide and wolf management unit (WMU) level.

In both years of the biennial wolf regulations, no special wolf trapping permits would be offered. The total wolf harvest quota will be allocated to the fall and winter hunting seasons. In lieu of trapping (deferred for both years of the biennium), a winter hunting season would occur December 1 – December 31, with no more than 25% of the total allowable harvest of that calendar year reserved for this time period. Firearms and archery equipment may be used under the same regulations as proposed for the fall hunting season, including prohibition on the use of bait, artificial lures / scents placed to intentionally attract wolves for the purposes of hunting.

However, the wolf season regulations would still include a winter trapping special permit opportunity within the overall framework and structure of regulated taking of wolves. However, no special permits would be issued in either year.

Though not for this biennium, a leg hold trap would be a legal means of take under a special trapping permit from December 1 through December 31. Separating firearms and trapping addresses concerns about conflicts between user groups. Wolf harvest under a special wolf trapping permit would be on a limited entry basis (finite number of special permits available) due to an assumed higher success rate through trapping compared to opportunistic taking by hunters.

FWP is approaching the first biennium in a cautious vein and applying the principles of an adaptive management framework. FWP expects that wolf regulations will evolve and change through time based on experience and what is learned in the first few seasons. Knowledge about wolf vulnerability, hunter success, and the influences and outcomes of various regulation components needs to be gleaned through time. Information derived from mandatory harvest reporting, mandatory carcass checks, results from the telephone harvest survey, and ongoing field monitoring of wolf packs will all contribute to FWP's knowledge and understanding.

Some additional considerations about the major components of the wolf season structure and public comments are addressed below. It is important to note that there is a high degree of interrelatedness among the various season components and their relevance to regulating wolf harvest and the outcomes. For example, season dates and quota levels combined determine wolf vulnerability and harvest effects on the population, but only insofar as methods of take are considered in an integrated way. Therefore, biological considerations for wolf conservation (i.e. population status, connectivity within Montana and among the states of Montana, Idaho, Wyoming, conflicts with livestock, status of prey populations, etc) are imbedded throughout the entire season package proposal.

Considerations for Season Dates

FWP received a lot of comment that the fall hunting season should run later than the end of November. Comment also spoke to the low quality of pelts from wolves harvested in the early fall (under the tentative dates initially proposed) and recommended the fall hunting season start later. Some comments also suggested that the actual season dates were irrelevant since total mortality would be regulated by quota/permit system. Another predominant theme in public comments regarding the season dates had to do with potential impacts to pack stability and persistence if a breeder is killed – with a suggestion that increased livestock conflicts would result conflict and a concern for the security of Montana’s overall wolf population status.

Inference about increasing livestock conflicts if a pack loses its breeder are speculative at this time, as no data have been analyzed and published on that question. Peer-reviewed publications at the current time are limited to the implications of breeder loss to the pack itself, reproduction the following year, etc. It would be inappropriate to extrapolate those data to suggest more livestock would be killed if a breeder were lost to hunting.

FWP weighed the comments about season dates relative to conservation concerns based on wolf biology. The actual timing of harvest has important biological considerations and the amended season dates reflect public comment as well as wolf biology.

Wolves live in packs and breed once per year. Pups are born in the spring and the pack uses a series of focal areas called rendezvous sites through the late fall. Wolves disperse usually as singles and usually beginning in December, in search of a mate to establish a new territory or occupy a vacant territory or to find a breeding opportunity in an existing pack. Dispersal and breeding season blend together through mid-February when the peak of breeding occurs.

Closing the season in late December allows 4-6 weeks for wolf packs to replace breeders that may have been harvested or died for some other reason (e.g. vehicle strike or due to livestock conflict). It also assures that harvest will not orphan dependent pups in a den in spring. Although dispersing wolves would be vulnerable to harvest, dispersers have a lower survival rate than pack-affiliated wolves in general. Limiting the winter hunting quota to a smaller, finite fixed percentage of the fall season assures that only a pre-determined number could be harvested at this important phase of annual life cycle of a wolf / wolf pack.

FWP’s recommendation to open the fall season later than originally proposed is also in response to public comment. Montana hunters suggested that the additional “opportunity” of having a longer wolf season was not worth the tradeoff of diminishing the conservation value and appreciation for a wolf taken when the pelt is not in prime condition. Furthermore, there could be safety concerns and user conflicts if firearms hunting for wolves were ongoing during archery season. An additional biological consideration is that there is a remote possibility that wolf packs may still be using a rendezvous site in September. Another biological consideration is that wolf mortality due to livestock conflicts typically increases in August / September. While quotas will be established considering this source of mortality in advance, FWP recognizes that it needs flexibility to address wolf depredations on livestock and that it needs to consider all wolf mortality within the context of reproduction and population status to maintain a secure population overall.

Considerations for Methods of Take

FWP received considerable comment regarding methods of taking wolves by firearms and traps. The majority of these comments spoke directly to trapping, having been submitted by trappers and non-trappers alike. In sum, public comment led FWP to recommend not adopting a special permit trapping opportunity in either year of the biennium. The season structure for a special December trapping season itself is still included, but trapping would not occur, as no special permits would be issued in year 1 or in year 2.

Trappers in particular had concerns about the special winter trapping season as initially proposed by FWP. Comment suggested that more time was needed to design the specifics of wolf trapping season and to accomplish important public outreach and education regarding wolf trapping. Other comment suggested that trapping should not be allowed at all. Therefore, FWP opted for the cautious approach and recommended that no trapping would be implemented during the biennium.

Nonetheless, in lieu of not implementing trapping the first two years, FWP is recommending that hunters may hunt in the absence of trapping in December. The December quota would limit hunters to no more than 25% of the total quota. This is in response to comments that the season should extend longer. In addition, it is another way that FWP can take an adaptive approach and learn more about wolves and hunters in two discrete time periods – fall general season and an early winter period that may include snow cover and different access patterns.

Considerations for Wolf Management Units

FWP has given a great deal of thought to where and how to delineate WMU boundaries. The proposed WMU boundaries were determined on the basis of real biological differences in the wolf sub-populations in each of the three areas, the resolution with which wolf packs occupy the landscape, and FWP's intent to avoid micro-management of individual packs. At this time in Montana, wolf packs are not continuously distributed on the landscape as is the case for packs on the northern range of Yellowstone National Park or is the case with deer or elk. Packs typically exist as discrete units with "vacant" space between them, although there are some exceptions in western Montana where the population has increased in recent years. Managing larger units may be more appropriate for an animal that occurs at relatively low densities across a broad western Montana landscape.

FWP received many comments that the proposed harvest units were too large to actually manage wolf packs and wolf numbers in a spatially explicit way that accomplishes management objectives. Spatially directed harvest could provide some relief either proactively or reactively with wolf-livestock conflicts, human safety considerations, and/or prey population concerns. FWP also received a few comments expressing concern for the safety of wolf packs that travel outside national park boundaries for part of the year and could be vulnerable to harvest.

Unit boundaries, in conjunction with quotas established at the WMU level, season dates, lethal methods of take, and wolf pack distribution will all, in combination, determine how well management objectives are accomplished. In reality, the spatial distribution of harvest will only be directed in part by where the unit boundaries are actually drawn. Perhaps as important will be the distribution and size of individual wolf packs and how accessible those packs are to people and how wolves move about on the landscape relative to access and timing of hunter presence and the methods of take permitted. Montana's fragmented landscape and relatively good public

access throughout the network of public lands in western Montana where wolves occur could facilitate hunter access to wolves and hunter success at the appropriate scale and in ways similar to hypothetical smaller units. Spatial distribution of harvest will ultimately be determined by how and where wolves occupy the landscape, which is something that is still being determined by the interactions of social and biological factors, given that wolves have only been on the ground in northwest Montana for about 20 years and half that time in the rest of the state.

FWP believes at this time that larger units are appropriate to start with, until more can be learned about wolves, hunters, and the Montana landscape and how they interact given the final regulations. Wolf packs in Montana have very large, discrete territories with unoccupied area between packs. It is quite likely that territory sizes estimated by FWP using conventional telemetry technology underestimate territory sizes of packs having 1-2 radio collars that are flown 10-12 times per year. One wolf, as a part of a research project in Montana had a global positioning satellite radio collar. Based in very preliminary information, the travels of that pack-affiliated animal suggested how significantly underrepresented wolf pack territory sizes have been depicted on FWP maps. FWP believes that WMUs need to encompass large enough areas to incorporate many packs and not just a few.

Smaller WMU sizes would create a finer scale ability to attempt to direct harvest in areas of higher wolf-livestock conflict and could in fact establish public harvest as a potential “response” to actual depredation incidents. However, public harvest is not necessarily viewed as timely or able to target specific packs or offending individuals effectively enough to resolve a specific depredation incident. This is due to the behavior of wolves and their travel capability relative to damage site and the potential necessity to gain access to nearby private lands. Nonetheless, FWP has had some measure of success with addressing conflicts caused by other species with licensed hunters and trappers. The proposed management units would not necessarily preclude harvest by hunters in known areas of higher conflict potential.

Within the context of adaptive management, FWP expects to learn a great deal in the first few years of implementing a wolf season and will make adjustments as more is learned through monitoring of harvest outcomes and wolves. Unit boundaries can be adjusted in the future to address concerns, unanticipated outcomes, and unintended consequences.

Considerations for Harvest Limits and Quotas

A quota system allows the most opportunity for license holders, but allows FWP and the Commission to strictly control the total number of animals harvested. Overall, a statewide and an individual WMU quota would be adopted. Mandatory reporting within 12 hours of taking a wolf, as well as the ability to close a season within 24 hours are important aspects of implementing a quota system successfully.

FWP is recommending that not more than 25% of the total allowable WMU quota be reserved for the winter hunting period in the absence of trapping. Only 25% of the total WMU quota would be available for winter harvest in December in the absence of trapping. In the absence of trapping, 100% of the total WMU quota could take place in the fall prior to December 1. In that case, there would be no December hunting opportunity. Timing of harvest and level of harvest are important considerations for the December time period.

The Department is not proposing tentative quota or permit levels (i.e. how many wolves could be taken and where) at this time due to the uncertainty about when a season could be implemented for the first time and what the actual wolf population minimum estimated size will be at the time of successful delisting. Therefore, the Department will defer the actual quota / permit discussion for a later time.

However, during the tentative season setting process, FWP did explore and discuss a range of harvest scenarios to get a “first glimpse” at potentially appropriate and conservative levels that would not jeopardize the population or cause it to drop below 15 Breeding Pairs in the first year. FWP completed a numeric exercise to model the effects of an initial (first) harvest season on wolf population parameters in the following year. FWP outlined the model’s assumptions and limitations clearly in previous documentation provided to the Commission. FWP fully expects to explore alternative approaches and consider new data when quota/permit discussions occur in the future.

Important considerations will be: the size of the Montana wolf population, pack distribution, number of breeding pairs, other sources of mortality and the timing of that mortality, reproduction, status and management of wolves in Idaho and Wyoming, livestock conflict patterns and trends, disease, status of prey populations, and any changes to the wolf season structure that could affect wolf vulnerability to harvest or potential hunter success.

The future decisions about quotas could be more important initially than the specifics of a wolf season structure since FWP does not have any direct experience with implementing wolf hunting and trapping. While wolf seasons in Alaska and the Canadian provinces provide a basis for comparison and examples to learn from, wolf ecology, wolf management goals and objectives, the landscape itself are all quite different from Montana. FWP is committed to maintaining at least 10 Breeding Pairs and assuring the long-term security and conservation of the Montana population. FWP is also committed to moving forward, though cautiously, with incorporating responsible hunting and trapping into the overall wolf management program.

FWP is working with the University of Montana Cooperative Wildlife Research Unit to develop standardized monitoring methods for monitoring wolf populations over time. One method being evaluated is the use of wolf sightings by big game hunters. As part of that evaluation, questions of deer and elk hunters about wolf sighting have been incorporated into the 2007 hunter harvest survey, with results available in June, 2008.

2. Why is the proposal necessary?

It would facilitate timely implementation of a wolf hunting season and adoption of appropriate quotas at subsequent Commission meetings upon successful delisting.

3. What is the current population’s status in relation to management objectives?

FWP refers the Commission and other readers to the more detailed information previously provided for the December 2007 meeting. FWP provides another brief summary of the status of the Montana population.

Biological recovery was first achieved in 2002 and the northern Rockies population has exceeded recovery goals each year since. Both the Montana and the northern Rockies

populations have increased each year, respectively. The Department monitors the statewide population and reports a minimum estimated number of total wolves and Breeding Pairs on December 31 of each calendar year. Figures 1 and 2 show trends 1979 – 2007. At the end of 2006, Montana had a minimum of 316 wolves and 21 Breeding Pairs. At the end of 2007, preliminary estimates are a minimum of 417 wolves and 38 Breeding Pairs.

The increase in the Montana wolf population since 2004 is due in part to the Department's increased monitoring efforts compared to previous federal efforts. It is also due in part to real numeric increases in the population, as reflected by the increased number of verified packs (defined as any two or more wolves traveling together and holding a territory). In recent years, the increase in the Montana population has occurred in western Montana, and particularly along the Montana-Idaho border. Wolf numbers in the Montana portion of the Greater Yellowstone recovery area have been relatively stable or only slightly increasing.

FWP monitors the wolf population on a continuing basis, year round with dedicated field staff. Each year, an estimate is reported on December 31 of each calendar year. The estimate is a "snap shot" of the minimum number of wolves, packs of two or more wolves and Breeding Pairs according to the federal recovery definition. The snap shot estimate is conservative as FWP only reports verified wolf packs and individuals known to be alive. The actual number of wolves in Montana fluctuates throughout the year due to immigration, emigration, birth and death. The estimate could be a different number on any given day as the year progresses.

However, the December 31 snap shot is the "official" minimum count for the purposes of documenting that Montana is maintaining the minimum number of Breeding Pairs required to prevent a relisting and to know whether there are at least 15 Breeding Pairs and public harvest could occur. By the December Commission meeting of each year, FWP will have a good idea whether there are at least 15 Breeding Pairs and would present a tentative proposal as a part of the biennial season setting process if appropriate. The quota-setting process would occur after the final estimates are made and reported in the annual report summarizing the previous year's data. While there is a lag time by default relative to the timing of when decisions are made by FWP and the Commission, current year's production and mortality data would be available and incorporated into the decision process.

FWP will continue its monitoring efforts and will report the minimum numbers, knowing that there likely are additional wolves present in Montana though not reflected in the estimate. No other species in Montana is monitored as intensively as gray wolves, with a public expectation that every wolf is counted. While an unrealistic expectation, FWP understands the public interest in wolf management and will continue to collect the best data possible and strive for reliable estimates.

Coordination with colleagues in Idaho and Wyoming will continue after delisting to assure that the states are meeting the northern Rockies recovery goals collectively and contributing the requisite number of Breeding Pairs individually.

4. Provide information related to any other factors that have relevance.

FWP refers the Commission and other readers to information previously provided for the December 2007 meeting.

5. Briefly describe the contacts you have made.

FWP refers the Commission and other readers to information previously provided for the December 2007 meeting. In those documents, public involvement and technical consultations with the University of Montana were summarized.

FWP posted the outcome and relevant supporting information about the tentative proposal adopted by the Commission during the December 2007 meeting on the FWP website. After that, FWP began receiving public comment on the tentative wolf proposal. Initially, the public comment deadline for all season proposals was February 1, 2008 to allow time for agency staff to review the comment, amend proposals, and forward all the comments and proposals to the Commission in advance of the February 2007 meeting. FWP received a request to extend the public comment deadline for the wolf season. FWP granted the request and the deadline is February 13.

FWP's summary of public comment received by February 4, 2008 was prepared as separate document from this one. Comment received between February 4 and February 13 2008 will be summarized separately and forwarded to the Commission via FED EX within 1-2 business days after the comment deadline.

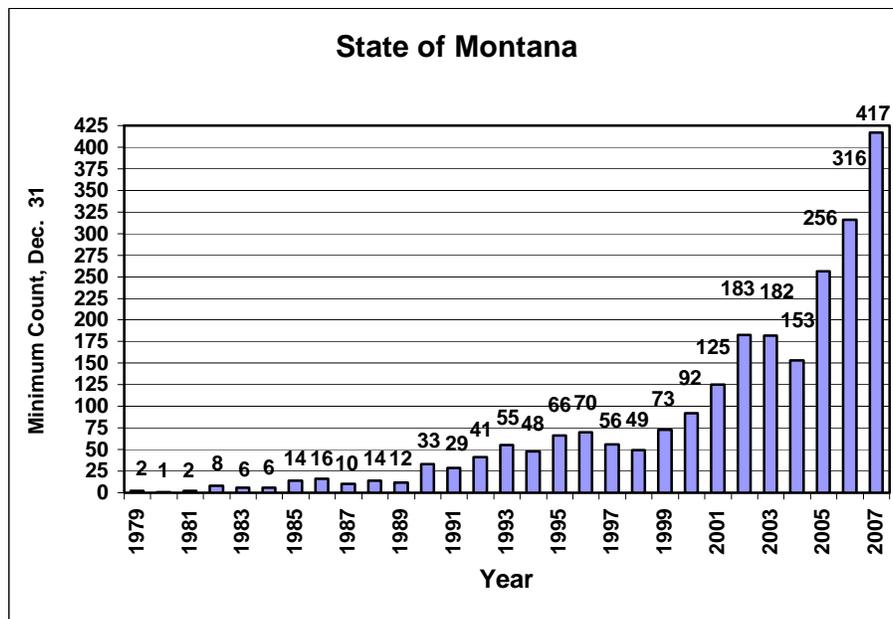


Figure 1. Minimum estimated number of wolves in Montana. The preliminary 2007 minimum estimate is 417 wolves. The final 2007 estimate will be available in March 2008.

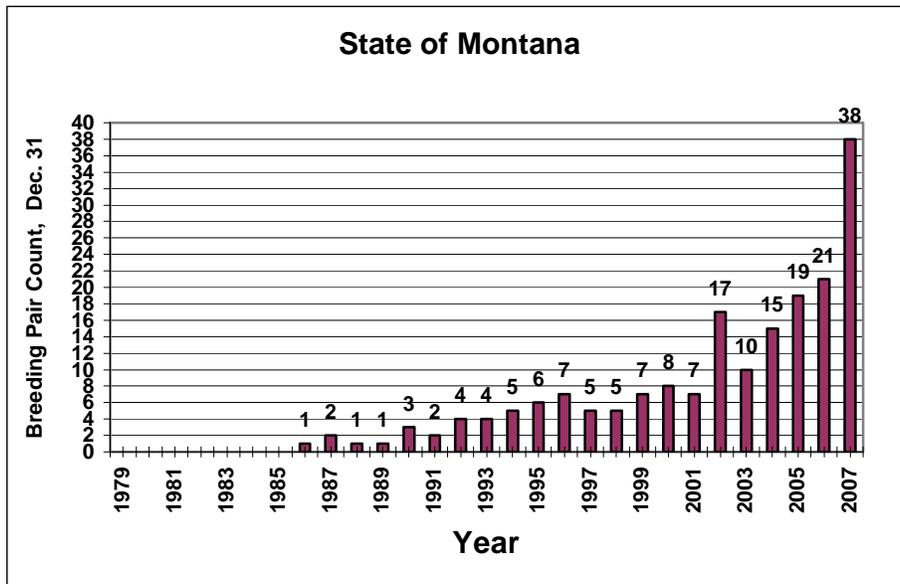


Figure 2. Minimum estimated number of Breeding Pairs by the federal recovery definition in Montana (an adult male and an adult female and at least 2 pups at the end of the year). The preliminary 2007 minimum estimate is 38 Breeding Pairs. The final 2007 estimate will be available in March 2008.

MONTANA FISH, WILDLIFE AND PARKS

HUNTING / TRAPPING SEASON SUPPORTING INFORMATION

MASTER LIST ADDENDUM 2: WOLF

Final FWP 2008 – 2010 Hunting Season Proposal to FWP Commission, February 20, 2008.

The Department has proposed an amendment to the Wolf Tentative for the Commission's consideration. This proposed amendment or option is highlighted by shading. In addition, the Commission may consider other amendments.

Wolf

Add language to regulations: **During annual quota setting, specific areas (i.e., sub-areas) may be defined and assigned harvest sub-quotas.**

Discussion:

Overall, this proposed tentative regulation creates the basic season structure for a quota-based public harvest through hunting, with the trapping season deferred for the first two years. Public harvest as a management tool is one of many strategies in the overall Montana wolf program. The goal of Montana's wolf program is to conserve and maintain the recovered status of the Montana and Northern Rockies populations, respectively, and in perpetuity. This proposed amendment further refines the regulatory framework under which the number of wolves harvested and the areas from which they are harvested are determined on an annual basis during future quota-setting processes. It would increase FWP's ability to manage harvest appropriately and conservatively.

Wolf recovery in the Northern Rockies was predicated on having an adequate number of wolves distributed and functioning as a meta-population throughout the states of Montana, Idaho, and Wyoming. A key biological conservation principle underpinning the federal recovery effort is known as "connectivity." At its most practical level, connectivity requires that management strategies safeguard the potential for sufficient numbers of dispersing wolves to travel throughout the Northern Rockies Recovery Area and find other wolves with which to breed. Thus, the overall genetic diversity of the meta-population is maintained through a distribution of packs across the larger landscape with successful dispersal events (i.e. survival to become successful breeder) between and among the three states. Since the mid-1980s, wolf numbers have increased and wolf pack distribution has expanded within Montana and the Northern Rockies, indicating that wolf dispersal has been sufficient and successful. In fact, it has been so successful, that wolf recovery was officially achieved in 2002 and earlier than predicted. Early implementation of state-led management in Montana and Idaho has also been successful in maintaining a secure population in the two states, respectively, as wolf numbers and distribution have continued to increase. Wolf pack distributions within Montana and across the tri-state area as of December 31, 2007, respectively, are shown in Figures 1 and 2.

The original U.S. Fish and Wildlife Service wolf recovery plan zeroed in on the Northern Rocky Mountain states of Montana, Idaho, and Wyoming as being suitable for recovery efforts due to

numerous large blocks of public land (including Glacier National Park, Yellowstone National Park, Grant Teton National Park, and several large wilderness area complexes), the abundance of deer / elk, and lower potential for conflicts with people and livestock compared to other western states.

By the time the original federal recovery plan was revised, wolves had already begun recolonizing the North Fork of the Flathead River and the west side of Glacier National Park. Glacier National Park and the Bob Marshall Wilderness Complex were singled out as the anchor and foundation of the Northern Rockies recovery program very early on. This was due to: 1. the proximity of wolf packs on the Canadian side of the international border which then served as the “source” of dispersing wolves which established territories on the U.S. side of the border and initiated wolf recovery; 2. the low potential for conflicts with people or livestock; 3. fragmentation due to human development would not be a habitat consideration in the future; and 4. when combined, it represented a large contiguous block of public land capable of supporting and maintaining numerous wolf packs.

Breeding on the U.S. side of the international border was first documented in 1986 inside Glacier National Park. To hasten recovery progress, wolves were reintroduced Yellowstone National Park (Wyoming) and the wilderness areas of central Idaho – with the locations being selected based on their ability to serve as “core” habitat for a recovering population. Wolves would eventually disperse from these secure, remote areas and colonize vacant habitat at the southern extent of the tri-state recovery area. This would in turn lead to attainment of numeric and distributional goals of wolf recovery throughout the Northern Rockies. Each of the three states is required to maintain a minimum number of wolves and to assure connectivity within the Northern Rockies Distinct Population Segment.

Secure, core areas such as national parks and wilderness areas (where there is little to no conflict with people or livestock) are critically important to maintenance of the recovered population across the tri-state region and maintenance of each state’s numeric and distributional contribution to recovery. Each of the three states is required to maintain a minimum number of wolves and to have management strategies that contribute to maintaining the connectivity of the Northern Rockies wolf population as a whole.

The core area comprised of the Bob Marshall Wilderness Complex and Glacier National Park was identified early on as being important to facilitating recovery. Collectively, it is still widely recognized as Montana’s “core” habitat in the same way that Yellowstone National Park is the State of Wyoming’s “core” habitat and remote wilderness areas are Idaho’s “core” habitat. Core habitats are what provide secure areas for wolf packs to persist on the landscape and function as a source of dispersing wolves.

Dispersing wolves then occupy vacant habitat or fill vacancies within existing packs if breeders are lost due to mortality by whatever cause. Biologically, wolf populations are able to withstand relatively high rates of total mortality if there is a secure source of wolves to replace those lost. In highly fragmented habitats, a wolf population cannot maintain itself and high mortality rates cannot be sustained without a “source” wolf population nearby. Some key aspects of managing wolf mortality relative to population trajectory within Montana are: the number of mortalities, when the mortality occurs in the annual life cycle of a wolf pack, age and sex classes of the wolves removed or lost from the population, where the mortality occurs on the landscape relative to the distance to neighboring packs or core areas having resident packs, reproduction (litter size and pup survival), or disease affecting survival of adults and/or pups.

Historically speaking, the Bob Marshall Wilderness Complex and Glacier National Park have supported a smaller number of wolf packs than originally predicted. Lower ungulate densities compared to edges of the wilderness areas and lower elevations outside Glacier Park are thought to be contributing factors. Nonetheless, persistence of these packs and the ability of wolves to successfully disperse from these packs are important considerations with respect to fulfilling Montana's connectivity requirements. Montana's contribution to connectivity across the Northern Rockies can best be summed up as closely managing total wolf mortality and having a keen awareness of pack persistence (both inside and outside core habitat) and the overall population trend through monitoring efforts.

To this day, Glacier National Park functions as an important foothold to maintain connectivity between the Northern Rockies wolf population on the U.S. Side of the border and the more numerous and widely distributed wolf populations of Alberta and British Columbia. Furthermore, wildlife authorities in the two Canadian provinces look to the U.S. wolf population as a source of dispersing wolves to facilitate genetic diversity and continued maintenance of the southern most extent of the Canadian wolf population. Thus, Montana has a unique responsibility and a significant role to play to ensure connectivity between the Northern Rockies wolf population and the Canadian wolf population. Thus the conservation interest and value of Montana's wolf population is significant beyond our state's borders.

Although the vast majority of Yellowstone National Park lies within the State of Wyoming, it, too, serves as a source of wolves that disperse into southwest Montana (which is otherwise limited to the Glacier/Bob Marshall core area in northwest Montana). These dispersers also contribute to new packs forming in vacant habitat or replace breeding wolves otherwise lost from the Montana population. The Yellowstone Park population is the most likely secure source of wolves to disperse into southwest Montana east of I-15, helping to maintain adequate wolf numbers and connectivity between Montana and Wyoming. This is important considering the number of wolves killed in response to livestock conflicts in southwest Montana.

The timing of dispersal and breeding have important implications with respect to establishing a wolf hunting season. Wolves live in packs and breed once per year. Pups are born in the spring and the pack uses a series of focal areas called rendezvous sites through the late fall. Wolves disperse usually as singles and usually beginning in December, in search of a mate to establish a new territory or occupy a vacant territory or to find a breeding opportunity in an existing pack. Dispersal and breeding season blend together through mid-February when the peak of breeding occurs.

In its proposal, FWP is crafting a public harvest framework that factors in both maintenance of adequate wolf numbers and connectivity safeguards, with particular attention paid to dispersal. The framework outlines where wolves could be harvested (i.e. management units and the potential for creating sub-units through this proposed amendment) and the timing of the harvest (i.e. season dates and quotas allocated to pre-determined time periods).

At a future date when quotas are established, FWP will incorporate the element of the number of wolves that could be harvested through a quota system (with the potential for establishing sub-quotas). At that time, special consideration could be given to smaller, more specific geographic areas of conservation interest. Examples could be areas near national parks or backcountry wilderness areas of significant species conservation value or areas of chronic conflicts with livestock and high levels of agency-implemented lethal control.

The proposed amendment represents a fine-tuning of the number of wolves that could be harvested through a sub-quota and/or creating smaller sub-units. This assures that adequate safeguards are incorporated within the regulatory framework to meet overall wolf recovery numeric, distributional, and connectivity requirements, while at the same time offering an opportunity for the public to participate in wolf management in a manner similar to other managed species.

FWP has given a great deal of thought to where, when, and how wolf harvest should be designed with respect to conservation goals and implementing harvest to manage overall wolf numbers more proactively with respect to Montana’s fragmented landscape. The proposed WMU boundaries were determined on the basis of real biological differences in the wolf sub-populations in each of the three areas, the resolution with which wolf packs occupy the landscape, and FWP’s intent to avoid micro-management of individual packs. FWP received many comments that the proposed harvest units were too large to actually manage wolf packs and wolf numbers in a spatially explicit way that accomplishes management objectives. FWP also received comments expressing concern about public harvest of wolves from packs having territories that straddle national park boundaries and its implications for dispersal, assuring connectivity, and pack persistence in core areas. Still other comments suggested that hunters and trappers can assist proactively by harvesting wolves from packs that have a history of livestock conflicts.

Thus the proposed amendment is also brought forward to the Commission based on its own conservation merits, as well as in response to public comment.

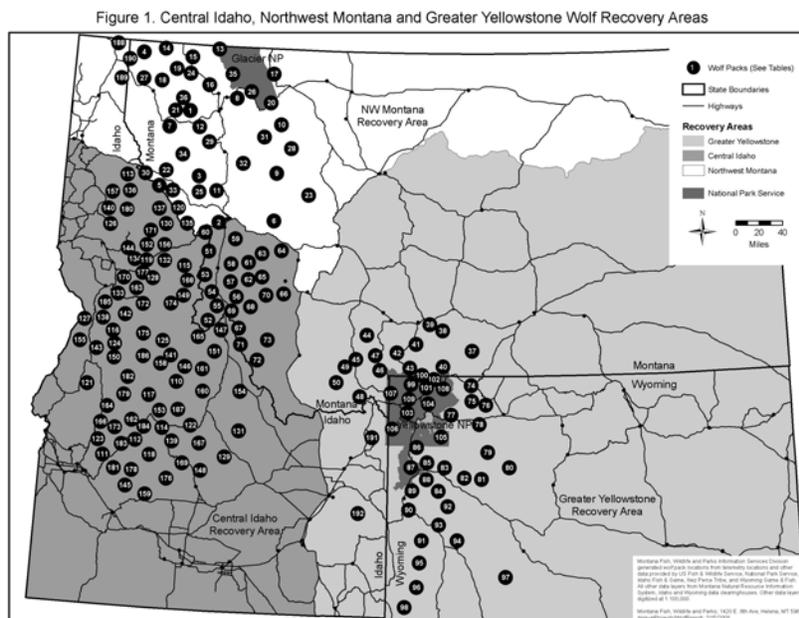


Figure 1. Wolf pack distribution in the Northern Rocky Mountain Recovery Areas of Central Idaho, Northwest Montana, and Greater Yellowstone, as of December 31, 2007.

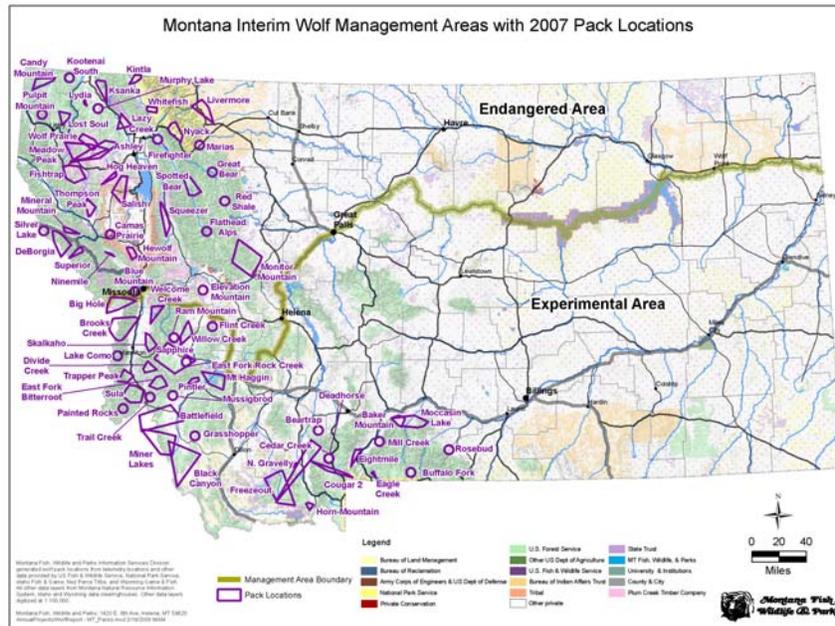


Figure 2. Montana wolf pack distribution, as of December 31, 2007. At that time, Montana had 73 packs of two or more wolves traveling together, 39 of which met the Breeding Pair criteria.

INTERESTED PERSONS LETTER DISTRIBUTED AFTER THE COMMISSION MEETING AND EXECUTIVE ACTION ON 2-20-08

The following is a general summarization of the FWP Commission's Final Adoptions for the 2008 and 2009 hunting seasons made at the February 20, 2008 Commission meeting.

Except for the specific adjustments listed below, season structure components from the previous biennium were adopted for 2008 and 2009. For further clarification you may call 444-2612. The full regulations will ultimately be posted on the FWP website at www.fwp.mt.gov under "Hunting" and "Regulations" as they become available for final printing and distribution. Efforts to those ends are ongoing.

Statewide

Hunting Season Dates

Dates set using traditional process. 2008 season dates for rifle deer/elk are October 26 – November 30.

Quotas

Adjust annual license and permit quota setting for deer, elk, antelope, moose, sheep, goat and bear to biennial. Ranges adopted biennially by Commission with annual FWP adjustments only within adopted range.

Wolf

Statewide

Only structure adopted--quota numbers addressed with separate future process. Modifications from Tentatives include clarification on scent and adjusting the start date to the opening of the general deer and elk season except for backcountry hunting districts open to early rifle season (September 15). Trapping would be excluded for the first two years with hunters allowed to harvest the 25% trapping quota during the trapping season (December 1 - December 31) in the absence of trapping. During annual quota setting, specific areas (i.e., sub-areas) may be defined and assigned harvest sub-quotas.

While a season structure has been adopted, license sales and a hunting season would not occur until wolves are successfully delisted and any pending litigation is resolved.

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
Colonial Red Lion
Helena, MT
FEBRUARY 20, 2008

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chair; Vic Workman; Dan Vermillion; Willie Doll.

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director, and FWP Staff.

Guests: See February 20, 2008 Commission file folder for those who signed in.

Topics of Discussion:

1. **Call to Order - Pledge of Allegiance**
2. **Approval of Commission Meeting Minutes of January 14, 2008**
3. **Approval of Commission Meeting Minutes of January 17, 2008**
4. **Approval of Commission Expenses through January, 2008**
5. **Recognition Award to Harold Wentland for 40 years of Service to FWP**
6. **Paddlefish Roe Committee Approval – Final**
7. **North Shore Conservation Easement – Final**
8. **2008-2009 Hunting Season Dates – Final**
9. **Biennial Quotas - 2008-2009 Deer, Elk, Antelope, Moose, Sheep, Goat, and Black Bear - Final**
10. **2008-2009 Wolf Seasons and Boundaries – Final**
11. **2008-2009 Game Damage Permit Authorizations – Final**
12. **2008-2009 Upland Game Bird and Turkey Seasons and Quotas - Final**
13. **2008-2009 Black Bear Seasons and HD Boundaries – Final**
14. **2008-2009 Moose, Sheep and Goat Seasons and HD Boundaries – Final**
15. **2008-2009 Deer, Elk and Antelope Seasons and HD Boundaries – Final**
16. **2008/2009 Lion Seasons and HD Boundaries – Final**
17. **Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. **Opening - Pledge of Allegiance.** Chairman Doherty called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.

2. **Approval of January 14, 2008 Commission Meeting Minutes.**

Action: Colton moved and Workman seconded the motion to approve the January 14, 2008 meeting minutes. Motion carried

3. **Approval of January 17, 2008 Commission Meeting Minutes.**

Action: Colton moved and Vermillion seconded the motion to approve the January 17, 2008 meeting minutes. Motion carried

4. **Approval of January, 2008 Commission Expenses.**

Action: Workman moved and Doll seconded the motion to approve the January expenses as presented. Motion carried.

8. 2008-2009 Hunting Season Dates – Final. Season dates are currently adopted biennially for all game species with tentative adoptions set in December, and final adoptions set in February. These dates are a combination of fixed dates (mountain grouse; Sept 1 – Dec 15) and “formula” dates (general deer and elk; counting backwards five weeks from Thanksgiving Sunday). For the “formula” dates, there is an annual change due to the year-to-year progression of the calendar. That means at least one day’s difference and, periodically, nearly a full week. McDonald reported that the majority of the comments opposed setting fixed dates. The traditional process was preferred where the big game season opened five weeks before Thanksgiving weekend.

Action: Doll moved and Colton seconded the motion to retain the traditional process for setting the final 2008-2009 Hunting Season dates as recommended by the Department. Motion carried.

9. Biennial Quotas - 2008-2009 Deer, Elk, Antelope, Moose, Sheep, Goat, and Black Bear – Final. Season structures (dates, license types) are currently adopted biennially for all big game species. This happens every other winter with Tentative adoptions in December, and Final adoptions in February. Quotas (numbers of licenses and permits) are currently adopted annually in late spring and summer to take advantage of annual survey information gathered the preceding winter and spring.

This proposal would change the annual quota adoptions for deer, elk, antelope, moose, sheep, goat and black bear to a biennial process, which would also be in line with the current season-structure decision process. Commission adoption of mountain lion quotas would remain an annual process. If changes to quotas are significant and go outside of the established range, the decision would be brought before the Commission for approval.

Action: Colton moved and Vermillion seconded the motion to approve the Final quota ranges and biennial process as proposed. Motion carried.

10. 2008-2009 Wolf Seasons and Boundaries – Final. This final rule would create the basic regulatory framework and season structure for public harvest (e.g. management units, season dates, and other general regulations) for implementation upon successful delisting. Harvest levels would be determined by the Commission at a later date. FWP intends to proceed cautiously and conservatively to not jeopardize wolf recovery.

Modifications to the Tentatives include clarification on use of baits and scents, and adjusting the start date to the opening of the general deer and elk season except for backcountry areas (September 15). Trapping would be excluded for the first two years with hunters allowed to harvest the 25% trapping quota during the trapping season (December 1 - December 31) in the absence of trapping. During annual quota setting, specific areas (i.e., sub-areas) may be defined and assigned harvest sub-quotas.

Action: Colton moved and Vermillion seconded the motion to approve the final wolf season structure as proposed by the Department.

Chairman Doherty asked for public comment.

Gary Carvajal – suggested considering a September 15 opener.
Randy Neuberg, HFGA – unhappy with trapping quotas

Mac Minard, MOGA – supports the seasons as discussed, and understands withdrawing trapping. Supports the motion.

Janelle Holden, Livingston, Keystone Conservation – expressed thanks and support for the changes and the exclusion of trapping.

Tom Barnes, Dillon, MTA – wants to make trapping wolves a viable process when the time arises.

Barb Cestero, Bozeman, Greater Yellowstone Coalition – thanked the Commission and expressed support for the proposals.

Action on Motion: Motion carried.

11. 2008-2009 Game Damage Permit Authorizations – Final.

No proposed changes to the tentatives. Game damage quotas apply to management seasons and will convert to the biennial process.

Action: Doll moved and Workman seconded the motion to adopt the Final 2008-2009 Game Damage Permit Authorizations as recommended by the Department. Motion carried.

12. 2008-2009 Upland Game Bird and Turkey Seasons and Quotas – Final.

No quota changes from 2008. Game damage quotas apply to management seasons and will convert to the biennial process. Falconry limits are NOT in addition to hunting bag and possession limits.

Statewide

Youth pheasant weekend proposed for ~~weekend before general pheasant opener~~ **youth waterfowl weekend. Youth pheasant hunting would start at noon on these two days and would allow a single hen in the daily bag limit. Youth would be 12 - 15 and would need to be accompanied by a non-hunting adult 18 years of age or older.**

Action: Colton moved and Workman seconded the motion to approve a special youth pheasant weekend that would coincide with youth waterfowl day and would open at legal shooting light and would not allow one hen in the bag.

Chairman Doherty asked for public comment.

Undiscernable Name – supports this motion, but would rather see it happen the week before the opener.

Stan Frasier, Montana Wildlife Federation, supports the motion.

Glen Hockett, Gallatin Wildlife Association, supported the original proposal but approves of this motion.

Undiscernable Name – the changes do not reflect public comment. Does not like the noon opener. Supports the original proposal.

Action on Motion: Motion carried.

Region 1 (Turkey)

Lincoln County – Implement over-the-counter either sex licenses for Fall Season **and** propose 400 Gobbler permits for Spring.

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: June 12, 2008

Agenda Item: Initiate Formal Rule Making and Annual Tentative Wolf Quotas

Division: Wildlife

Action Needed: Direct Start of Rule Making and Approve Tentative Quota

Time Needed on Agenda for this Presentation: 30 minutes

Background: Regulated public harvest of wolves was first endorsed by the Governor's Wolf Advisory Council in 2000 and included in Montana's wolf conservation and management plan. In 2001, the Legislature authorized the Commission to reclassify wolves under state law from an endangered species to a species in need of management upon federal delisting. The U.S. Fish and Wildlife Service delisted wolves from the Endangered Species Act in early 2008.

The Commission adopted a regulatory framework and season structure for public harvest (e.g. management units, season dates, and other general regulations) of wolves in February 2008. Reclassification of wolves as a species in need of management and adoption of harvest quotas are the next regulatory steps for the FWP Commission.

Reclassification of wolves will be accomplished through an Administrative Rule (ARM) process. This rule will also include wolf conflict management guidelines.

FWP intends to proceed cautiously to ensure continued wolf recovery. FWP proposes a statewide quota of 75 wolves with individual Wolf Management Unit (WMU) quotas of 38, 22, and 15 respectively in WMUs 1, 2 and 3. Further, not more than 2 wolves may be taken within a specifically described area adjacent to and west of Glacier National Park.

Public Involvement Process & Results: The state's wolf plan and the recently adopted harvest framework regulations are based on the recommendations of the Wolf Advisory Council and extensive public involvement. Any proposed quota adopted on June 12 will be submitted for public comment thru at least July 18 with any final quota adoption slated for August 5.

Alternatives and Analysis: Alternatives include modifying the proposal or not adopting wolf quotas or management classification at this time. Not adopting a quota would not recognize biologically sound harvest opportunities identified at this time and would be inconsistent with Montana's wolf plan.

Agency Recommendation & Rationale: The approved season structure with proposed quotas and species classification allow conservative public harvest. Public harvest may proactively manage numbers to help address livestock depredations.

Proposed Motion: I move to direct FWP to initiate formal rule making to reclassify the gray wolf from state endangered species to a species in need of management and that the Commission adopt the tentative the wolf harvest quota as proposed by the Department.

PROPOSED FORMAL RULEMAKING FOR THE GRAY WOLF

— INFORMATIONAL SUPPLEMENT —

Background and Introduction

The U.S. Fish and Wildlife Service (USFWS) required the states of Montana, Idaho, and Wyoming to develop conservation plans and amend state laws that regulated wolf mortality to assure that the northern Rockies wolf population would be secure after the species was removed from the federal list of threatened and endangered species.

In 2001, the Montana Legislature made the necessary adjustments to Montana Code Annotated regarding predatory animal control. SB163 also outlined a process for delisting of the gray wolf from the state endangered species list upon delisting from the federal list. Subsequent Legislatures passed additional laws, including creation of a wolf hunting license and penalties for unlawful taking in 2007.

In 2003, Montana Fish, Wildlife & Parks (FWP) completed the Montana Wolf Conservation and Management Plan and final environmental impact statement. In 2004, the U.S. Fish and Wildlife Service approved the Montana plan and state laws as being adequate to maintain a recovered population.

In March 2008, the USFWS decision to delist the Northern Rocky Mountain Distinct Population Segment took effect. Wolves were officially delisted from the federal Endangered Species Act and were protected under Montana law as a state endangered species. The Montana Wolf Conservation and Management Plan also took full effect.

FWP and the FWP Commission have begun the process of finalizing and implementing administrative rules that describe how FWP will manage wolves as a species in need of management under the guidance of the plan. FWP and the Commission need to complete final administrative rules to assure a complete transition and integration of the gray wolf into Montana's wildlife programs.

Topics to be Addressed

FWP needs to conduct formal rulemaking to update the Montana Fish, Wildlife & Parks administrative rules.

Currently, Montana administrative rule classifies the gray wolf as a state endangered species. With federal delisting and based on Montana's experience, the wolf population is secure and is expected to remain so. The FWP Commission and the Department can adopt joint rules that change the wolf's classification from a state endangered species to a species in need of management. The Commission may not implement a regulated hunting season for the wolf in the fall (2008) until the wolf is reclassified as a species in need of management.

Currently, FWP is implementing the Interim Guidelines to Resolve Wolf-Livestock Conflicts and Ensure Human Safety approved by the FWP Commission at the April 17 meeting. FWP has

been implementing these Guidelines on an interim basis because the Montana endangered species law allows taking by FWP. Nonetheless, FWP asked the Commission to approve them so that FWP would have clear direction about how it would exercise its discretion to address wolf-livestock conflicts and how lethal control would be implemented.

The current proposed rulemaking effort will also incorporate these Guidelines so they may become final. Upon delisting from the state endangered species list, administrative rules would then be in place to govern how FWP may control wolves when they are reclassified as a species in need of management.

FWP will review other administrative rules and state law that pertain to the gray wolf regulatory framework for possible inclusion in this effort to assure a complete framework and to clear up inconsistencies or clarify ambiguity. Potential topics that will be considered for inclusion are: wolf license auction procedures (currently, no rules address this possibility which is now provided in statute) and existing FWP administrative rules pertaining to captive wolves and wolf-dog hybrids.

Process

To adopt administrative rules, FWP and the FWP Commission will have to follow very specific time frames and procedures, as directed by the Montana Administrative Procedures Act.

At the June 12 Commission meeting, FWP will make the proposed draft rules available for Commission consideration and signature. FWP will file the draft rules with the Secretary of State June 16, the following Monday. The draft rules will be available for public review and three public hearings will be held sometime between June and late July. FWP will review and compile public comments and have the final rules ready for Commission consideration and signature at its August 5 meeting. FWP will then file the final rules by the end of August so they will be in place by the beginning of September.

FWP is expecting to undertake and complete final rulemaking efforts on this timeline. However, the USFWS decision to delist the gray wolf in the northern Rockies has been challenged in federal court and an injunction has been requested. Recently, FWP argued that an injunction was not necessary or warranted for Montana. A federal judge is expected to rule on the preliminary injunction request relatively soon. Montana will abide by the terms of any preliminary injunction issued by the federal court. A preliminary injunction, that includes Montana, will probably mean that the wolf would continue as an endangered species under the federal Endangered Species Act and that FWP's rulemaking to reclassify the wolf, initiate a hunting season, and to adopt rules for control of predating wolves would be stopped.

MONTANA FISH, WILDLIFE AND PARKS

HUNTING SEASON/QUOTA CHANGE SUPPORTING INFORMATION

Species: Gray Wolf

Region: Statewide

Hunting District: Wolf Management Units 1, 2, and 3, respectively

Year: 2008 Hunting Season

1. Describe the proposed quota change and provide a summary of prior history.

Background

Gray wolves were recently delisted from the federal Endangered Species Act. The Montana wolf plan outlines an adaptive management framework, through which the Department will integrate gray wolves into its human and natural landscape (Montana Fish, Wildlife & Parks 2003). Wolves will be conserved and managed in conjunction with Montana's other resident wildlife. As a part of that, FWP and the FWP Commission can consider implementing a wolf hunting season so long as there are at least 15 breeding pairs in the state. At the end of 2007, FWP documented a minimum of 39 breeding pairs.

In February 2008, the FWP Commission adopted a final wolf hunting season structure using a quota-based system in which the number of wolves that could be legally harvested is pre-determined and adopted on an annual basis. The Commission approved three Wolf Management Units (WMU). The season structure itself also assured that regardless of the exact quota number adopted by the Commission, safety nets were incorporated so that wolves would not be over harvested.

These included:

1. Establishing quotas at a time of year (tentative in July and final in August) so that the most current monitoring data could be considered;
2. Creation of a 1-800 hotline update so that hunters would know whether or not wolf harvest was legal (i.e. quota was open) prior to going hunting;
3. Mandatory reporting of successful harvest within 12 hours so FWP can closely monitor hunter success and quota status;
4. Mandatory carcass inspection within 10 days;
5. Closure of the season upon a 24-hour notice when a WMU the quota is filled;
6. FWP authority to initiate a season closure prior to reaching a quota when conditions or circumstances indicate the quota may be reached within 24 hours;
7. Definite season-ending closure date, regardless of whether the quotas were reached;
8. Emergency season closure at any time by order of the FWP Commission.

FWP did not recommend, nor did the Commission adopt quotas in February 2008. However, the Commission received information about how the Department might approach future quota recommendations. At a previous Commission work session, the Department also presented information about the adaptive management framework with respect to wolf population status, monitoring efforts, and the integration with other management decisions such as harvest.

It is important that FWP fully considers potential harvest quotas relative to the commitment to maintain a recovered Montana population and that its secure status not be jeopardized after the first

year of public harvest or at anytime thereafter. Montana must also consider its unique responsibility to assure connectivity with other wolf populations in British Columbia, Alberta, Idaho, and Wyoming.

An additional consideration when adopting harvest quotas is Montana's "defense of property" law that allows a person to haze, harass, or kill a wolf seen actively harassing, biting, wounding, grasping, or killing livestock. The defense of property statute (MCA 87-3-130) took effect upon delisting when federal regulations expired. State law expands to northern Montana (where wolves were previously classified as federally endangered and take in the act by private citizens was prohibited) what citizens in southern Montana could already do to protect their livestock. While Montana's highest livestock densities and most wolf-livestock conflicts occur in southern Montana, wolf packs across northern Montana can and do encounter livestock. FWP expects a small number of wolves could be killed there when caught in the act of killing or threatening to kill livestock given the increased flexibility newly available under state law. Numbers killed across southern Montana (4-7 per year thus far) could offer a reasonable approximation.

When contemplating a season structure for wolf harvest, FWP completed a simulation modeling exercise to provide insight into the effects an initial harvest season would have on wolf population parameters in the following year. The primary goal of the simulations was to gauge the risk posed by implementing a quota-based harvest system in three wolf management units by predicting the population's status the following year. The sideboards were to determine potentially appropriate harvest levels that would not jeopardize the population or cause it to drop below 15 breeding pairs if hunters successfully harvested 100% of the allowable quota. More detailed information about the model and the range of harvest rate scenarios in each of the three wolf management units was previously provided to the Commission at its December 2007 meeting. (See Wolf Harvest Model Simulations for Future Quota Discussions, Informational Supplement).

The basis for the simulations was a model of wolf population dynamics that included output on the number and size of wolf packs and the total number of wolves. The model included birth, death, immigration, and emigration vital rates for each of the three wolf management units, as well as the pack-living social structure of wolves. Many assumptions were necessary, though they were made conservatively.

FWP intends to implement harvest in such a way as to not jeopardize population viability and species recovery. Regulated public hunting as a wildlife management tool helps balance wildlife populations with ecological and social carrying capacities. Moreover, fair chase, regulated public hunting will enhance acceptance of wolves because the public will more fully participate in wolf management. This is in alignment with their conservation ethic and the state's hunting heritage and tradition, ultimately developing an additional constituency through time much in same way as witnessed for mountain lions.

Proposed Quota

In its initial exploration of potential harvest quotas, FWP ran the model to determine harvest levels that would not reduce current wolf numbers (422 wolves, 39 breeding pairs in 73 packs as of December 2007). To keep the wolf population at its current level, the model predicted that a total of 115-160 wolves could be harvested in the fall of 2008 and the population would remain stable.

FWP has carefully considered the need to begin wolf harvest conservatively due to uncertainty. There are many sources of uncertainty, not the least of which is that wolves have never been hunted in Montana as a protected and managed species through fair chase, regulated means.

FWP does not have a valid, reliable way of predicting participation, hunter success, wounding loss, spatial distribution of harvest, and wolf vulnerability to harvest in the first year. All would be assumptions, with no way of validating them until after the fact. Furthermore, FWP does not have any previous experience with how many wolves would be killed by private citizens when caught in the act of killing or threatening to kill livestock in Northern Montana WMU 1. That ability was previously not allowed by federal regulations but is now under Montana's defense of property statute. Subsequent population monitoring efforts and the adaptive management framework will allow FWP to learn and reduce the level of uncertainty as it gains more experience through time.

Therefore, FWP is proposing a total statewide quota of 75 wolves. The Department re-ran the models and determined that a total quota of 75 wolves equates to about an 18% harvest rate in each of the three WMUs. This harvest rate is well within the range of sustainable harvest rates based on the literature and the current Montana wolf population level (Fuller et al. 2003). A quota of 75 is approximately one-half of the harvest that the model predicted would maintain the current wolf population.

FWP is proposing a quota of 38 wolves in WMU 1, 22 wolves in WMU 2, and 15 wolves in WMU 3. See Table 1 for the proposed quotas and Figure 1 for the predicted outcome.

Furthermore, under a separate proposal, FWP is proposing a subquota in the North Fork Flathead subunit of WMU 1.

2. Why is the proposed change necessary?

FWP revised its thought process and decreased the quota from what was previously discussed after reconsidering all sources of uncertainty and out of a desire to be conservative. FWP expects that much will be learned about the level of hunter interest in harvesting a gray wolf, the extent to which wolves on the Montana landscape are vulnerable to harvest, how successful Montana hunters will be, and how the population responds. The adaptive management framework allows FWP to learn and adjust quotas levels in the future. Factors that FWP will consider in future quota-setting efforts will include livestock losses due to wolves, status of ungulate populations, and the status of the wolf population.

3. What is the current population's status in relation to management objectives.

The Montana wolf population is securely recovered, though dynamic. The most recent count from December 2007 was a minimum of 422 wolves in 73 packs, 39 of which were breeding pairs (Sime et al. 2008). The population has trended upward since the mid 1980s and most noticeably since 2004.

The number of breeding pairs is comfortably above the 15 breeding pairs level required to offer harvest opportunity. Furthermore, the total number of wolves and the number of breeding pairs are also comfortably above levels which could trigger relisting under the federal Endangered Species Act.

4. Provide information related to weather/habitat factors that have relevance to this change.

Initiation of a wolf hunting season will help FWP manage and fine-tune wolf numbers and distribution more proactively. Anecdotal evidence over the last several years seems to indicate that larger packs may have a greater tendency to depredate livestock than when the same pack had fewer members. FWP believes that public hunting (and trapping at some future date) will help maintain smaller pack sizes for those packs which routinely encounter livestock.

5. Briefly describe concerns with this proposal or contacts made.

FWP has not put forth a proposed quota for public comment previously. If the FWP Commission adopts a proposed quota at the June 12 meeting, it would be available for public comment through July 18th. FWP would analyze public comments and make a recommendation to the Commission for their consideration in August.

Prior to finalizing a wolf season structure, FWP met with the Montana Wolf Advisory Council in December 2007. A wide variety of topics related to wolf harvest were discussed, including possible quota levels. FWP's proposed quota of 75 is less than the Council recommendation of about 120. However, the Council did recommend a conservative, cautious approach initially, with increasing quotas and opportunity provided commensurate with increases in the wolf population itself. In essence, FWP and the Council are of similar mind to initiate public harvest in a conservative, measured way and adjust harvest opportunity in the future in accordance with the provisions of the Montana Wolf Management Plan, considering biological and social factors and the status of the wolf population.

FWP and the FWP Commission did receive comments on the wolf season structure previously in January / February 2008. Copies of comments and a summary were provided to the Commission at that time. Some comments specifically addressed possible quota levels.

Lastly, the U.S. Fish and Wildlife Service decision to delist wolves in the northern Rocky Mountains was challenged in federal court in April 2008. The State of Montana and FWP were granted intervenor status. The plaintiffs requested a preliminary injunction on all three states while the lawsuit proceeds. If granted, the injunction would likely return the gray wolf back to their federally classified status of endangered across northern Montana and experimental across southern Montana.

At the injunction hearing on May 29, FWP requested that the court consider Montana separately from Idaho and Wyoming. FWP argued that a preliminary injunction is not appropriate in Montana because the Montana wolf population is secure and the state's plan and laws will adequately regulate wolf mortality and not jeopardize the population. At this time, the court has not issued a decision. FWP and the FWP Commission would be prevented from implementing public hunting in fall 2008 if a judge grants the injunction request.

References:

Fuller, T. K., L. D. Mech, and J. F. Cochran. 2003. Wolf population dynamics. Pages 161-191 *in* Wolves: Behavior, Ecology and Conservation. L. D. Mech and L. Boitani, eds. University of Chicago Press, Chicago. 448pp.

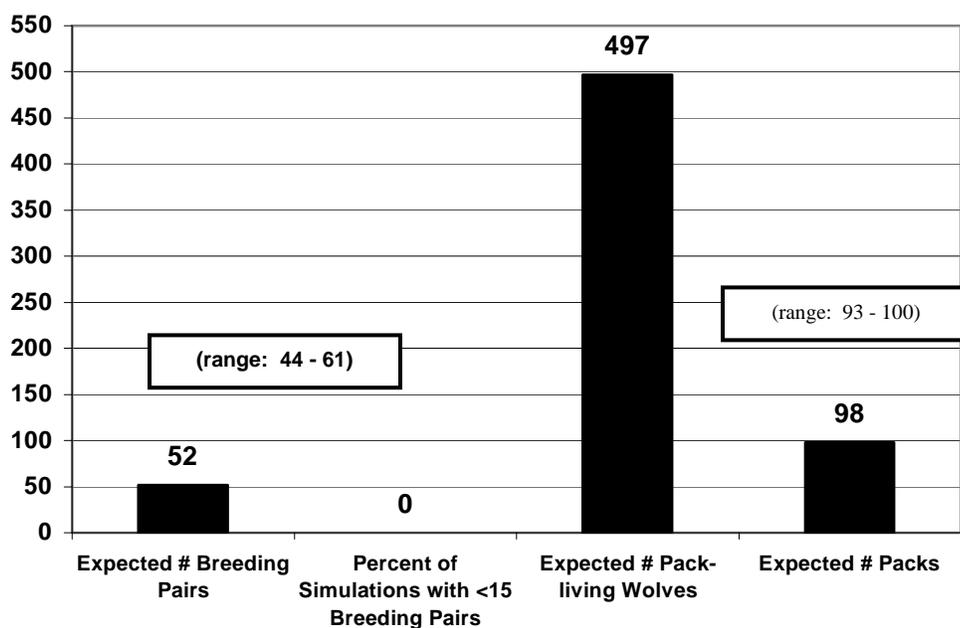
Montana Fish, Wildlife & Parks. 2003. Montana gray wolf conservation and management plan. Final environmental impact statement. C. Sime, ed. Montana Fish, Wildlife & Parks, Helena. 420pp.

Sime, C. A., V. Asher, L. Bradley, K. Laudon, M. Ross, J. Trapp, MJ. Atkinson, and J. Steuber. 2008. Montana gray wolf conservation and management 2007 annual report. Montana Fish, Wildlife & Parks. Helena, Montana. 137pp.

Table 1. Proposed harvest rate and quota in each of three Wolf Management Units. FWP’s proposal of a North Fork Flathead subunit / subquota of 2 wolves within WMU 1 is also shown (see separate quota proposal).

	Harvest Rate	Proposed Quota
Northern Montana, Unit 1; (North Fork Flathead subunit)	18%	38 (2)
Western Montana, Unit 2	18%	22
Southwestern Montana, Unit 3	18%	15
TOTAL STATEWIDE		75

Figure 1. Predicted wolf population of 497 wolves after the first year of harvesting of a total of 75 wolves statewide (18% harvest rate in each WMU). There is no risk of the lower confidence interval dropping below 15 breeding pairs. The average, minimum and maximum values of predicted numbers of breeding pairs and packs of 2 or more wolves are shown, respectively. These results are based on 1000 simulations of the previously described model, using final 2007 wolf population data.



MONTANA FISH, WILDLIFE & PARKS
HUNTING SEASON / QUOTA CHANGE SUPPORTING INFORMATION

Species: Wolf

Region: One

Hunting District: Wolf Management Unit 1, North Fork Flathead Subunit

Year: 2008

1. Describe the proposed season / quotas changes and provide a summary of prior history (i.e., prior history of permits, season types, etc.).

Establish a subunit within Wolf Management Unit One (WMU 1) for the North Fork of the Flathead River drainage (west of Glacier National Park (GNP); see Appendix 1). This subunit would have a subquota of 2, so that a maximum of 2 wolves may be legally taken within this area during an established hunting and/or trapping season in any given license year. The subunit quota would count towards the total quota for WMU 1. When a total of two wolves were harvested in the subunit, the subunit would be closed, although the larger WMU 1 could remain open until the total quota was reached or the season closed on the predetermined date.

2. Why is the proposed change necessary?

Increasing wolf numbers in Montana, Idaho and Wyoming resulted in their recovery and subsequent delisting by the U.S. Fish and Wildlife Service in March 2008. With delisting, management authority now resides with the State of Montana. As such, FWP expects to initiate and complete formal rulemaking to reclassify wolves from a state endangered species to a species in need of management by August. Establishing final quotas and species reclassification are the last regulatory steps prior to initiating a hunting season this fall (2008).

During the comment period this past winter on FWP's proposed wolf hunting season, FWP received many comments from local individuals, private organizations, and GNP authorities, all expressing concern about the vulnerability of North Fork Flathead wolves to public hunting and trapping and the consequences if they are inadvertently over-harvested. Wolf presence in this area played a vital role in the natural recolonization of wolves throughout all of northwestern Montana in the 1980's and early 1990's, thus initiating wolf recovery efforts by the U.S. Fish and Wildlife Service in the Northern Rocky Mountains.

Wolf recovery in the Northern Rockies was predicated on having an adequate number of wolves distributed and functioning as a meta-population throughout the states of Montana, Idaho, and Wyoming. A key biological conservation principle underpinning the federal recovery effort is known as "connectivity." At its most practical level, connectivity requires that management strategies safeguard the potential for sufficient numbers of dispersing wolves to travel throughout the Northern Rockies Recovery Area and find other wolves with which to breed. Thus, the overall genetic diversity of the meta-population is maintained through a distribution of packs across the larger landscape with successful dispersal events (i.e. survival to become successful breeder) between and among the three states.

Core habitats such as GNP provide the most secure areas for wolf packs to persist on the landscape and function as a source of dispersing wolves. Persistence of these packs and the ability of wolves to successfully disperse from these packs are important considerations with respect to fulfilling Montana's connectivity requirements.

While the GNP packs fulfill an important conservation requirement, connectivity is also accommodated in the overall season structure and proposed quota. The relatively unique human-valued history of this area-specific wolf presence has generated interest in additional protection from harvest. While over-harvest of wolves in the North Fork of the Flathead River under the existing season structure and proposed quotas is unlikely, the addition of a subunit and subquota in this area further addresses these specific concerns.

3. What is the current population's status in relation to the management objectives? (i.e., state management objectives from management plan if applicable; provide current and prior years of population survey, harvest, or other pertinent information).

A minimum of 19 wolves in 2 packs (Kintla and Whitefish) inhabit the North Fork of the Flathead River on the U.S side of the border (Sime et al. 2008). In addition, a third, unmarked pack is believed to be utilizing the area near Bowman Lake (Kent Laudon, personal comm.). Immediately north of the border is the Spruce Creek Pack, which contains a minimum of 4 wolves. Within Northern Montana WMU 1 at the end of 2007, there was a minimum of 213 wolves (including the North Fork Flathead River drainage packs).

From 2001-2007, an average of 13.5% of Montana's wolf population per year was killed due to conflicts with livestock (Sime et al. 2008). This figure does not include wolves that died or were killed for other reasons. Despite this level of removal, Montana's statewide wolf population continued to increase. A subquota of 2 wolves for legal harvest in the North Fork of the Flathead River drainage would represent approximately 10% of the known, minimum population of wolves for the subunit. Given that North Fork wolves spend approximately 80% of their time within GNP during the proposed hunting season, the likelihood of them being over-harvested under this proposed hunting season scenario is extremely minute.

More broadly speaking, Montana, Idaho, and Wyoming are each required to maintain a minimum number of wolves and to assure connectivity within the Northern Rockies Distinct Population Segment post delisting to maintain the recovered population. Montana's management plan addresses the issue, too.

Of additional importance is that GNP functions as an important foothold to maintain connectivity between the Northern Rockies wolf population on the U.S. Side of the border and the more numerous and widely distributed wolf populations of Alberta and British Columbia. Furthermore, wildlife authorities in the two Canadian provinces look to the U.S. wolf population as a source of dispersing wolves to facilitate genetic diversity and continued maintenance of the southern most extent of the Canadian wolf population. Thus, Montana has a unique responsibility and a significant role to play to ensure connectivity between the Northern Rockies wolf population and the Canadian wolf population.

4. Provide information related to any weather/habitat factors that have relevance to this change (i.e., habitat security, hunter access, vegetation surveys, weather index, snow conditions, temperature / precipitation information).

Motorized access within the North Fork of the Flathead has decreased in recent years due to management concerns relating to grizzly bears. In addition, the east half of the valley consists of GNP, which offers wolves a large area of refugia. Telemetry data indicates that approximately 80% of the time, North Fork wolves are within GNP during the October 1 to December 31 period. Weather conditions this past winter were fairly severe, which may have temporarily

reduced ungulate abundance. However, ungulate numbers are expected to resume their increase in growth, assuming future winters are more moderate.

5. Briefly describe the contacts you have made with individual sportsmen or landowners, public groups or organizations regarding this proposal and indicate their comments (both pro and con).

Sportsmen's groups and others have not been contacted regarding this specific proposal.

Submitted by: Tim Thier / Carolyn Sime

Date: May 28, 2008

Approved: _____

Regional Supervisor / Date

Disapproved / Modified by:

Name / Date

Reason for Modification:

Reference Cited:

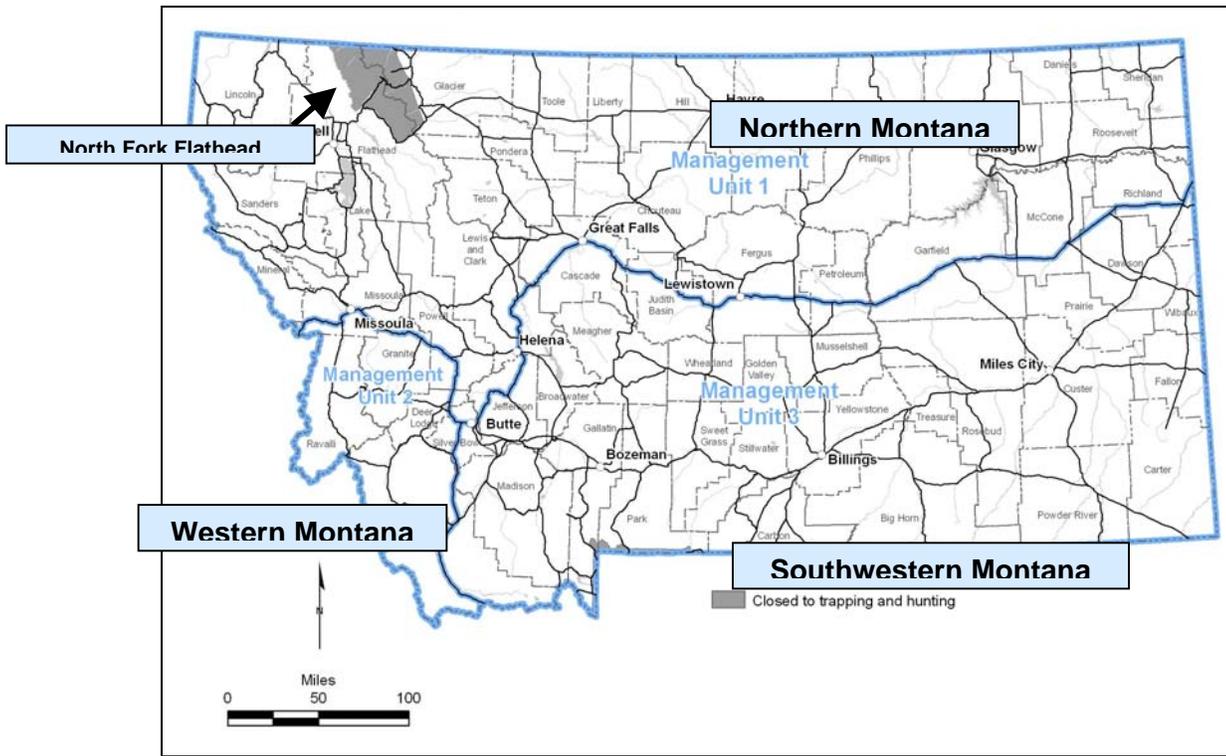
Sime, C. A., V. Asher, A., L37pp. L. Bradley, M. Ross, J. Trapp, M. Atkinson, and J. Steuber. 2008. Montana gray wolf conservation and management 2007 annual report. Montana Fish, Wildlife & Parks. Helena, Montana. 137pp.

Appendix 1.

Proposed "North Fork Flathead" Subunit within WMU 1

Beginning on the U.S./British Columbia border west of Frozen Lake, proceeding southerly along the Whitefish Divide to the top of Big Mountain, then proceeding easterly from the top of Big Mountain down Canyon Creek to the North Fork of the Flathead River, then northerly up the middle of the North Fork of the Flathead River to the U.S./British Columbia border, then westerly along the U.S./British Columbia border to the Whitefish Divide, the point of beginning.

Montana Wolf Harvest Management Units



MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
FWP Headquarters – 1420 East 6th Avenue
Helena, MT

JUNE 12, 2008

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chair; Dan Vermillion; Willie Doll; Vic Workman.

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director, and FWP Staff.

Guests: See June 12, 2008 Commission file folder for names of those who signed in.

A work session followed the meeting to discuss Big Horn River concerns.

Topics of Discussion:

1. **Call to Order - Pledge of Allegiance**
 2. **Approval of Commission Meeting Minutes of May 15, 2008**
 3. **Approval of Commission Expenses through May, 2008**
 4. **Cornwell Ranch Conservation Easement near Glasgow – Final**
 5. **Circle R Ranch Fee Acquisition near Billings – Final**
 6. **Stuckey Ridge (Jamison) Habitat Acquisition – Final**
 7. **Hodges Acquisition near Thompson Falls – Final**
 8. **Elk Island WMA Sharecrop Agreement - Final**
 9. **Seven Sisters Sharecrop Agreement – Final**
 10. **2009 Moose, Sheep, Goat, Deer and Elk License Auction Rules - Final**
 11. **2008 Bison Seasons, HDs and Quotas - Tentative**
 12. **2008 Lion Quotas - Final**
 13. **2008 Furbearer Seasons and Quotas - Tentative**
 14. **2008 Wolf Quotas - Tentative**
 15. **Bearmouth (Tripp) FAS Donation – Final**
 16. **Teton Canyon Acquisition – Endorsement**
 17. **Natural History Center FAS on the Bitterroot River – Endorsement**
 18. **Roundup and Sunset Hill FASs on the Blackfoot River – Endorsement**
 19. **Sixteen Mile FAS Donation near Ringling – Endorsement**
 20. **Budget and Legislative Priorities – Final**
 21. **Angling Restriction and Fishing Closure ARM – Final**
 22. **Hay Creek Land Acquisition in the North Fork of the Flathead - Endorsement**
 23. **Open Microphone – Public Opportunity to Address Additional FWP Issues**
-
1. **Opening - Pledge of Allegiance.** Chairman Doherty called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance.

Don Bothwell, MT Furbearer Alliance, feels trapping is a recreation and it has made him in tune with his environment. Flying bullets are more hazardous than trapping. He said he defends trailhead setbacks. Unrestrained pets are a safety hazard.

Bert Wustne, MTA, said trapping can be good for disease control.

Mike Koeppen said to err on side of caution. He has encountered unethical trappers with setbacks and trails. Responsible trappers should think about not setting traps on trails. Animals are traumatized by traps. He has found animals parts left in traps.

Anja Heister, Footloose Montana, has received twelve reports from people whose dogs were injured or died in traps that were illegally set; the traps had no identification on them. As these twelve occurred in the Bitterroot drainages, she asked the Commission to consider establishing trap free areas in the Bitterroot area. Heister added that there is no leash law on public land - she recommended education, not a leash law.

Workman said there is no scientific evidence that wolverines need protection. Cannot start destruction of heritages by taking away basic rights such as trapping. He said increasing setbacks is ridiculous.

Vermillion said this is emotional issue. There are two sides to the issue who do not listen to each other. People need to respect and listen to each other. He said he heard people wanting to stop trapping wolverines, but they didn't say stop trapping altogether.

Colton said the Commission cannot make decisions based on pro-trapping or anti-trapping. They have to make decisions on whether or not the animal is sustainable. He is uncomfortable with some of the information and non-information. People have a right to take their dogs out in the woods and not run into traps on trails. That is the trappers' responsibility. He stated that FWP must communicate with Ft. Peck – he won't support trapping swift fox until that happens.

Action on Motion: Motion carried.

14. 2008 Wolf Quotas – Tentative. The U.S. Fish and Wildlife Service delisted wolves from the Endangered Species Act in early 2008, and that decision has since been challenged in court. The Commission adopted a regulatory framework and season structure for public harvest of wolves in February 2008. Reclassification of wolves as a species in need of management and adoption of harvest quotas are the next regulatory steps for the Commission. Ken McDonald, FWP Wildlife Administrator, stated that reclassification of wolves will be accomplished through an Administrative Rule process. This rule will also include wolf conflict management guidelines.

FWP intends to proceed cautiously, pending court action, to ensure continued wolf recovery. The regulations are for hunting only – no trapping. A statewide quota of 75 wolves is proposed with individual Wolf Management Unit (WMU) quotas of 38, 22, and 15 respectively in WMUs 1, 2 and 3. In Unit 1 there is a subunit of 2 which means if two are taken in that area, that area will be closed. Not more than 2 wolves may be taken within a specifically described area adjacent to and west of Glacier National Park. A mandatory check-in is also a part of the requirements. Season dates are October 26, 2008 through December 31, 2008 in most parts of the state; however the back country hunting districts start on September 15 and end December 31. The comment period ends July 18.

Wolves are classified as state endangered species now, so to reclassify them as a species in need of management, the Department must go through the formal rulemaking process. Included would be the guidelines already approved by the Commission. Other statutes and rules are also being reviewed to assure consistency.

Action: Colton moved and Workman seconded the motion to direct FWP to initiate formal rule making to reclassify the gray wolf from state endangered species to a species in need of management and that the Commission adopt the tentative the wolf harvest quota as proposed by the Department.

Doherty inquired if the quota of 75 includes those that will be taken by ranchers protecting livestock or by private citizens. McDonald said the quota of 75 is strictly hunting take. Doherty asked that the department be certain the buffer is sufficient.

Carolyn Sime, FWP Wolf Coordinator, said the number that was factored into the Model was 109, based on populations where wolves were taken. They looked at wolves that were born and those that died, and at how many new packs were formed. Some are shot for depredation purposes, but the causes of death can vary. Wolves can contract the parvo and distemper viruses the same as any canine, and mange adversely affects them as well.

Bob Lane, FWP Legal Counsel, stated that on February 28 when the USFWS published the final rule delisting wolves, a group of concerned citizens filed a 60-day lawsuit for an injunction to return the wolf to the endangered species list. The federal defendants asked for more time and were denied because the judge worried about extra killing of wolves. A hearing was held May 26 where FWP presented arguments and the judge received a new look at the situation. There are two sides to this. FWP can be good stewards of the wolves – a conservative approach is being taken for this first hunting season. Judge Maloit said he would make a decision soon. FWP has requested that each state have their own programs.

Chairman Doherty asked for public comments.

Lisa Upson, Natural Resource Defense Council, feels it is too soon to have a season. State should ensure the wolves are recovered in the northern Rockies. The NRDC feels they may be short in number. The Federal goal is outdated. Montana should wait to see how many wolves are killed in other ways before setting quotas. FWP should not set quotas before a decision by the judge.

Barb Cestero, Greater Yellowstone Coalition of Montana, said they are glad that FWP is recommending a conservative proposal. That will provide some time to learn and see how post-delisting shakes out. They encourage a lower quota in Region 3. Packs den up in Yellowstone National Park and move in and out of Montana -- please do as is done in Glacier National Park.

Jerry Black opposes a wolf hunt based on genetic diversity and on pack structure. It costs \$3,000 to collar a wolf. How do we prevent collared wolves from being shot – that is a waste of taxpayers money. The ESA does not provide for a split decision by the judge.

Ann Carlson, Defenders of Wildlife, supports wolf hunts in the future, but six months after delisting is too soon. There are not enough wolves to proceed. Remove the portions of Montana that serve as corridors between populations, reduce risk of killing individuals. Following status quo, 158 wolves will be killed. The quota of 75 is flexible and could be reduced – she hopes that happens. She recommended establishing a corridor for the wolves. There is a possibility that wolf hunts can increase livestock depredation. Wolves are family oriented, and if one or both members of the breeding pairs are killed, it can destroy the family unit. If the family is destroyed, more wolves could be traveling, leaving young wolves to survive on their own. They will pick easy prey such as livestock. She asked FWP to reduce quota to an absolute minimum.

Jim Anderson said he appreciates what has been done for wolves.

Chris Smith noted that collaring wolves is the same as collaring elk or tagging fish.

Colton stated that any deviation from the proposal would not be a good idea as the initial recommendation is before the judge.

Action on Motion: Motion carried.

15. Bearmouth (Tripp) FAS Donation – Final. Joe Maurier, FWP Parks Division Administrator, presented the proposal to accept the donation of 20 acres of land adjacent to the existing 10-acre Bearmouth FAS. The property has been donated by Gene Tripp and is currently being held by the Five Valleys Land Trust. Upon final Commission approval, the property will be deeded to FWP.

The public comment period generated six comments. One comment expressed concern over potential contamination issues in the upper Clark Fork basin and subsequent liability for clean up. A hazardous materials assessment concluded that the risk for site contamination is low and no remediation actions are proposed near this site. The other comments raised questions relative to weed control, maintenance, etc and were addressed in the Decision Notice.

Action: Vermillion moved and Doll Seconded the motion to authorize the Department to accept transfer of ownership of the property from FVLT and thank them for their assistance as well as Gene Tripp for his generosity. Motion carried.

16. Teton Canyon Acquisition – Endorsement. Joe Maurier, FWP Parks Division Administrator, stated that FWP proposes to acquire in fee title the 7 Lazy P Deep Canyon Guest Ranch facility and lands located in Teton Canyon approximately 30 miles west of Choteau. The primary objective of this acquisition is to establish a new State Park on the Rocky Mountain Front that would offer public recreation opportunities and resources that are currently not available in other State Parks, and it would be strategically located between Glacier and Yellowstone National Parks.

The property includes two separate parcels. The 500-acre western-most parcel includes a ranch headquarters complex located on approximately 120 acres. The remaining acreage is undeveloped and is bordered by the BLM Blind Horse Outstanding Natural Area to the north and west. The Nature Conservancy owns property to the south, and DNRC State School Trust and private land is to the east. The 520-acre eastern-most parcel includes an area of important big game winter range. Initial

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS AND
THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARINGS ON
ARM 12.2.501 and 12.5.201 and the) PROPOSED AMENDMENT AND
adoption of New Rules I through V) ADOPTION
regarding gray wolf management in)
Montana)

TO: All Concerned Persons

1. On July 16, 2008 at 6:00 p.m. the Department of Fish, Wildlife and Parks (department) and the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Fish, Wildlife and Parks Region 3 offices located at 1400 South 19th Avenue, Bozeman, Montana to consider the amendment and adoption of the above-stated rules.

On July 17, 2008 at 6:00 p.m. the department and commission will hold a public hearing at the Fish, Wildlife and Parks Region 2 offices located at 3201 Spurgin Road, Missoula, Montana to consider the amendment and adoption of the above-stated rules.

On July 18, 2008 at 6:00 p.m. the department and the commission will hold a public hearing at the Fish, Wildlife and Parks Headquarter offices located at 1420 East 6th Avenue, Helena, Montana to consider the amendment and adoption of the above-stated rules.

2. The department and commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the department and commission no later than July 7, 2008, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; e-mail jesnyder@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

12.2.501 NONGAME WILDLIFE IN NEED OF MANAGEMENT (1) The following nongame wildlife species are determined by the department to be nongame wildlife in need of management within the meaning of the Nongame and Endangered Species Conservation Act, 87-5-101, MCA, et seq.:

- (a) crayfish - *Pacifasticus spp.*;
Orconectes spp.;
- (b) freshwater mussels - all species of *Pelecypoda*;

12-6/26/08

MAR Notice No. 12-346

- (c) yellow perch - *Perca flavescens*;
 - (d) crappie - *Pomoxis*;
 - (e) black-tailed prairie dogs - *Cynomys ludovicianus*;
 - (i) under 87-5-102, MCA, department management of black-tailed prairie dogs applies to public lands only; ~~and~~
 - (f) white-tailed prairie dogs - *Cynomys leucurus*;
 - (i) under 87-5-102, MCA, department management of white-tailed prairie dogs applies to public lands only; and
 - (g) gray wolf - *Canis lupus*.
- (2) remains the same.

AUTH: 87-1-201, 87-1-301, 87-5-105, 87-5-131, MCA

IMP: 87-1-201, 87-1-301, 87-5-105, 87-5-131, MCA

12.5.201 ENDANGERED SPECIES LIST (1) The following endangered species list is established in accordance with Title 87, chapter 5, MCA. Except as otherwise provided, it is unlawful for any person to take, possess, transport, export, sell or offer for sale, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on the following list:

- (a) whooping crane (*grus americana*); and
- ~~(b) Northern Rocky Mountain wolf (*canis lupus irremotus*); and~~
- ~~(c)~~(b) black-footed ferret (*mustela nigripes*).

AUTH: 87-5-107, 87-5-131, MCA

IMP: 87-5-107, 87-5-131, MCA

4. Wolf recovery in Montana began in the 1980s. The gray wolf increased in number and expanded its distribution in Montana because of natural emigration from Canada and a successful federal effort in 1995 that reintroduced wolves into Yellowstone National Park and central Idaho.

In 1987, the United States Fish and Wildlife Service (USFWS) adopted a Northern Rocky Mountain Wolf Recovery Plan. The recovery plan, prepared by the USFWS with the Northern Rocky Mountain Recovery Team, stated its recovery goal of "securing and maintaining a minimum of 10 breeding pairs of wolves in each of the three recovery areas for a minimum of three successive years." The recovery areas are the Greater Yellowstone recovery area, Northwestern Montana recovery area, and central Idaho recovery area. The 1994 USFWS Environmental Impact Statement on the Reintroduction of Gray Wolves to Yellowstone National Park and central Idaho revisited and revamped the Northern Rocky Mountain recovery goal to thirty or more breeding pairs and comprising some 300 or more wolves in a metapopulation. Genetic exchange between subpopulations in the recovery areas allows a high probability of long-term persistence.

In 2002, the Northern Rocky Mountain gray wolf population met the biological goals set out in the recovery plan and the 1994 Final EIS on the Reintroduction of

Gray Wolves to Yellowstone National Park and Central Idaho. 73 Fed. Reg. 10514, 10515. Gray wolves continue to thrive and expand in number and distribution in Montana.

Montana engaged in an extensive, public stakeholder process to develop its policy on the recovery, management, and conservation of wolves. In 2003, Montana adopted the Final EIS and Gray Wolf Conservation and Management Plan (plan) that would allow the state to manage wolves consistent with its state laws, policies, rules, and regulations. In the plan, Montana recognized gray wolves as a native species and committed to the long-term maintenance of a recovered population of wolves in Montana.

In 2005, Montana entered a memorandum of understanding (MOU) that allowed it to implement its USFWS-approved plan within the federal law and guidelines in place at the time. The MOU allowed Montana and the Indian Tribes to lead wolf conservation and management activities within their respective boundaries. In its 2007 Annual Report, Montana reported over 420 wolves in about 73 packs and 39 breeding pairs, with demonstrated distribution among Montana's portion of all three Northern Rocky Mountain subpopulations.

On March 28, 2008, the USFWS designated and removed from the Endangered Species Act the Northern Rocky Mountain gray wolf distinct population segment (DPS). Section 87-5-131, MCA, authorizes the department to remove the wolf from the state list of endangered species once the USFWS removed the Northern Rocky Mountain gray wolf from the federal list of endangered or threatened wildlife and upon a determination by the department that the gray wolf is no longer endangered.

With these rules, the department makes the determination that the gray wolf is no longer endangered in Montana because: wolves are thriving within the state well above the numerical recovery goals; the states of Montana, Idaho, and Wyoming and the USFWS documented distribution among the three subpopulations; and Montana's regulatory mechanisms protect a recovered wolf population. These rules mirror the guidelines that the commission adopted in April 2008 (which are essentially identical to the 10(j) experimental area regulations that were in place in southern Montana prior to the wolf's delisting), and are based on years of state management pursuant to an interagency agreement and federal requirements. The department has information relating to the wolf population, its distribution, its habitat needs, its limiting factors, and other biological and ecological data to determine management measures necessary for the wolf's continued ability to sustain itself successfully.

5. The proposed new rules provide as follows:

NEW RULE I COMMITMENT TO PRESERVATION OF THE GRAY WOLF AS RESIDENT WILDLIFE IN NEED OF MANAGEMENT (1) The department has management authority of the gray wolf, a resident wildlife species, and is dedicated

to the conservation of wolf populations within the state of Montana. Pursuant to the definition of management under the Nongame and Endangered Species Conservation Act, 87-5-102, MCA, the department will implement conservation and management strategies to make sure that wolves continue to thrive and are integrated as a valuable part of Montana's wildlife heritage. The department uses an adaptive management framework for the gray wolf, meaning that if the statewide number of wolves exceeds 15 breeding pair, the department may, as outlined in these rules, approve lethal control of wolves. If there are fewer than 15 breeding pair, the department will allow only conservative management of the wolf populations so that the number of breeding pair does not go below 10. These rules set out the comprehensive structure governing control of the gray wolf so that all control actions fall within the department's adaptive management considerations. The commission has authority to adopt a hunting season with quotas for wolves and will exercise that authority as part of the adaptive management framework for the gray wolf.

AUTH: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

IMP: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

NEW RULE II DEFINITIONS The following definitions apply to this subchapter:

- (1) "Adaptive management" means a model for wolf conservation and management strategies; changes in the number of packs determined through a monitoring program directs selection of more conservative or liberal management strategies; model incorporates resource objectives, monitoring protocols, evaluation of predicted outcomes, and a decision process.
- (2) "Agency" means the Department of Fish, Wildlife and Parks or another agency of the government authorized by the Department of Fish, Wildlife and Parks.
- (3) "Attacking or killing" means the actual biting, wounding, grasping, or killing of livestock or domestic dogs.
- (4) "Breeding pair" means an adult male and an adult female wolf that have produced at least two pups that survived until December 31 of the year of their birth, during the previous breeding season.
- (5) "Confirm that a wolf killed the livestock" means an incident where USDA Wildlife Services conducts a field investigation of dead or injured livestock, at the request of the producer; depredation is confirmed in cases where there is reasonable physical evidence that an animal was actually attacked and/or killed by a wolf. The primary confirmation would ordinarily be the presence of bite marks and associated subcutaneous hemorrhaging and tissue damage, indicating that the attack occurred while the victim was alive, as opposed to simply feeding on an already dead animal. Spacing between canine tooth punctures, feeding pattern on the carcass, fresh tracks, scat, hairs rubbed off on fences or brush, and/or eye witness accounts of the attack may help identify the specific species or individual

responsible for the depredation. Predation might also be confirmed in the absence of bite marks and associated hemorrhaging (i.e., if much of the carcass has already been consumed by the predator or scavengers) if there is other physical evidence to confirm predation on the live animal. This might include blood spilled or sprayed at a nearby attack site or other evidence of an attack or struggle. There may also be nearby remains of other victims for which there is still sufficient evidence to confirm predation, allowing reasonable inference of confirmed predation on the animal that has been largely consumed.

(6) "Habituated" means readily visible in close proximity to people or structures on a regular basis; not threatened by close proximity and may even be attracted to human presence or human food sources; extremely rare behavior in wild wolves, but typical behavior for released captive wolf or wolf-dog hybrid; for wolves, may or may not involve food conditioning.

(7) "Intentional harassment" means the deliberate and preplanned harassment of a wolf, including by less than lethal munitions, such as 12 gauge shot gun rubber bullets and bean bag shells, that are designed to cause physical discomfort and temporary physical injury but not death.

(8) "Livestock" means cattle, calf, hog, pig, horse, mule, sheep, lamb, llama, goat, herding/guarding animals, rhea, emu, and ostrich.

(9) "Opportunistic hazing in a noninjurious manner" means harassment without the conduct of prior purposeful actions such as yelling and radio activated noise makers.

(10) "Threatening to kill" means the actual chasing, testing, molesting, harassing of livestock or livestock herding/guarding animals that would indicate to a reasonable person that an attack was imminent.

(11) "USDA Wildlife Services" means the United States Department of Agriculture, Animal and Plant Health Inspection Service.

AUTH: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

IMP: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

NEW RULE III CONTROL METHODS OF THE GRAY WOLF INCLUDES NONLETHAL AND LETHAL MEANS (1) These rules address when and how the department may carry out nonlethal and lethal control of wolves.

(2) The department may take control actions; pursuant to an interagency agreement, may authorize USDA Wildlife Services to undertake control actions; or pursuant to a future agreement, may authorize the Department of Livestock to undertake control actions. The department is solely responsible for any lethal control decision and ultimately for the status of the gray wolf population.

(3) Control of the gray wolf by agency or by individual includes nonlethal and lethal actions. The department shall address wolf conflicts on a case-by-case basis, connecting response to the conflict in both time and location.

(4) The department shall take an incremental approach to lethal control.

(5) Killing or harassing a wolf not in conformance with these rules is subject to criminal penalties pursuant to 87-1-125, 87-5-106, and 87-5-111, MCA.

AUTH: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

IMP: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

NEW RULE IV ALLOWABLE NONLETHAL CONTROL OF THE GRAY WOLF (1) Control of the gray wolf includes a variety of nonlethal management activities intended to decrease risk of, prevent, or resolve a conflict without killing the wolf in question. Allowable nonlethal control activities include:

(a) husbandry practices including but not limited to electric fencing, increased human presence, fladry, herding or guarding animals, night pens, shed lambing, carcass removal, alternative pastures, amended pasture rotations, or supplemental feed;

- (b) placement of a radio collar to facilitate increased monitoring of the pack;
- (c) opportunistic hazing in a noninjurious manner; and
- (d) intentional harassment.

AUTH: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

IMP: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

NEW RULE V ALLOWABLE LETHAL CONTROL OF THE GRAY WOLF

(1) On a case-by-case basis, the department allows only the following lethal control of the gray wolf:

- (a) agency control;
- (b) livestock owner, immediate family members, or employees with permit;
- (c) killing of a wolf that is attacking, killing, or threatening to kill a person or livestock; and
- (d) control to protect human safety.

(2) The department may authorize lethal control of problem wolves, after considering the number of breeding pair within the state.

(3) Before authorizing lethal control of a gray wolf for livestock conflict:

(a) the department or USDA Wildlife Services shall conduct the following investigation:

(i) A livestock owner may call the department or USDA Wildlife Services to conduct an investigation of injured or dead livestock.

(ii) The department or USDA Wildlife Services will conduct a field investigation to determine if the death of the livestock was due to natural causes or a predator.

(iii) If a predator killed the livestock, the department or USDA Wildlife Services examines the evidence at the scene to determine if a wolf was responsible.

(b) If the department or USDA Wildlife Services confirm that a wolf killed the livestock, the department seeks input from USDA Wildlife Services and the livestock owner to decide the best course of action. The department may authorize lethal control, assessing each conflict on a case-by-case basis and after considering the following factors:

- (i) pack size and pack history of conflict;
- (ii) livestock operation;
- (iii) age and class of livestock killed;
- (iv) location of conflict;
- (v) potential for future conflict;
- (vi) status and distribution of prey;
- (vii) season; and
- (viii) number of breeding pair within the state.

(4) The department has the discretion to lethally remove a gray wolf if the department determines that the wolf is bold, food conditioned, habituated to humans or livestock, demonstrates behavior patterns indicative of a wolf-dog hybrid or of captive origin, or if it poses an immediate or ongoing threat to human safety.

(5) Pursuant to 87-5-109, MCA, the director of the department may permit killing, possessing, transporting, or exporting of a wolf for scientific, zoological, or educational purposes.

(6) The department may remove a sick, injured, or diseased wolf.

(7) The department may authorize a livestock owner, immediate family members, or employees by permit to take a wolf under the following circumstances:

(a) when the department or USDA Wildlife Services confirms that a wolf killed the livestock; or when the department or USDA Wildlife Services confirms wolves are routinely present on the property or allotment and present a significant ongoing risk to livestock;

(b) the department has authorized USDA Wildlife Services to implement lethal control to resolve conflict;

(c) the department determines that the wolf was not purposefully or intentionally fed or baited to a site;

(d) the permit may last for a maximum of 45 days from the date the department or USDA Wildlife Services confirms the wolf caused damage or wolves are a significant risk to livestock;

(e) the permit expires when the total desired number of wolves are removed by the combined action of the department, USDA Wildlife Services, and individuals named on the permit, or at the end of the 45 days, whichever is first; and

(f) within 24 hours, a person must report to the department killing or injuring a wolf under a permit.

(8) As allowed by 87-3-130, MCA, a person may kill a wolf that is attacking, killing, or threatening to kill a person or livestock, or that is in the act of attacking or killing a domestic dog. This person shall notify the department within 72 hours, preserve the scene, and leave the carcass where it was killed until the department or USDA Wildlife Services investigate the scene, and surrender the carcass to the department.

AUTH: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

IMP: 87-1-201, 87-1-301, 87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA

6. While the gray wolf was federally protected under the Endangered Species Act, two sets of federal regulations governed control of the wolf to resolve wolf-livestock conflicts. Upon delisting, state plans and laws replaced the federal regulatory scheme. These rules codify the regulations and guidelines that Montana has used to control wolves since it gained management authority through an agreement with the USFWS and are consistent with Montana's plan. Codified rules require consistency in how the department and individuals may approach control of the gray wolf. The department will still take an incremental approach to lethal control of the wolf and will address conflicts on a case-by-case basis by closely matching the conflict to the response both in time and location.

The gray wolf is currently listed under Montana's Nongame and Endangered Species Conservation Act. These administrative rules change the wolf's classification to a nongame species in need of management. The department has the authority to manage the gray wolf as resident wildlife pursuant to its conservation and management plan and pursuant to statute and regulation. Montana's wolf conservation and management plan is based on the work of a diverse stakeholder group. The plan outlines an adaptive management approach that ensures the long-term success of wolf recovery in a landscape where people live, work, and recreate. The plan recognizes the gray wolf as a native species and part of Montana's wildlife heritage. It allows the wolf to find its place on the landscape, similar to other wildlife, and addresses and resolves conflicts. The plan outlines an incremental approach to lethal control.

In February, the commission adopted Interim Guidelines to Resolve Wolf-Livestock Conflicts and to Ensure Human Safety. The guidelines mirrored the federal 10(j) regulations that applied in southern Montana. These rules formally adopt the commission guidelines and federal 10(j) regulations into Montana administrative rule. These rules take the substance of the commission guidelines and the 10(j) regulations as they applied to southern Montana and put them into administrative rule format for the state.

7. Concerned persons may submit their data, views, or arguments concerning the proposed amendment and adoption in writing to Wildlife Division, Wolf ARM Public Comment, P.O. Box 200701, Helena, MT 59620-0701, or e-mail them to fwpwld@mt.gov. Any comments must be received no later than July 25, 2008.

8. Quentin Kujala or another hearings officer appointed by the department, has been designated to preside over and conduct this hearing.

9. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by this department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife, and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

10. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified on June 13, 2008 by phone and a copy of this notice was mailed on June 16, 2008.

/s/ Susan W. Daly
Susan W. Daly
Acting Director
Department of Fish, Wildlife and Parks
Acting Secretary
Fish, Wildlife and Parks Commission

/s/ Martha Williams
Martha Williams
Rule Reviewer
Department of Fish, Wildlife and Parks

Certified to the Secretary of State June 16, 2008

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: August 5, 2008

Agenda Item: Wolf Management Administrative Rule Making and Annual Quotas

Division: Wildlife

Action Needed: Approval of Final Rule/Action

Time Needed on Agenda for this Presentation: 30 minutes

◆-----◆
Background: Regulated public harvest of wolves was first endorsed by the Governor's Wolf Advisory Council in 2000 and included in Montana's wolf conservation and management plan. In 2001, the Legislature authorized the Commission to reclassify wolves under state law from an endangered species to a species in need of management upon federal delisting. The U.S. Fish and Wildlife Service delisted wolves from the federal Endangered Species Act (ESA) in early 2008.

The Commission adopted a regulatory framework and season structure for public harvest (e.g. management units, season dates, and other general regulations) in February 2008. On June 12, the Commission adopted a tentative harvest quota of 75 and directed FWP to initiate formal rulemaking to reclassify the wolf and to establish the manner and types of non-lethal and lethal wolf control methods that would be used to address conflicts. These were the next regulatory steps for FWP and the Commission.

On July 18, a U.S. Federal Court Judge reinstated federal ESA protections in the northern Rockies through a preliminary injunction. Therefore, FWP withdraws the adopted tentative 2008 harvest quota of 75 from further Commission consideration and action at this time. This is in response to the court order.

FWP proposes to complete rulemaking efforts to reclassify the wolf to a state species in need of management and to adopt conflict management guidelines that would be effective upon delisting from federal ESA. Adoption of the proposed rules at this time allows required regulatory mechanisms to be in place upon delisting.

Public Involvement Process & Results: The state's wolf plan and the recently adopted harvest framework regulations are based on the recommendations of the Wolf Advisory Council and extensive public involvement. FWP received a significant number of public comments on the tentative quota; however, a hunting quota and, therefore, a season cannot be adopted while the preliminary injunction is in effect. FWP held three public hearings for the proposed administrative rules (Bozeman, Missoula and Helena) and received written public comment through July 25. Those comments will be summarized at the August 5 meeting.

Alternatives and Analysis: Public harvest is precluded by the court-ordered injunction. FWP could delay adoption of the administrative rules at this time, but would have to repeat the entire rulemaking process at some point in the future.

Agency Recommendation & Rationale: FWP recommends finalizing the Administrative Rule.

Proposed Motion: I move that the Commission suspend action on a 2008 harvest quota and to adopt the proposed ARM rules that reclassify the wolf to a species in need of management and to direct conflict management, with an effective date upon federal delisting.

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
Colonial Red Lion Hotel
Helena, MT

AUGUST 5, 2008

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chair; Dan Vermillion; Willie Doll; Vic Workman.

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director, and FWP Staff.

Guests: See August 5, 2008 Commission file folder for names of those who signed in.

Topics of Discussion:

- 1. Call to Order - Pledge of Allegiance**
- 2. Approval of Commission Meeting Minutes of July 17, 2008**
- 3. Approval of Commission Expenses through July, 2008**
- 4. Montana Outdoors Recognition**
- 5. 2009 Fishing Regulation Changes – Tentative**
- 6. Lower Big Hawk Lake Emergency Regulations - Final**
- 7. North Chamberlain Creek Easement in Powel and Missoula Counties – Endorsement**
- 8. Inghams/Foys Bend Property Acquisition on the Flathead River – Endorsement**
- 9. Old Harper’s Bridge Fishing Access Site Acquisition near Missoula – Final**
- 10. Charlie Lincoln Ranch Acquisition – Update**
- 11. 2008 Early Season Migratory Bird Regulations – Final**
- 12. 2008 Late Season Waterfowl Seasons/Closure – Tentative**
- 13. Selection of Organizations to Auction Moose, Sheep, Goat, Deer & Elk Licenses – Final**
- 14. 2008 Bison Seasons, HDs and Quotas – Final**
- 15. 2008 Furbearer Seasons and Quotas – Final**
- 16. Cornwell Ranch Conservation Easement – Informational Update**
- 17. Wolf Management Administrative Rules and Annual Quotas – Final**
- 18. Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. Opening - Pledge of Allegiance. Chairman Doherty called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance.

2. Approval of July 17, 2008 Commission Meeting Minutes.

Action: Doll moved and Workman seconded the motion to approve the July 17, 2008 meeting minutes. Motion carried.

Vermillion asked if comparable sales in this region are mostly recreation. Wheeler said sales are influenced by a lot of 1031 trades and recreation sales. As you move from the water and recreation areas, the value goes back to agriculture.

Lee Cornwell said the outbuildings were excluded as they are calf wintering systems and are domiciles to family members. The family did not want to have to get permission to make improvements.

Doll asked what the overall value would be if sold as a ranch. Wheeler said the market value should remain the same, but he did not evaluate it as a ranch, so did not have a definitive figure.

Mary Sexton, DNRC, said the grazing management plan is the largest block, and she thinks that the supplemental lease agreement withdrawal was wise. It is not wholly surrounded, but they have concerns that as easements develop across the state, state lands will be impacted. It is not a requirement that these parcels be purchased. There are two isolated parcels that can be purchased by the Cornwells, but if they don't, DNRC still wants access to them. Traditional use of state trust land is important.

17. Wolf Management Administrative Rules and Annual Quotas – Final. Ken McDonald, FWP Wildlife Division Administrator, stated that wolves were removed from the threatened list. In June, the Commission approved a tentative quota of 75 wolves, and formal rulemaking was directed. On June 18, the federal court reinstated protection on wolves. Management authority has gone back to the USFWS under the Endangered Species Act. FWP recommends that action be suspended on setting harvest quota.

FWP still wishes to adopt administrative rules with the caveat that they become effective upon delisting. Since the injunction was granted, the pressure has been alleviated. Many comments were received on the wolf proposal, and the Department would like more time to go through those.

Colton moved and Workman seconded the motion that the Commission suspend action on a 2008 harvest quota, and to delay adoption of the proposed ARM rules that reclassify the wolf to a species in need of management and direct conflict management. Motion carried.

18. Open Microphone – Public Opportunity to Address Additional FWP Issues. There was none.

Meeting adjourned at 1:55 p.m.

Immediately following the meeting, an Executive Session was held with Department attorneys to discuss the Wolf Litigation Strategy.

Steve Doherty, Chairman

M. Jeff Hagener, Director

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: September 25, 2008

Agenda Item: Wolf Management Administrative Rule Making

Division: Wildlife

Action Needed: Approval of Final Rule

Time Needed on Agenda for this Presentation: 10 minutes

Background: The state's wolf conservation and management plan was completed and federally-approved in 2004. In 2001, the Montana Legislature authorized the Commission to reclassify wolves under state law from an endangered species to a species in need of management upon federal delisting. The U.S. Fish and Wildlife Service delisted wolves from the federal Endangered Species Act (ESA) in early 2008. That decision was challenged in court. On July 18, a U.S. Federal Judge reinstated federal ESA protections in the northern Rockies through a preliminary injunction, while the litigation moves forward.

On June 12, 2008, the Commission directed FWP to initiate formal rulemaking to reclassify the wolf to a species in need of management and to establish the manner and types of non-lethal and lethal wolf control methods that would be used to address conflicts. These are the next regulatory steps for FWP and the Commission.

FWP proposes to complete rulemaking efforts at this time, with an effective date upon delisting from federal ESA. Adoption of the proposed rules now allows required regulatory mechanisms to be in place upon delisting.

Public Involvement Process & Results: The state's wolf plan and the principles of conflict resolution embodied in the plan are based on the recommendations of the Wolf Advisory Council and extensive public involvement opportunities afforded by preparation of an environmental impact statement. FWP held three public hearings for the proposed administrative rules (Bozeman, Missoula and Helena) and received written public comment through July 25. Those comments were forwarded to the Commission just prior to the August 5 meeting.

Alternatives and Analysis: FWP and the Commission could delay adoption of the administrative rules at this time, but would have to repeat the entire rulemaking process at some point in the future.

Agency Recommendation & Rationale: FWP recommends finalizing the Administrative Rule.

Proposed Motion: I move that the Commission adopt the final ARM rules that reclassify the wolf to a species in need of management and direct conflict management, with an effective date upon federal delisting.

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
FWP Headquarters – 1420 East 6th Avenue - Helena, MT
SEPTEMBER 25, 2008

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chair; Dan Vermillion (via telephone); Willie Doll.

Fish, Wildlife & Parks Staff Present: Director Jeff Hagener and FWP Staff.

Guests: See September 25, 2008 Commission file folder for those who signed in.

A work session followed the meeting for a presentation entitled *Research Presentation: Elk Movements in the Madison, Gallatin, and Yellowstone River Watersheds*.

Topics of Discussion:

1. Call to Order - Pledge of Allegiance
2. Approval of Commission Meeting Minutes of August 5, 2008
3. Approval of Commission Meeting Minutes of August 28, 2008
4. Approval of Commission Expenses through August, 2008
5. Revisit the November Commission Meeting Date
6. Cornwell Ranch Conservation Easement - Final
7. Wolf Administrative Rule – Final
8. Elk Plan Objectives Adjustment - Final
9. 2008 Elk Harvest Quotas and Ranges for HDs 204, 261, and 270 – Final
10. 2008-2009 Game Damage Permit Authorizations – Final
11. Sheep and Goat Capture and Transplant – Final
12. Ekalaka Urban Deer Management Plan – Final
13. Future Fisheries July Funding Cycle – Final
14. Baldy Mountain and Gehring Ranch Conservation Easements – Endorsement
15. Exotic Wildlife Classification for Importation / Possession – Final
16. 2009 Non-Resident Combination License Rule – Tentative
17. Madison / Wall Creek Settlement Easement - Endorsement
18. Hagenston (Stipik) Fishing Access Site Acquisition - Endorsement
19. Logan Town Site Fishing Access Site Acquisition - Endorsement
20. Thompson Chain of Lakes Fishing Access Site - Crystal Lake Trade – Endorsement
21. Open Microphone – Public Opportunity to Address Additional FWP Issues

1. **Opening - Pledge of Allegiance.** Vice-Chairman Colton called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance.

2. **Approval of August 5, 2008 Commission Meeting Minutes.**

Action: Doll moved and Colton seconded the motion to approve the August 5, 2008 meeting minutes. Motion carried.

7. Wolf Administrative Rule – Final. In 2001, the Montana Legislature authorized the Commission to reclassify wolves from an endangered species to a species in need of management upon federal delisting. The U.S. Fish and Wildlife Service delisted wolves from the federal Endangered Species Act (ESA) in early 2008, however that decision was challenged in court, and on July 18, 2008, a U.S. Federal Judge reinstated federal ESA protections in the northern Rockies through a preliminary injunction.

Quentin Kujala, FWP Wildlife Management Bureau Chief, stated that Montana's wolf conservation and management plan was completed and federally approved in 2004. On June 12, 2008, the Commission directed FWP to initiate formal rulemaking to reclassify the wolf to a species in need of management, and to establish the manner and types of non-lethal and lethal wolf control methods that would be used to address conflicts. Included in the rule is a commitment to the preservation and management of the wolf and not to destroy them all. FWP proposes to complete rulemaking efforts at this time, with an effective date upon delisting from federal ESA.

Action: Colton moved and Doll seconded the motion to adopt the final ARM rules that reclassify the wolf to a species in need of management and direct conflict management, with an effective date upon federal delisting.

Colton thanked the Legal Unit for the hard work they put into this rule. Hagener stated that the Department is working with the USFWS toward obtaining the delisting status again. Wyoming is proposing language changes.

Action on Motion: Motion carried.

8. Elk Plan Objectives Adjustment – Final. Quentin Kujala, FWP Wildlife Management Bureau Chief, stated that this plan identifies annual opportunity for adjustment so when set into season setting we have a target. Recommended changes to the tentatives are as follows.

HD 210 – increase objective from 725 to ~~1000~~ **850**

HD 216 – ~~increase~~ maintain objective ~~from~~ at 325 ~~to~~ **450**

Rock Creek EMU – increase objective from 2370 to ~~2770~~ **2495**

HD 212 – increase objective from 850 to ~~1500~~ **1000**

HD 212 - establish a sub-objective of 500 for publicly accessible elk; within the HD objective of 1000; Flint Creek EMU objective not influenced by this specific change

HD 213 – increase objective from 650 to 750

Flint Creek EMU – increase objective from 1500 to ~~2250~~ **1750**

HD 211 – **maintain objective at 600**

HD 214 – increase objective from 200 to 450

Sapphire EMU – increase objective from 3800 to 4050

HD 215 – increase objective from 1000 to ~~1200~~ 1400

Deer Lodge EMU – increase objective from 2100 to ~~2300~~ **2500**

HD 290/298 – establish objective at ~~800~~ **600** (new hunting district 298)

HD 291 – **maintain objective at 600**

HD 292 – decrease objective from 1100 to ~~900~~ 800

HD 293 – ~~decrease~~ maintain objective ~~from~~ at 750 ~~to~~ **500**

Granite Butte EMU – ~~decrease~~ **maintain objective from at 2150 ~~to~~ 1900**

HD 270 – establish a sub-objective of 2600 for publicly accessible elk; maintain HD objective of 3000; Sapphire EMU objective is not influenced by this specific change

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS AND
THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of)
ARM 12.2.501 and 12.5.201 and the) NOTICE OF AMENDMENT AND
adoption of New Rules I through V) ADOPTION
regarding gray wolf management in)
Montana)

TO: All Concerned Persons

1. On June 26, 2008, the Department of Fish, Wildlife and Parks (department) and the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-346 on the proposed amendment and adoption of the above-stated rules at page 1252 of the 2008 Montana Administrative Register, Issue No. 12.

2. The department and commission have amended ARM 12.2.501 and 12.5.201 and NEW RULES I through V (12.9.1301 through 12.9.1305) to provide a date the rules will be applied. On July 18, 2008, the United States District Court for the District of Montana, Missoula Division, issued a preliminary injunction reinstating the Endangered Species Act protection for the northern Rocky Mountain gray wolf. *Defenders of Wildlife v. Hall*, No. CV-08-56-M-DVM (D. Mont. July 18, 2008) (order granting preliminary injunction). This means that the management of the wolf in Montana is presently under the jurisdiction of the United States Fish and Wildlife Service pursuant to the Endangered Species Act. It is therefore uncertain when the northern Rocky Mountain gray wolf population will be effectively delisted and under state management. The rules for state management adopted by the department and commission, including removing the wolf from the state endangered species list and designating the gray wolf as a state nongame species in need of management, are only needed and can only be applied when the wolf is no longer subject to federal jurisdiction under the federal Endangered Species Act. For these reasons, the department and commission added language that provides the adopted amendments and adopted new rules are applied when the wolf is no longer subject to the federal Endangered Species Act and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

3. The department and commission have amended the following rules as proposed, but with the following changes from the original proposal, stricken matter interlined, new matter underlined:

12.2.501 NONGAME WILDLIFE IN NEED OF MANAGEMENT (1) through (1)(g) remain as proposed.

(i) The amendment adding (1)(g) will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species

Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

(2) remains as proposed.

AUTH: 87-1-201, 87-1-301, 87-5-105, 87-5-131, MCA

IMP: 87-1-201, 87-1-301, 87-5-105, 87-5-131, MCA

12.5.201 ENDANGERED SPECIES LIST (1) The following endangered species list is established in accordance with Title 87, chapter 5, MCA. Except as otherwise provided, it is unlawful for any person to take, possess, transport, export, sell or offer for sale, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on the following list:

(a) whooping crane (*grus americana*); ~~and~~

(b) Northern Rocky Mountain wolf (*canis lupus irremotus*); and

(i) Subsection (1)(b) will be applied until the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

~~(b)(c)~~ black-footed ferret (*mustela nigripes*).

AUTH: 87-5-107, 87-5-131, MCA

IMP: 87-5-107, 87-5-131, MCA

4. The department and commission have adopted the following rules as proposed, but with the following changes from the original proposal, stricken matter interlined, new matter underlined:

NEW RULE I (12.9.1301) COMMITMENT TO PRESERVATION OF THE GRAY WOLF AS RESIDENT WILDLIFE IN NEED OF MANAGEMENT (1) The department has management authority of the gray wolf, a resident native wildlife species, and is dedicated to the conservation of wolf populations within the state of Montana. Pursuant to the definition of management under the Nongame and Endangered Species Conservation Act, 87-5-102, MCA, the department will implement conservation and management strategies to make sure that wolves continue to thrive and are integrated as a valuable part of Montana's wildlife heritage. The department will manage wolves to assure that recovery criteria are met or exceeded. Montana will ensure maintenance of at least 15 breeding pairs and assist natural dispersal and connectivity between gray wolf populations in Canada, Montana, Idaho, and Wyoming. The department uses an adaptive management framework for the gray wolf, meaning that if the statewide number of wolves exceeds 15 breeding pairs, the department may, as outlined in these rules, approve lethal control of wolves. If there are fewer than 15 breeding pair, the department will allow only conservative management of the wolf populations so that the number of breeding pair does not go below 10 but may still approve lethal control. These rules set out the comprehensive structure governing control of the gray wolf so that all control actions fall within the department's adaptive

management considerations. The commission has authority, when the statewide number of wolves exceeds 15 breeding pairs, to adopt a hunting season with quotas for wolves and will exercise that authority as part of the adaptive management framework for the gray wolf. The department's management decisions will be guided by the principles of maintaining and enhancing Montana's contribution to the overall northern Rocky Mountain gray wolf population and the gray wolf's connectivity between contiguous populations in Canada, Idaho, Montana, and Wyoming.

(2) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

AUTH: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

IMP: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

NEW RULE II (12.9.1302) DEFINITIONS The following definitions apply to this subchapter:

(1) ~~"Adaptive management" means a model for wolf conservation and management strategies; changes in the number of packs determined through a monitoring program directs selection of more conservative or liberal management strategies; model incorporates resource objectives, monitoring protocols, evaluation of predicted outcomes, and a decision process.~~ means wolf conservation and management strategies that will maintain a recovered population and assure natural connectivity and genetic exchange among the wolf populations in Canada, Montana, Idaho, and Wyoming. It establishes resource objectives such as maintenance of a recovered population; it monitors progress towards meeting those objectives through wolf numbers, distribution, dispersal, genetic diversity, and consideration of disease; and it adjusts management decisions to meet these resource objectives. Adaptive management directs selection of more conservative or liberal management tools, accordingly. If wolf numbers, natural connectivity, or genetic exchange ever become conservation concerns, adaptive management allows the department a full range of tools to ensure a recovered and connected population, including more conservative lethal control, smaller regulated harvest quotas, and human assisted genetic exchange.

(2) "Agency" means the Department of Fish, Wildlife and Parks or another agency of the government authorized by the Department of Fish, Wildlife and Parks through an interagency cooperative agreement.

(3) ~~"Attacking or killing"~~ means the actual biting, wounding, or grasping, ~~or killing~~ of livestock or domestic dogs.

(4) remains as proposed.

(5) ~~"Confirms", "confirmed", or "confirmation" that a wolf killed the livestock"~~ means an incident where USDA Wildlife Services ~~conducts~~ determines through a

field investigation of dead or injured livestock, ~~at the request of the producer;~~ ~~depredation is confirmed in cases where~~ that there is reasonable physical evidence that ~~an~~ the animal was actually attacked and/or killed by a wolf. The primary confirmation would ordinarily be the presence of bite marks and associated subcutaneous hemorrhaging and tissue damage, indicating that the attack occurred while the victim was alive, as opposed to simply feeding on an already dead animal. Spacing between canine tooth punctures, feeding pattern on the carcass, fresh tracks, scat, hairs rubbed off on fences or brush, and/or eye witness accounts of the attack may help identify the specific species or individual responsible for the depredation. Predation might also be confirmed in the absence of bite marks and associated hemorrhaging (i.e., if much of the carcass has already been consumed by the predator or scavengers) if there is other physical evidence to confirm predation on the live animal. This might include blood spilled or sprayed at a nearby attack site or other evidence of an attack or struggle. There may also be nearby remains of other victims for which there is still sufficient evidence to confirm predation, allowing reasonable inference of confirmed predation on the animal that has been largely consumed.

(6) remains as proposed.

(7) "Intentional harassment" means the deliberate and preplanned harassment of a wolf, ~~including~~ by less than lethal munitions, ~~such as~~ including but not limited to, 12 gauge shot gun rubber bullets and bean bag shells, that are designed to cause physical discomfort and temporary physical injury but not death. Intentional harassment may also include other devices intended to make noise such as 12 gauge shot gun cracker shells, RAGG boxes, propane cannons, or sirens.

(8) "Lethal control" means killing a wolf except for hunting or trapping by the public as authorized by the commission as part of a regulated public harvest.

~~(8)~~ (9) "Livestock" means cattle, calf, hog, pig, horse, mule, sheep, lamb, llama, goat, herding/ or guarding animals, rhea, emu, ~~and~~ ostrich, donkey, and certain breeds of dogs commonly used for herding or guarding livestock.

(10) "Nonlethal control" means actions intended to decrease the risk of conflict that does not injure or kill a wolf.

~~(9)~~ (11) "Opportunistic hazing in a noninjurious manner" means harassment, without the conduct of prior purposeful actions, such as yelling and radio activated noise makers, or use of firearms to scare or discourage a wolf in a way that does not injure or kill the wolf.

(12) "Problem wolf" means a wolf that has been confirmed by the department or USDA Wildlife Services to have attacked or been in the act of attacking livestock within the past 45 days.

(10) remains as proposed but is renumbered (13).

~~(14)~~ (14) "USDA Wildlife Services" means the Wildlife Services Division of the United States Department of Agriculture, Animal and Plant Health Inspection Service.

(15) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

AUTH: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

IMP: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

NEW RULE III (12.9.1303) CONTROL METHODS OF THE GRAY WOLF INCLUDES NONLETHAL AND LETHAL MEANS (1) remains as proposed.

(2) The department may take control actions; pursuant to an interagency cooperative agreement, may authorize USDA Wildlife Services to undertake control actions; or pursuant to an interagency cooperative ~~future~~ agreement, may authorize the Department of Livestock to undertake control actions that are consistent with this rule and the Montana Gray Wolf Conservation and Management Plan. The department is responsible for any lethal control decision and ~~ultimately~~ ultimately for the status, conservation, and management of the gray wolf population as a state species in need of management, game animal, or a furbearer as guided by the Montana Gray Wolf Management Plan, administrative rules, and statutes.

(3) Control of the gray wolf by an agency or by an individual may includes nonlethal and lethal actions. The department shall address wolf conflicts on a case-by-case basis, connecting response to the conflict in both time and location to direct nonlethal and lethal actions to a wolf or wolves with the highest likelihood of having injured or killed the livestock.

(4) remains as proposed.

(5) Killing or harassing a wolf not in conformance with these rules is subject to criminal penalties pursuant to 87-1-102, 87-1-125, 87-5-106, and 87-5-111, MCA, as applicable.

(6) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

AUTH: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

IMP: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

NEW RULE IV (12.9.1304) ALLOWABLE NONLETHAL CONTROL OF THE GRAY WOLF (1) Control of the gray wolf includes a variety of nonlethal management activities intended to decrease risk of, prevent, or resolve a conflict without killing the wolf in question. Allowable nonlethal control activities include, but are not limited to:

(a) husbandry practices including, but not limited to, electric fencing, increased human presence, fladry, herding or guarding animals, night pens, shed

lambing, carcass removal, alternative pastures, amended pasture or grazing rotations, or supplemental feed;

(b) placement of a radio collar to facilitate increased monitoring of the pack;

(c) opportunistic hazing in a noninjurious manner; ~~and~~

(d) intentional harassment;

(e) department discouraging wolves from denning in a particular location;

(f) carcass removal or electric fencing of bone yards (e.g., localized livestock disposal sites which attract a variety of scavengers); and

(g) working with interested individual livestock owners and private landowners, watershed groups, interested groups, state and federal land managing agencies, USDA Wildlife Services, and the Montana Livestock Loss Reduction and Mitigation Board and its coordinator to provide technical assistance and to assist with selection and implementation of proactive nonlethal controls on both public and private lands when and where livestock are present, either seasonally or yearlong. Examples include: allotment management or annual operating plans; Wildlife Management Area or other state land grazing leases; and, predator deterrent programs offered through the United States Department of Agriculture Natural Resource and Conservation Service Environmental Quality Incentive Program.

(2) The department will also work with others to better understand the effectiveness of nonlethal activities to prevent or decrease the likelihood of wolf-livestock conflicts.

(3) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

AUTH: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

IMP: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

NEW RULE V (12.9.1305) ALLOWABLE LETHAL CONTROL OF THE GRAY WOLF (1) On a case-by-case basis, the department ~~may allows~~ authorize only the following lethal control of ~~the gray wolf~~ problem wolves:

(a) agency control by the department, USDA Wildlife Services, or the Department of Livestock pursuant to an interagency cooperative agreement and as part of a coordinated agency response;

(b) control by a livestock owner, immediate family members, or employees with a permit issued by the department under the conditions authorized and specified on the permit; and

~~(c) killing of a wolf that is attacking, killing, or threatening to kill a person or livestock; and~~

~~(d)~~(c) control to protect human safety.

(2) The department may authorize lethal control of a problem wolfves, after considering the number of breeding pairs within the state and other factors in these rules.

~~(3) Before authorizing lethal control of a gray wolf for livestock conflict:~~

~~(a) the department or USDA Wildlife Services shall conduct the following investigation:~~

(3) Before considering lethal control of a problem wolf for livestock conflict, the department or USDA Wildlife Services shall conduct the following investigation:

~~(i) A livestock owner may call the department or USDA Wildlife Services to conduct an investigation of injured or dead livestock.~~

~~(ii)(a) The department or USDA Wildlife Services will conduct a field investigation to determine if the death of the livestock was due to natural causes or a predator; and~~

~~(iii)(b) If a predator killed the livestock, the department or USDA Wildlife Services will examine the evidence at the scene to determine if a wolf was responsible.~~

~~(b)(4) If the department or USDA Wildlife Services confirms that a wolf killed the livestock, the department seeks will consider input from USDA Wildlife Services and the livestock owner to and decide the best course of action. The department may authorize incremental lethal control for problem wolves for up to 45 days from the date of confirmation by USDA Wildlife Services, assessing each conflict on a case-by-case basis and after considering the following factors:~~

~~(i) through (vi) remain the same but are renumbered (a) through (f).~~

~~(vii)(g) season; and~~

~~(viii)(h) number of breeding pair within the state;~~

~~(i) effectiveness and prior use of nonlethal control; and~~

(i) verification that wolves are not intentionally baited or drawn to the area, wolves are routinely present, and that nonlethal tools are unlikely to prevent further incidents of injured or dead livestock.

~~(4)(5) The department has the discretion to lethally remove a gray wolf if the department determines that the wolf is bold, food conditioned, habituated to humans or livestock, demonstrates abnormal behavior patterns or physical characteristics indicative of a wolf-dog hybrid or of captive origin, or if it poses an immediate or ongoing threat to human safety.~~

~~(5) remains as proposed but is renumbered (6).~~

~~(6)(7) The department may kill or remove a sick, injured, or diseased wolf.~~

(8) To further conservation of the species, the department may capture and translocate a wolf or use other human assisted techniques.

~~(7)(9) The department may authorize a livestock owner, immediate family members, or employees by a permit to take a problem wolf under the following circumstances and conditions as part of a coordinated agency response to confirmed livestock damage due to wolves:~~

~~(a) when the department or USDA Wildlife Services confirms that a wolf killed the livestock; or and when the department or USDA Wildlife Services confirms wolves are routinely present on the property or allotment and present a significant ongoing risk to livestock;~~

~~(b) and (c) remain as proposed.~~

(d) the permit may last for a maximum of 45 days from the date the department or USDA Wildlife Services confirms the wolf caused damage ~~or wolves are a significant risk to livestock~~;

(e) the permit expires when the total desired number of wolves are removed by the combined action of the department, USDA Wildlife Services, and individuals named on the permit, or at the end of the 45 days, whichever is first; ~~and~~

(f) within 24 hours, a person must report to the department killing or injuring a wolf under a permit;

(g) to preserve the physical evidence, the permittee shall leave the carcass of any wolf killed where it lay, and shall not disturb the area surrounding the carcass; and

(h) surrender the carcass to the department.

(10) The permit must specify:

(a) its duration and expiration date;

(b) total number of wolves that may be lawfully killed through the combined actions of the individuals named on the permit and the department or USDA Wildlife Services;

(c) the geographic area where the permit is valid; and

(d) that wolves may be killed from the ground and in a manner that does not entail the use of intentional live or dead baits, scents, or attractants or deliberate use of traps or snares, or poisons; or use of radio telemetry equipment.

~~(8)~~(11) As allowed by 87-3-130, MCA, a person may kill a wolf that is attacking, killing, or threatening to kill a person or livestock, or that is in the act of attacking or killing a domestic dog. A person may not intentionally bait a wolf with domestic dogs or livestock for the purpose of killing the wolf.

(a) This person shall notify the department within 72 hours, preserve the scene, and leave the carcass where it was killed until the department or USDA Wildlife Services investigates the scene, and surrender the carcass to the department. USDA Wildlife Services will investigate and determine the cause of any injured or dead livestock.

(12) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.

AUTH: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

IMP: 87-1-201, 87-1-301, ~~87-5-101, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-106, 87-5-107, 87-5-108, 87-5-109, 87-5-110, 87-5-111, 87-5-112, 87-5-116, 87-5-121, 87-5-122, 87-5-131, 87-5-132, MCA~~

5. Three hearings were conducted and comments were received. The following comments were received and appear with the department's and commission's responses:

Comment 1: Many comments support the reclassification of the wolf as a species in need of management.

Response 1: The department and commission affirm the commitment to the maintenance of a secure, recovered wolf population and Montana's unique role in maintaining connectivity with other contiguous populations in Canada, Idaho, and Wyoming. The department and commission understand Montana's unique role in maintaining adequate number of wolves and encouraging connectivity to maintain adequate genetic diversity.

Comment 2: Several comments did not support delisting of the wolf from the federal Endangered Species Act, stating that the federal recovery criteria were too low, or otherwise pertained to federal decisions outside the scope of state rulemaking.

Response 2: The department and commission appreciate these comments and perspectives though they are outside the scope of the state's jurisdiction and this rulemaking.

Comment 3: Several comments indicated that the department and commission need to do more to assure connectivity and the ability of wolves to move about the landscape safely, to disperse to other areas, and form new packs. Related comments suggested the department and commission take genetic diversity into account more explicitly when making adaptive management decisions and in its monitoring efforts.

Response 3: The department and commission are aware of the department and commission's unique role in assuring, through adequate regulation of human caused mortality, that wolves can disperse and freely move about the landscape. Regulating human caused mortality adequately allows natural connectivity and genetic exchange among wolf packs within Montana and with wolf populations in Canada, Wyoming, and Idaho. The department and commission are also participating in several efforts to identify habitat linkages and corridors for a variety of species, including the gray wolf. The department collects a variety of data during its monitoring efforts, including DNA, to address questions about dispersal and connectivity. Efforts are ongoing and will continue into the future.

The department and commission have amended the language of NEW RULE I to make more explicit Montana's commitment to enhance and aid natural dispersal and connectivity among the wolf populations in northwest Montana, central Idaho, the Greater Yellowstone Area, and Canada. The definition of adoptive management in NEW RULE II (12.9.1302) (1) was amended to emphasize connectivity and dispersal as management goals.

Comment 4: The department and commission received several comments that certain definitions were vague or incomplete.

Response 4: The department and commission have revised the definitions to clarify or make the definitions more complete. Definitions for terms that were used

elsewhere in the rule, but had not been previously defined, have been added. The definitions are consistent with the federally-approved state wolf plan and final environmental impact statement or consistent with definitions in a common dictionary.

Comment 5: The department and commission received several comments that the Montana Department of Livestock should either be deleted from (2) and therefore not authorized to undertake control actions. Alternatively, if reference to Montana Department of Livestock was not stricken from the final rule, its role and responsibilities should be clearly identified within the final rule prior to its adoption.

Response 5: Language has been inserted to clarify that the department can establish an interagency cooperative agreement with the Montana Department of Livestock to undertake control actions that are consistent with this rule and the state's federally-approved wolf plan. The interagency agreement will dictate activities undertaken by the Montana Department of Livestock. The inserted language clarifies that the department and commission are responsible for the decisions about the status, conservation, and management of the gray wolf population as a state species in need of management, game animal, or fur bearer as guided by Montana's wolf plan, statutes, and rules. The department and commission recognize that the Montana Department of Livestock has an interest in how wolf-livestock conflicts are addressed through its relationship with USDA Wildlife Services.

Comment 6: Several comments indicated a better explanation of "connecting the response to the conflict in both time and location" in (3) is needed.

Response 6: Language to better describe that lethal control is intended to be directed toward a wolf or wolves with the highest likelihood of having already injured or killed livestock in a specific area has been added. Lethal control actions in particular should be implemented and carried out in such a way as to maximize the likelihood that the offending problem wolves are killed, as it seems individual wolves experiment and "learn" that livestock can be a food source and teach that behavior to other wolves. Killing problem wolves, when necessary and as opposed to indiscriminant killing of wolves far away from where the damage occurred, offers the greatest probability that depredations will stop. This approach is consistent with the department's and commission's approach when responding to mountain lion and black bear damage to private property. Nonlethal control is intended to decrease the risk of wolf caused livestock losses, though may not fully prevent wolf caused losses.

Comment 7: Several comments at the hearings addressed aspects of wolf biology and potential outcomes of management decisions, such as breeder loss, trophic cascades, and compensatory mortality.

Response 7: The department and commission acknowledge these comments and questions about wolf biology and the potential outcomes of management decisions.

The department's monitoring of individual packs, total wolf numbers, distribution, dispersal, diseases, connectivity, and other things through an adaptive management framework assures that lethal control or other management prescriptions will not jeopardize maintenance of adequate numbers of breeding pairs, connectivity, and genetic exchange. Additionally, the department is involved with various applied research and field projects aimed at decreasing uncertainty about wolf biology and the outcomes of management prescriptions.

Comment 8: A comment at a hearing expressed concern that the broad language of Montana's defense of property statute could be interpreted to mean that it would be legal to bait wolves with domestic dogs or livestock for the purposes of intentionally killing wolves lawfully under the statute.

Response 8: It is unlawful for a person to intentionally bait wolves with domestic dogs or livestock for the purposes of killing wolves as per the defense of property statute and NEW RULE V(9). The statute requires that all incidents in which wolves are injured or killed in defense of property be reported to the department and the department will investigate them. If an investigation determines that intentional baiting or unusual attractants were used with the intent of killing wolves, the department will seek prosecution.

Comment 9: Several comments supported inclusion of allowable nonlethal control.

Response 9: The department and commission appreciate the support.

Comment 10: Several comments suggested that nonlethal control strategies should be required prior to application of lethal control. Related comments suggested that the department and commission have not demonstrated a strong enough commitment to use of nonlethal control measures. A few other related comments suggested that department should work harder and put more effort into development and requiring "best management" practices of public land grazing permittees.

Response 10: The department and commission believe that an integrated approach to addressing wolf-livestock conflicts requires the combination of both nonlethal tools to decrease the risk of livestock loss and lethal tools when wolves repeatedly kill livestock. Many livestock owners already implement several nonlethal proactive tools. The department and commission do not have jurisdiction over lands managed by other state or federal agencies for livestock grazing but the department has been involved with several cooperative range rider projects and works directly with individual livestock owners, watershed groups, grazing associations, and land management agencies. The department has learned that a combination of strategies are required for livestock and wolves to share the Montana landscape. Tolerance of wildlife use of private lands, and by species that can injure or kill livestock, is critical to their long term conservation success. Therefore, the department and commission take a balanced, adaptive, and flexible approach to preventing and resolving wolf-livestock conflicts. The department and commission

have added additional language to NEW RULE IV to more specifically state the commitment to use and evaluate nonlethal methods of control.

Comment 11: Several comments suggested additional proactive nonlethal strategies that were not included in the list.

Response 11: Several additional nonlethal activities that could be considered have been added to NEW RULE IV. The list is not exhaustive, nor exclusive as new techniques are developed. A reference to the need to work with all other interested parties and in a variety of settings in which wolves and livestock could be in close proximity has also been added. Further, a reference was added that technical assistance will be provided to the Montana Livestock Loss Reduction and Mitigation Board and its coordinator to help with selection, implementation, and evaluation of proactive nonlethal tools.

Comment 12: Several comments suggested more effort into nonlethal control activities and less into lethal control activities on public lands.

Response 12: NEW RULE I states the department will implement conservation and management strategies to make sure that wolves continue to thrive. The department has supported and participated in a number of programs with proactive, nonlethal strategies aimed at preventing livestock loss on both public and private lands. Although nonlethal control methods are preferred on public land, the department's adaptive management plan approaches wolf-livestock conflicts within the context of an adaptive management framework that generally discerns between settings of public lands, primarily backcountry areas and near national parks, and areas of mixed land ownerships. The plan also recognized that livestock are considered private property and that conflicts needed to be addressed and resolved wherever they occur, using a combination of nonlethal and lethal control activities.

Approximately 65% of all lethal control occurs on private lands. The department and USDA Wildlife Services completed a summary of damage and damage management for the period 1987-2006 (Sime et al. 2007). The summary shows that the majority of livestock are confirmed as being injured or killed on private land in Montana. The majority of lethal control is carried out by both private citizens, as authorized by applicable state or federal regulations, and by USDA Wildlife Services, as authorized by the department.

Comment 13: Several comments supported the allowable lethal control, the need to address and resolve conflicts, and that lethal removal was an important tool. Comments also generally supported an incremental approach.

Response 13: The department and commission agree that lethal control of problem wolves has helped resolve wolf-livestock conflicts. Further, the department and commission believe that strategic, targeted removal of problem wolves should be carried out in combination with proactive, nonlethal efforts to decrease the risk that livestock would be injured or killed by wolves. Based on nineteen years of experience with wolf-livestock conflicts in Montana, the department and USDA

Wildlife Services concluded the combination will be required to maintain local public tolerance of wolves where the two overlap. (Sime et al. 2007)

Comment 14: Several questions and comments were received about how the department and commission establish wolf hunting quotas in light of lethal control to address wolf-livestock conflicts.

Response 14: The department considered and modeled previous data about wolf death, birth, immigration, and emigration from all causes prior to making a tentative recommendation of a hunting quota to the commission on June 12, 2008. The department took into account livestock-related lethal control and made a conservative recommendation to the commission. By managing future public harvest on a quota-based system, when the total number of breeding pairs is greater than 15, many safeguards are in place to prevent excessive total mortality. Population monitoring also includes efforts to monitor wolf numbers, distribution, dispersal, birth, death, disease, and other things pertinent to maintaining a recovered, "connected" wolf population. The department provided supporting information about the modeling exercise and safeguards against excessive mortality to the commission and the public previously.

Comment 15: Many comments were received specific to the hunting quotas and generally stated that the hunting quotas were either too high or that wolves should not be hunted at all. Many of these comments also registered a concern about lethal control in such a way that could have either applied to the wolf quota or the proposed ARM rules.

Response 15: Although these rules do not directly address quotas or wolf hunting, NEW RULE I establishes the department's commitment to the preservation of the gray wolf. Language was added to NEW RULE I stating the department will manage wolves to assure that recovery criteria are met or exceeded and the commission has authority to adopt a hunting season when the statewide number of breeding pair exceeds 15.

Comment 16: Several comments stated the rule proposal did not adequately explain the permit process and details related to that aspect of lethal control. One comment also suggested language that discouraged flagrant abuse of a kill permit.

Response 16: The department's experience is that private citizens in Montana have not abused the flexibility afforded to them under the federal regulations or the state's guidelines, as applicable, over the last several years. Nonetheless, additional clarifying language was added to NEW RULE V.

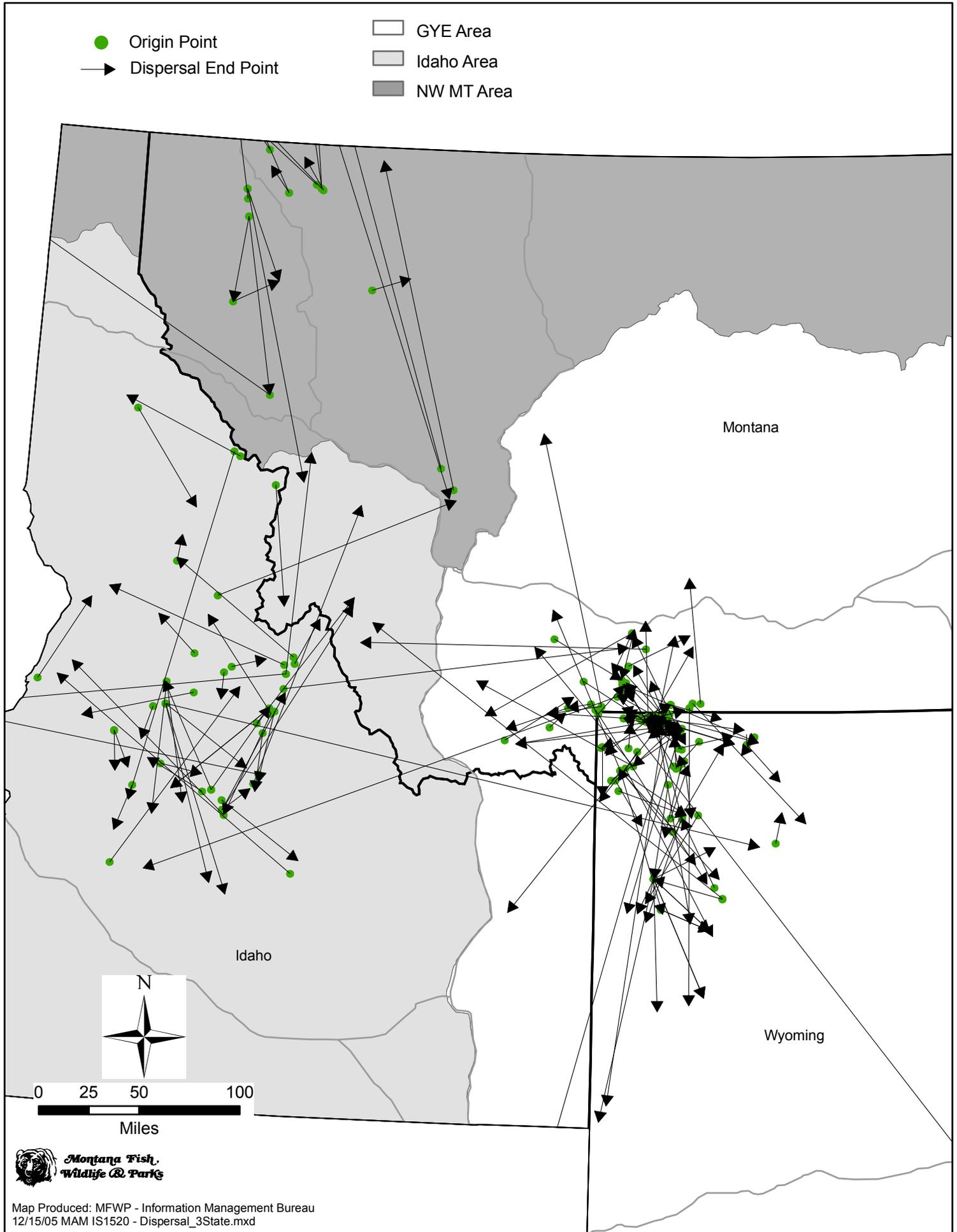
/s/ Steve Doherty
Steve Doherty
Chairman
Fish, Wildlife and Parks Commission

/s/ Martha Williams
Martha Williams
Rule Reviewer
Department of Fish, Wildlife and Parks

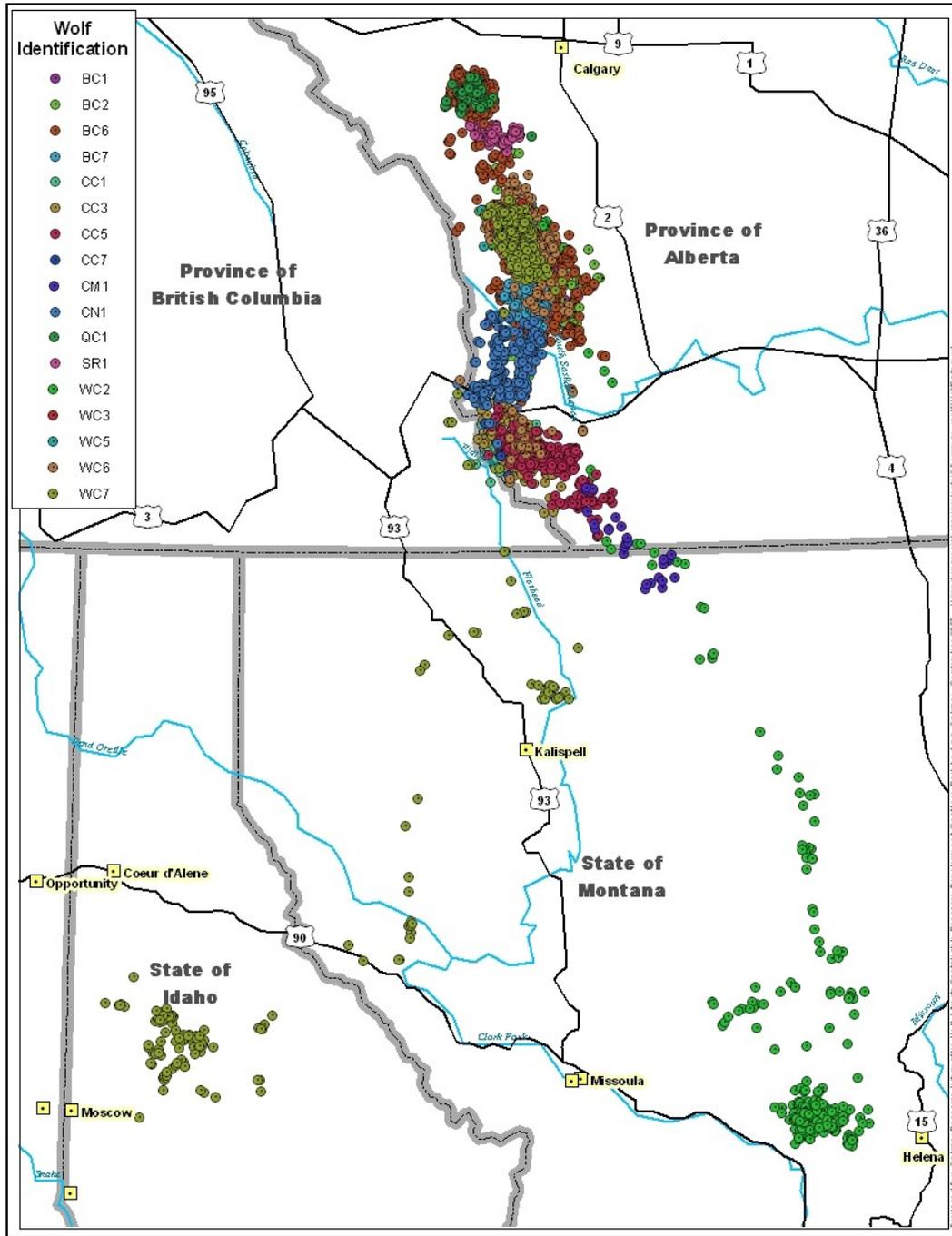
/s/ M. Jeff Hagener
M. Jeff Hagener
Director
Department of Fish, Wildlife and Parks
Secretary
Fish, Wildlife and Parks Commission

Certified to the Secretary of State September 29, 2008

Wolf dispersal in the Rocky Mountain Wolf Population, 1995-2005



Wolf Packs near the town of Pincher Creek, southwest Alberta and two routes taken by two different dispersing wolves in 2004 and 2007, respectively. Both animals were members of the same pack called Willow Creek.



SOURCE: Carita Bergman, Wildlife Biologist from Alberta Sustainable Resource Development, Fish and Wildlife Division and The Oldman Basin Carnivore Advisory Group