



COLORADO

Parks and Wildlife

Department of Natural Resources

Director's Office
6060 Broadway
Denver, CO 80216
P 303.297.1192

Liisa M. Hernández Niva
Field Office Supervisor (on detail)
Colorado Ecological Services Field Office
U.S. Fish & Wildlife Service
Denver, CO
(TRANSMITTED VIA EMAIL)

24 July 2023

Dear Liisa:

Thank you for the opportunity to comment on the Draft Final EIS for the Colorado Gray Wolf 10(j) Rulemaking.

Colorado Parks and Wildlife has these comments to share with you for your consideration.

We believe that the EIS needs to explicitly analyze and state that the Colorado wolf population area will be designated as *nonessential*. This is a key component to the experimental designation under section 10(j), and has direct relevance to Section 7 consultation requirements. The EIS should address this and insert the term 'nonessential' where appropriate throughout the document.

There is not an explicit statement that reintroduction under Section 10(j) would further the conservation of the species. As this is a specific requirement under Section 10(j), having a definitive statement, front and center, would strengthen the Service's position. We suggest that emphasizing that this has been properly analyzed will strengthen the Service's determination that creating a nonessential experimental population under the proposed 10(j) rule in Alternative 1 (and maybe Alt 2 as well) would "contribute to the conservation of" gray wolves so they have clearly satisfied that statutory requirement in 16 U.S.C. § 1539(j)(2)(A).

Finally, in the provisions about "additional take" on private and public lands, this statement is repeated in tables ES-1, 2-2, 2-3, and 2-4. "(1) the landowner has had at least one depredation by wolves on livestock that has been confirmed by the Service or designated agent within the last 30 days; and (2) the Service or designated agent has determined that repeatedly depredating wolves are routinely present on the private land and present a significant risk to the health and safety of livestock; and (3) the Service or designated agent has authorized lethal removal of wolves from that



same private land." We ask if there should be a "previously" in the highlighted section so it says the Service or agent has previously authorized lethal removal? Otherwise, it begs the question, isn't the authorization of lethal removal what is being done in the current action?

Specific wording recommendations:

On page 1-1, in the first paragraph, we suggest the inclusion of a footnote at the end of the sentence that begins: "Wolf populations in Montana, Wyoming, Idaho..." that clarifies the status and current legal considerations. We suggest that the footnote could include the language: The listing status of gray wolves throughout the western United States, except in the Mexican Wolf Experimental Area, is currently under review by the Fish and Wildlife Service. In addition, the district court decision rejecting a Service-proposed de-listing rule for gray wolves has been appealed and is currently pending in the U.S. Court of Appeals for the Ninth Circuit. The appeal is currently stayed by agreement of the parties until February 2024.

On page 2-5, #9. The sentence that begins: "However, State policy..." should be edited to state: "However, the State Constitution only allows for the use of (nonlethal) leghold traps for scientific investigations and other limited purposes. Should State law change, the range of alternatives considered in the EIS does not include anything that dictates what tools can or cannot be used, and the State would be able to use foothold traps as a management tool should it choose to do so."

On page 4-48, We suggest the inclusion of "Colorado Constitution Art. 18 § 12b (2021)" in the roster of Additional relevant State plans or laws.

Again, thank you for the opportunity to provide these clarifying comments. Please contact me if you have any questions.

Sincerely,



Reid DeWalt
Assistant Director, Aquatic, Terrestrial, and Natural Resources
Colorado Parks and Wildlife