

The Rewilding Institute

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Edward E. Bangs
Western Gray Wolf Recovery Coordinator
U.S. Fish and Wildlife Service
585 Shepard Way
Helena, MT 59601

Re: RIN 1018-AU53

Dear Ed:

The Rewilding Institute (TRI) offers the following comments on the advanced notice of a proposed rulemaking (hereafter referred to as the “notice”) that would designate a Northern Rocky Mountains (NRM) Gray Wolf Distinct Population Segment (DPS) and remove this population of gray wolves from the Federal list of endangered and threatened wildlife. The Rewilding Institute is a conservation think tank dedicated to the restoration and conservation of biological diversity (especially large carnivores), ecological processes, and biological evolution at effective landscape and continental scales.

The current level of recovery of gray wolves following their previous extirpation in the NRM ecoregion is a remarkable success for which we offer our sincere congratulations. We view this achievement and additional gray wolf recovery achievements in the Western Great Lakes and Southwest ecoregions as important and essential beginnings for successful rangewide recovery of the gray wolf as mandated by the Endangered Species Act (Act). However, we have several concerns about information and pending proposals presented in the notice which we elaborate upon below.

The NRM DPS proposal is flawed for lack of a rangewide recovery strategy for gray wolves in the conterminous 48 United States and Mexico.

In 1978, Gray wolves were listed under the Act as endangered throughout the lower 48 United States and Mexico, except in Minnesota where they were listed as threatened (43 FR 9607, March 9 1978); yet in the ensuing 28 years, the U.S. Fish and Wildlife Service (Service) has not developed a comprehensive rangewide strategy for recovering gray wolves under this listing regulation (which remains in effect today). Rather, the Service

has continued in a piece-meal fashion to pursue three gray wolf recovery actions in the NRM, Great Lakes, and Southwest regions initiated under prior subspecies-level listing regulations. Clearly, these ongoing recovery actions are important; but, even collectively, they fall far short of meeting the recovery requirements throughout a significant portion of the gray wolf's historic range in the lower 48 states and Mexico as required by the Act and validated by recent court decisions.

Furthermore, the Service has given no indication of any intent to pursue gray wolf recovery beyond the three ongoing recovery projects, which cover less than 5 percent of the wolf's former range in the lower 48 states and omit large areas of habitat where additional wolf recovery is feasible. To the contrary, the Service demonstrated its intent to delist (i.e., remove from protection of the Act) the gray wolf throughout the lower 48 states following achievement of established recovery goals for the three ongoing recovery projects in a revised gray wolf listing rule issued in 2003 (68 FR 15,804, April 1, 2003). This rule was invalidated by two Federal Court decisions in 2005 (*Defenders of Wildlife v. Norton*, 03-1348-JO, D. OR 2005; *National Wildlife Federation v. Norton*, 1:03-CV-340, D. VT 2005) restoring the 1978 rule as the prevailing listing authority for gray wolves under the Act.

Following the legally flawed attempt in 2003 to define rangewide gray wolf recovery as the summation of three large DPSs (with no increase in recovery goals) covering the entire historic range of gray wolves in the lower 48 states, the Service's new strategy appears to be a course of piecemeal listings of DPSs in somewhat more narrowly defined geographic regions surrounding existing recovery efforts. We believe this approach is equally flawed and would not withstand a legal challenge.

The Service rejected petitions submitted prior to the 2003 rule (but after the notice of the proposed rule) by the Defenders of Wildlife to establish DPSs in the southern Rocky Mountains, northern California-southern Oregon, and western Washington as part of the proposed new listing rule for gray wolves. The reason for rejecting these petitions stated in the notice was "[b]ecause wolves were already protected as endangered throughout the 48 conterminous States." Yet similar logic did not prevail when the Service considered a petition to establish a NRM DPS from the Governor and Game and Fish Commission of Wyoming. With the same listing rule (1978) in effect as for the Defenders of Wildlife's petitions, the Service found that the Wyoming petition "may qualify as a DPS." The Wyoming petition also requested concurrent delisting of the NRM DPS. This notice appears to follow from the Wyoming petition as it proposes the actions requested in that petition. Given the rationale for rejecting the Defenders of Wildlife's DPS petitions and the fact that the 1978 listing rule remains the prevailing listing authority, how can the Service explain this notice's proposal to establish a NRM DPS? Furthermore, we request that the Service explain how it arrived at two very different conclusions regarding the merits of the Defenders of Wildlife and Wyoming petitions for establishing DPSs under the same prevailing listing rule which already provided full protection of gray wolves throughout the lower 48 states.

Given the lack of a rangewide recovery strategy or goal for gray wolves throughout a significant portion of their historic range in the lower 48 states, it is difficult if not impossible to evaluate the contribution of the proposed NRM DPS to full recovery of the gray wolf. TRI believes that there are aspects of the proposal to delist the NRM DPS that will be detrimental to rangewide recovery of the gray wolf as mandated and required under the prevailing listing rule and the Act. Furthermore, we believe that the proposed NRM DPS contradicts the intent of the Act with regard to listing DPSs and the Service's formal DPS Policy. That Policy states that "[l]isting, delisting, or reclassifying distinct vertebrate population segments may allow the Services to protect and conserve species and the ecosystems upon which they depend before large-scale decline occurs that would necessitate listing a species or subspecies throughout its entire range." Such "large-scale decline" necessitating the listing of the gray wolf "throughout its entire range" in the lower 48 states occurred long ago. All gray wolves are already appropriated protected throughout their former range in the lower 48 states under the 1978 listing rule. Clearly, listing at the DPS level was intended by the Act and the Service as a means of early intervention to head off rangewide species declines. Applying converse logic, it is inappropriate to use the DPS designation to incrementally delist small populations meeting local recovery standards when recovery standards for the listed species as a whole have not been defined. Such decisions are not informed by the best available science.

TRI believes that flaws deriving from the pursuit of piece-meal DPSs and delisting proposals for isolated populations of gray wolves in the absence of a comprehensive rangewide recovery strategy may be fatal to the eventual achievement of rangewide recovery of the gray wolf.

Discreteness must be evaluated within the context of a rangewide recovery strategy for gray wolves.

Large gaps between the proposed NRM DPS and other extant wolf populations in the lower 48 states may exist in large part because recovery of the gray wolf is far from complete. As noted above, no assessment has been made by the Service to determine areas and linkages that may be important for accomplishing rangewide recovery for the gray wolf. Indeed, recent studies of rangewide habitat suitability cited within the notice demonstrate the existence of many habitat areas capable of supporting source populations of gray wolves and identify areas of habitat (or potential habitat) that may provide important linkages among core source population areas, including within the proposed NRM DPS. At the least, these studies demonstrate that the job of gray wolf recovery is far from completed.

TRI believes that the determination of discreteness presented in the notice for the proposed NRM DPS is flawed because it considers only current conditions in the absence of a rangewide recovery strategy for gray wolves and because it ignores current and emerging science regarding the importance of habitats (determined in the notice to be either unsuitable or not important to recovery within the NRM DPS) within and adjacent to the proposed NRM DPS to rangewide recovery. The Service has placed the cart before

the horse in trying to fit the pieces of the overall recovery puzzle into a picture that has not yet been painted and placed on the cover of the puzzle box. We fear that the end result will be “doughnut holes” occupied by small isolated populations of gray wolves of questionable viability surrounded by impermeable (to wolf movements) geographic “doughnuts” where states are not required to support wolf recovery.

TRI recommends that the Service suspend all attempts to define DPSs for the purpose of listing and/or delisting gray wolf subpopulations in the lower 48 states until a scientifically credible rangewide recovery strategy has been developed. This should not preclude continuation of ongoing recovery efforts or the initiation of new recovery efforts in areas that are clearly important to gray wolf recovery. We are not opposed, in principle, to the eventual identification of gray wolf DPSs for the purpose of incremental delisting provided the integrity of a rangewide recovery strategy is maintained.

The geographic scope of the proposed NRM DPS is inappropriately and unnecessarily large.

While the geographic scope of the proposed NRM DPS is a vast improvement over the previous and substantially larger Western Gray Wolf DPS (struck down by the courts), it remains unjustifiably large. The notice describes habitats outside the polygon circumscribed by a dotted line in Figure 2 of the notice to be either unsuitable, fragmented, or of insignificant importance to attaining recovery goals for the proposed NRM DPS. The area inside this polygon closely approximates the geographic area considered in the approved recovery plan for the NRM area.

The notice clearly establishes the fact that the current gray wolf population within the proposed NRM DPS is sufficiently separated from other existing populations within the lower 48 states to meet the “discreteness” test of the Service’s DPS Policy. We argue above that this determination is flawed and inappropriate. We know of no legal requirement for the designation or creation of a “barrier” to future wolf movement or a “buffer” of unsuitable or unimportant habitat around a core of suitable habitat as criteria for designating a DPS. Upon delisting of the DPS, such barriers or buffers would become legally moot. Why, then, does the Service find it necessary to include broad swaths of unoccupied, unsuitable, or unimportant habitats within the proposed DPS boundary when these areas are claimed to be not essential to meeting recovery goals within the DPS?

Recent habitat suitability studies cited in the notice document habitats that may provide important linkages to future gray wolf recovery areas. Adequate native ungulate prey is one of the most important criteria for suitable wolf habitat. The notice states that “native ungulate populations...are maintained at high levels by Washington, Oregon, and Utah in the portions of those States that are in the tentative NRM wolf DPS.” This suggests that with appropriate legal protection and removal of specific threats, these areas have potential importance to future movements of wolves among recovered populations. But the notice specifically states that the Service will not require Washington, Oregon, and Utah to prepare wolf management plans. In the absence of a rangewide recovery

strategy, the Service cannot demonstrate that areas peripheral to the dotted line polygon are unimportant to gray wolf recovery.

TRI recommends that if the Service designates a NRM DPS, it be restricted to an area no larger than the dotted line polygon in Figure 2. The notice demonstrates that this area would be more than sufficient to accomplish recovery objectives for the NRM DPS, which we believe to be inadequate.

Proposed NRM DPS recovery goal is not adequate for an isolated population.

In assessing the long-term viability of a delisted population in the NRM DPS we must use the minimum recovery requirements established by the Service—at least 30 breeding pairs comprising at least 300 wolves. While state management plans for Montana and Idaho currently commit to maintaining at least 15 breeding pairs, we found nothing in the notice that would legally require the states to exceed the established minimum goal of 10 breeding pairs and 100 wolves in each of the three states.

New evidence presented in the comments of the Defenders of Wildlife on this notice suggest that connectivity between the NRM wolf population and wolf populations in Canada has not been demonstrated recently and cannot be guaranteed in the future. The notice documents the absence of connectivity to other gray wolf populations in the lower 48 states and sets forth provisions that would likely preclude such connectivity in the future. Thus for purposes of assessing the long-term viability of this population, we must assume it to be an isolated population or metapopulation. This assumption is generous given that the notice lacks data supporting the claim that the three subpopulations comprising the NRM DPS are adequately connected and functioning as a metapopulation.

Applying accepted modern conservation science theory, individual populations or metapopulations must have effective population sizes of from 500-5,000 individuals to remain genetically and demographically viable and evolutionarily robust over long time frames (>100 years). For a census population size of 300 wolves (the minimum recovery requirement per this notice) a generous estimate of the effective population size would be 75-100. An effective population of 100 wolves or less carries an unacceptably high risk of extinction and cannot be justified as a recovery goal. Even the higher populations currently committed to in the Idaho and Montana state plans would have unacceptable risks of extinction. A rangewide metapopulation consisting of thousands to tens of thousands of gray wolves would be much more likely to persist over centuries than would the isolated small population in the NRM that would result from this rule. We conclude that the proposed NRM DPS gray wolf population will lack long term viability and will have an unacceptable risk of extinction. We challenge the Service to present a scientifically credible argument for the adequacy of current recovery goals for the NRM DPS.

The notice states that the current NRM population is as genetically diverse as its source population in Canada and that “we [the Service] anticipate that wolves will continue to maintain high genetic diversity in the NRM wolf DPS.” Given the youth of the NRM

population and the rapid population growth that occurred following reintroductions of wolves from two Canadian wolf populations into central Idaho and Yellowstone National Park in 1995 and 1996 and the dispersal of wolves from a third region of Canada into northwest Montana, we would expect this population to currently possess a high percentage of its initial genetic diversity. However, we find no scientific basis for the claim that genetic diversity will remain high in the NRM wolf population. If the NRM population remains effectively isolated and is held below an effective population size of 500 (both conditions are virtually guaranteed under provisions of the proposed rule) then it is expected that the population would experience genetic decline and an increasing probability of extinction over time. Genetic supplementation through wolf translocations is not an acceptable substitute for natural exchange of genetic diversity through effective linkages among subpopulations.

Another sign of instability within the NRM population is the reported declines of populations in Yellowstone National Park and northwest Montana.

Clearly, long-term rangewide recovery of gray wolves in the lower 48 states will require several functionally linked subpopulations on the order of that proposed for the NRM DPS or larger. As noted above, such a master blueprint for effective rangewide recovery of gray wolves has not been developed by the Service.

Wolves dispersing from or immigrating to the proposed NRM DPS must be protected.

All gray wolves in the lower 48 states remain important to the long-term rangewide recovery of the species. We have demonstrated the importance of protecting and restoring, if necessary, functional linkages of suitable habitat between the NRM wolf population and other existing or future populations of gray wolves. The proposed design of the NRM DPS establishes broad zones in six states (WA, OR, UT, ID, WY, MT) where the states will not be obligated to protect wolves following proposed delisting. That these states (except Wyoming) have statues protecting wolves in these zones today is no guarantee that such protections will continue following delisting.

Rather than creating barriers to future dispersal and population expansion of the NRM metapopulation, the proposal should foster the opposite effect. We recommend that the proposed NRM, if created, be limited in geographic scope as described above. We further recommend that all states that are wholly or partly included within the NRM DPS be required to have Service-approved wolf management plans that guarantee the protection of wolves everywhere in the state and specifically address wolf recovery and management in the NRM DPS zones where wolves would be delisted and subject to state management authority. The Service and the states should consider and address in their management plans the potential for additional wolf population goals outside the NRM core population as proposed and the identification, protection, and enhancement of key linkages that may provide important connections to or pathways for the establishment of future wolf populations throughout the West and Southwest.

Other important considerations.

Many other important issues have been addressed in the comments of other organizations. In the interest of avoiding unnecessary duplication of issues adequately addressed by others we hereby endorse and incorporate by reference comments on this notice submitted by Sinapu, Defenders of Wildlife, and the Center for Biological Diversity, except where our comments may conflict with the comments of any of these organizations.

Summary.

The Rewilding Institute is opposed to the designation of a NRM DPS. We believe the proposal set forth in the notice violates the spirit, intent, and plain reading of the Act, the Service's DPS Policy, and legal precedents established in *Defenders of Wildlife v. Norton* (03-1348-JO, D. OR 2005) and *National Wildlife Federation v. Norton* (1:03-CV-340, D. VT 2005). The NRM DPS proposal is fatally flawed for lack of a rangewide recovery strategy for gray wolves in the conterminous 48 United States and Mexico. The gray wolf population that would be protected within the NRM DPS will lack long term viability and will have an unacceptable risk of extinction. The pursuit of piece-meal DPS listing and delisting proposals for isolated populations of gray wolves in the absence of a comprehensive rangewide recovery strategy may prevent eventual achievement of rangewide recovery. All attempts by the Service to designate DPSs for the purpose of listing and/or delisting gray wolf subpopulations in the lower 48 states should be suspended until a scientifically credible rangewide recovery strategy has been developed. Meanwhile, the Service should vigorously pursue ongoing and new gray wolf recovery efforts in areas currently known to be suitable for recovery.

The Rewilding Institute appreciates this opportunity to comment on the Service's gray wolf recovery program.

Sincerely,

David R. Parsons
Carnivore Conservation Biologist