

November 25, 2008

Public comments Processing
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
4401 N. Fairfax Dr.
Suite 222
Arlington, VA 22203

Re: RIN 1018-AW37

Comments on the (2007) renewed proposal to establish a Distinct Population Segment of the gray wolf in the Northern Rocky Mountains (NR-DPS) and to remove the NR-DPS from the list of Endangered and Threatened Species

Submitted via: Federal eRulemaking Portal: <http://www.regulations.gov>

To whom it may concern,

Please accept these comments on behalf of the Board of Directors and the nearly 2,000 members of the Jackson Hole Conservation Alliance regarding the U.S. Fish and Wildlife Service proposal to remove the Northern Rockies gray wolf population from the list of endangered and threatened species as described in the Federal Register, Vol. 73, p. 63,926-63,932 (October 28, 2008). These comments are submitted as a supplement to those submitted on our behalf by Earthjustice.

Our review of the renewed U.S. Fish and Wildlife Service (USFWS) proposal leads us to conclude that little has changed from the original proposal (February 2008 delisting rule) that was soundly rejected by the U.S. District Court for the District of Montana in July 2008. The District Court's major concerns focused on Wyoming's dual classification of wolves (wolves managed as Trophy Game in approximately 12 percent of the state and as a Predator in the remainder of the state); the lack of evidence of genetic connectivity (exchange) between the Wyoming wolf population and those of Idaho and Montana; the lack of clear commitment by Wyoming to manage for at least 15 breeding pairs (two adult wolves of opposite sex with two young of the year at their side on December 31 of the year) (BP) and 150 wolves, and last, Wyoming's ability to shrink but not expand the Trophy Game Area (TGA).

Pertinent to this delisting effort is the action taken in September 2008 by the U.S. District Court for the District of Columbia wherein the February 2008 final delisting rule that established the Western Great Lakes DPS of gray wolves and its removal from Endangered Species Act (ESA) protection was remanded. In this

ruling the court focused on the interpretation of the DPS provision as applied to the delisting of Endangered and Threatened species.

This renewed delisting effort solicits comments from the public on a variety of topics including those outlined above. Our comments will generally address these and other topics.

APPLICATION OF THE DISTINCT POPULATION SEGMENT IN DELISTING OF NORTHERN ROCKY MOUNTAIN GRAY WOLVES

Our organization has long questioned the validity of the use of the DPS designation for the delisting of wolves, whether in the Northern Rockies or the Western Great Lakes region. With the District Court ruling in the Western Great Lakes wolf delisting case, we feel strongly that the manner in which the DPS provision is applied to gray wolf delisting is inappropriate and the consideration of segmenting Wyoming out of the current DPS is indefensible and will not survive a court challenge and therefore, should be immediately dropped from consideration. We say this because segmenting Wyoming out of the Greater Yellowstone Ecosystem (GYE) wolf population will divide an established population into two management categories: Those wolves that will be protected in Yellowstone and Grand Teton national parks, The John D. Rockefeller Memorial Parkway and the National Elk Refuge (National Parks) and those wolves that occur within- or cross into Montana and Idaho and will be subject to management control and regulated harvest. We firmly believe that dividing an existing population based entirely on political boundaries violates the intent of the DPS, regardless of how it's large-scale applicability is finally defined by the courts.

We urge the USFWS to abandon any consideration of segmenting Wyoming from the existing DPS and to reconsider the appropriateness of applying the DPS provision to the delisting effort for gray wolves in the 48 contiguous United States.

DUAL CLASSIFICATION OF WYOMING'S WOLVES

We feel strongly that no delisting can occur as long as Wyoming retains its dual classification. The 1987 Final Northern Rocky Mountain Wolf Recovery Plan (p.19) states: "Delisting the Northern Rocky Mountain wolf will be contingent upon the species being classified as a game animal, furbearer, or other protected status by the States..." Wyoming's current dual classification denies all protection for wolves in approximately 88 percent of the state- these wolves are classified by State legislation as Predators and subject to killing by anyone at any time by nearly any means. The remaining portion of the state is classified as the Trophy Game Area (TGA) and provides managed protection including sport hunting and a liberal defense of property rights provision.

We urge the USFWS to abandon delisting efforts for the Northern Rocky Mountain gray wolf population until Wyoming eliminates the dual classification status and places all Wyoming wolves under managed protection, either Trophy Game or Big Game status.

WYOMING'S COMMITMENT TO MANAGE FOR 15 BREEDING PAIRS AND 150 WOLVES

Although Wyoming has recently clarified its commitment to manage wolves to insure a minimum of 15 BP and 150 wolves, we continue to have two concerns: First, the commitment itself provides no indication that Wyoming will manage for more than the minimum numbers. This could lead to a 50 percent reduction in Wyoming's current wolf population. A reduction of this magnitude will further hinder prospects of the natural movement of wolves and subsequent genetic exchange between Wyoming's wolves and those in Idaho and Montana (See: Comments, Genetic Connectivity, this submittal). This is contrary to both the intent of the Endangered Species Act (ESA) as well as sound wildlife management principles. The 15/150 are negotiated numbers arrived at with 1990's science and we believe only represent the threshold at which delisting would be considered. Nowhere is it stated that these numbers should constitute long-term management objectives. Adopting and viewing these numbers as "ceilings" is arbitrary and reflects political concessions and not carrying capacity-based wildlife management principles and not the best available science.

Our second concern is with Wyoming's revised management plan (2008 Wyoming Gray Wolf Management Plan, adopted Nov. 18, 2008) that states: "...the Commission determines there are less than eight (8) breeding pairs inside the National Parks for **2 consecutive years**, the Department shall take actions to ensure the total number of breeding pairs inside the Wyoming Trophy Game Management Area is at least fifteen (15) breeding pairs..." (Emphasis added)(p.5, 13). We are very concerned that if Wyoming waits 2 years before "taking action" to manage for a minimum of 15 BP, the population may drop so low as to jeopardize their ability to manage for problem wolves, thus generating more anti-wolf sentiment within the segment of the population already upset with the presence of and perceived inability to control wolves.

We urge the USFWS to abandon delisting efforts for the Northern Rocky Mountain gray wolf population until Wyoming makes a clear commitment to manage for a wolf population near carrying capacity (and not minimum numbers), and commits to continually managing for a minimum of 15 BP and not waiting 2 years before taking action to achieve minimum numbers.

GENETIC EXCHANGE BETWEEN YELLOWSTONE PARK WOLVES AND WOLVES IN IDAHO AND MONTANA

Best current science recommends that in order to avoid inbreeding and maintaining genetic diversity, a minimum of 12 wolves would have to immigrate into the Greater Yellowstone wolf population area annually with 4 animals entering the breeding population even with a base population of 600 wolves (vonHolt, B. et al. The genealogy and genetic viability of reintroduced Yellowstone grey wolves. In: Molecular Ecology. 2007. P.14-16.). Wyoming's Revised Wolf Management Plan (p. 22-23) identifies the need for the movement of wolves between the 3 state populations and discusses land management practices but ignores the single biggest factor in successful movement of wolves between the populations- the legal protection given to wolves as they cross unoccupied habitats. As long as Wyoming maintains a Predator Zone around the National Parks and the TGA, particularly to the south of Wyoming Highway 22 (Teton Pass), the chances of wolves moving into the TGA are very slim. There is little argument that wolves are habitat generalists, but protecting habitat is not enough to facilitate wolf movements and genetic exchange if wolves entering the Predator Zone are subject to indiscriminant killing. We believe it is naïve to think that "public education efforts" alone will provide safe passage for wolves. One need only recall the killing that occurred in Wyoming's Predator Zone the first days after wolves were removed from the endangered species list on March 28, 2008.

A second factor influencing the natural interstate movement of wolves involves the manner in which they are managed in Idaho (particularly eastern Idaho) and southern Montana. For example, if wolf management in eastern Idaho resembles that of Wyoming's Predator Zone, then it is highly unlikely that wolves will be able to survive the move between the two subpopulations, and certainly not in sufficient numbers necessary to enable 4 animals to enter the breeding population every year as outlined by vonHolt et al. (op. cit.) This underlines the need for detailed management coordination between the three states. Without this, we feel that public education and protected habitats alone will not yield the degree of genetic exchange necessary to sustain long-term population viability.

Contrary to the intent of the DRAFT – Memorandum of Understanding (D-MOU), "Maintenance and Enhancement of Gray Wolf Recovery in the Northern Rocky Mountains" we see no evidence of such cooperation in the three states' wolf management plans. Consequently, proceeding with delisting while this D-MOU remains unsigned and its intent unmet, it is grossly inappropriate.

As proposed by the USFWS in both the delisting proposal and the Draft MOU, we feel that "moving individual wolves or their genes into the affected population segment[.]" in order to facilitate the genetic exchange provision of the Revised Plan, is contrary to the intent of the ESA. We firmly believe that the intent of the ESA is to set into play management programs that will allow for the endangered or threatened species to become "...viable (self-perpetuating) populations." (The

Endangered Species Act of 1973: A summary of the ESA and Implementation Activities. 1996. p.7). The Conservation Alliance believes that reliance upon human assisted genetic exchange (transplanting wolves or their genetic material) does not meet the definitions of self-sustaining or long-term viability.

Sec.3. (3) of the ESA states: The terms “conserve,” “conserving,” and “conservation” mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking (Endangered Species Act as amended January 24, 2002).

We believe that a reasonable person would interpret this to mean that recovery efforts may include the above-mentioned actions, but true recovery is not achieved until those same activities are no longer necessary to insure long-term viability. The reliance upon human assisted transplantation of wolves or their genetic material indicates to us that recovery has not been met and consequently, delisting should not occur.

We also question the success of the human-assisted translocations. Is there evidence that transported wolves will survive and enter (and contribute genetically to) the breeding population? Is there evidence that the translocation of “genetic materials” can be successfully achieved in wild wolf populations? Until the success of these techniques is proven, they cannot be a part of a long-term recovery plan, nor can they be relied upon to maintain long-term genetic diversity in a recovered population. Doing so simply does not meet the definition of a recovered population.

We strongly urge the USFWS to abandon delisting efforts for the Northern Rockies Gray Wolf population until such time as reasonable proof exists that the three states’ management plans will facilitate and perpetuate natural genetic exchange between the three wolf populations and that their long-term viability will not be dependent upon human assisted genetic exchange.

POPULATION RECOVERY AND ECOLOGICAL EFFECTIVENESS

The ESA is implicit in its recognition of the importance of restoring species *and associated ecological processes*. Sanja and Berger (‘Beyond demography and delisting: ecological recovery for Yellowstone’s grizzly bears and wolves.’ 2003. Bio. Cons. 113, p.63-73) make

this argument as well as the need to include the degree to which wolves are integrated into their ecosystems as a measure of recovery. They recommend that "...ecological assays should extend as far across recovery zones as possible..." in order to determine the concordance between ecological and demographic criteria. The authors are inclined to conclude that wolves have not yet reached their ecological role throughout the recovery zone. We suggest that this may be occurring within portions of YNP where a number of recent scientific and popular articles have told of the increased vigor of various native plant communities in part as a result of elk numbers being diminished and becoming more mobile since wolves reoccupied the Park. The positive response of some plant communities seems to have influenced both the diversity and abundance of passerine birds and small mammals. This phenomenon is often referred to as "trophic cascading," referring to the impacts top predators impart throughout the ecosystem.

Wyoming's Revised Wolf Management Plan states that- "The average size of the 25 packs in Wyoming outside of YNP in 2007 was 6.9 wolves (range 2-13) and 14.2 wolves (range 4-22) for the 11 packs inside YNP (p.9). The large discrepancy between the two data sets is not surprising when mortality data is considered. In YNP there were 6 known wolf mortalities (4 percent of the population) compared to 75 known mortalities outside the park (29 percent of total population) (p. 210-216. Rocky Mountain Wolf Recovery 2007 Annual Report). Smith et al. (Age Structure and Pack Composition of Yellowstone Wolves: Simple and Complex Packs. In Preparation) presents a comprehensive review of wolf pack age structure from heavily exploited populations in Canada and Alaska and compares this to the known age structure of YNP's unexploited and intensively monitored wolf packs. They state that "Older wolves, especially large male wolves that are on average 20% larger than females, may be particularly susceptible to harvest, especially, snowmobile or aerial hunting because they are larger, slower and less capable of evading capture..." They go on to present evidence that males have a different role in the hunt than females and are more proficient at killing prey. They make a convincing case that although wolves have a high capacity to replace individuals, packs with primarily younger animals may face a higher risk of being killed by prey or in conflicts with other wolves. They conclude by saying that "...tasks within a wolf pack are mostly shared by older, experienced individuals so harvest may affect wolf behavior and should be considered when wolf control is proposed."

vonHoldt (op. cit. p.19) reiterates this concern: "However, intense control actions in the region (*in Wyoming outside YNP*) may severely affect the continuity of pack systems and hinder genetic exchange. Moreover, if such actions result in the removal of breeding pairs, this may alter the stability of pack dynamics, leading to higher breeder turnover and more frequent occurrences of inbreeding as mating choices become limited to close relatives."

Although we have no access to data on age composition of Wyoming's wolf packs, the heavy exploitation they undergo on an annual basis and the comparatively small pack size (6.9 in Wyoming vs. 14.2 for YNP) suggests that the average age of Wyoming's pack members may be considerably lower than that of YNP's packs. If so, Wyoming's packs may have less

experience and success in hunting wild ungulates and defending territories from other wolves than do their Park counterparts. This coupled with the overlap of their territories with the range of domestic cattle may lead to a greater probability of wolves preying on domestic stock, thus putting in motion a cycle of more control and a perpetuation of smaller and younger packs.

We urge the USFWS to abandon delisting actions for the Northern Rockies Gray Wolf population until such time as a larger portion of the wolf packs outside of the National Parks but within Wyoming are of a size and age structure similar to those within Yellowstone National Park. Only then can the ecological effectiveness component of wolf recovery be achieved on a large scale.

In summary, we believe that the current proposal to delist the Northern Rockies Grey is Wolf DPS is premature, driven by political pressure, ignores best available science and stands to set an unacceptable precedence for future endangered species recovery and delisting efforts. Consequently, the proposed delisting plan should be set aside until such time as the concerns mentioned herein and by other conservation interests are remedied.

Thank you,
(Signed)
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