

Colorado Gray Wolf 10(j) Rulemaking EIS US Fish and Wildlife Service

Cooperating Agency Call Notes

February 22, 2023
1:00 – 2:00 pm MST
Microsoft Teams Meeting

Attendees:

Name	Organization
Nicole Alt	FWS
Emily Berchem	FWS
Lauren Toivonen	FWS
Kurt Broderdorp	FWS
Martin Lowney	Animal and Plant Health Inspection Service (APHIS)
Jim Heffelfinger	Arizona Game and Fish Department (AZGFD)
Jim DeVos	Arizona Game and Fish Department (AZGFD)
Alan Bittner	BLM
Joel Humphries	Bureau of Land Management (BLM)
Les Owen	Colorado Department of Agriculture
Timory Peel	Forest Service (FS)
Richard Truex	Forest Service (FS)
Fred Jarman	Garfield County
Merrit Linke	Grand County
Matt Canterbury	Jackson County
Amber Swasey	Mesa County
Jeff Comstock	Moffat County
Justin Musser	Montrose County
John Mack	National Park Service (NPS)
Edward Smercina	Rio Blanco County
Kim Hersey	Utah Division of Wildlife Resources (UDWR)
Callie Hendrickson	White River & Douglas Creek Conservation Districts
Jessica Forbes	WSP
Lori Fox	WSP
Margaret Stover	WSP
Dan Thompson	Wyoming Game and Fish Department (WGFD)

DISCUSSION

The Service brought the meeting to order and reminded the group that the rule and DEIS are available for public comment until April 18th. The Service conducted roll call.

The Service shared the locations, dates, and times of the upcoming public meetings:

- Grand Junction Convention Center (Grand Junction, CO) on March 14, 2023, at 5:30 p.m.

- Moffat County Pavilion (Craig, CO) on March 15, 2023, at 5:30 p.m.
- Wattenberg Center (Walden, CO) on March 16, 2023, at 5:30 p.m.
- Virtual public meeting on March 22, 2023, at 5:30 p.m.

The Service may add an additional public meeting in the Denver area, tentatively scheduled for the week of March 27, 2023. A venue has not been identified.

The Service shared the links to the [announcement on the Service's website](#), the [Proposed Rule on the Federal Register](#), the [Proposed Rule on the Regulations.gov website](#).

The Service reviewed the take provisions in the proposed rule. Definitions and guidelines for opportunistic harassment, intentional harassment, taking wolves in the act of attacking livestock on private land, taking wolves in the act of attacking livestock on public land were all reviewed with the group. The Service noted that they have included a provision for dogs, including working and companion animals. The Service also reviewed reporting requirements for take.

Questions & Answers

AZDGF asked the Service to highlight any changes between the last draft document the cooperating agencies saw and the current version.

- The Service shared key changes including:
 - o Changes to some terminology
 - o Changes for consistency with State and Tribal requirements
 - o Addition of a section in the proposed rule on potential impacts to the Mexican wolf in response to cooperating agency comments
 - o Updated the proposed rule and alternatives 1 and 2 in the draft EIS to remove the possibility of authorizing the take of wolves to protect ungulate populations because there was concern from Service leadership about allowing take of a federally protected species to benefit a game species
 - o Changes to the discussion of trophic cascades and Mexican wolf impacts in the cumulative impacts section
 - o Additional clarity on take of wolves on public lands, noting that any actions on public lands would be subject to the rules in place on those lands, such as bans or limitations on the use of firearms

BLM asked about what would happen if gates were left open and livestock move to land that is not allotted to the operator. They asked if take would be permitted if livestock were attacked on land they were not permitted to be on, so long as the livestock operator has taken reasonable actions to keep their animals in their allotments.

- The Service said that it would probably depend on whether the operator had done their due diligence to keep their livestock in their designated allotments. The Service will look at that part of the proposed rule to see if a situation like this is addressed.

Moffat County asked the Service to review the changes related to ungulates.

- The Service said that impacts to ungulates are still included in the DEIS and that the provision to protect ungulate populations could still end up in the rule, depending on public comment. They noted that the Northern Rocky Mountains 10(j) rule had an ungulate provision that was never used due to the requirements to show that wolves were a primary cause of decline in an ungulate population, so this provision, if included in the draft rule, is probably unlikely to be used in Colorado. The Service will review all of the public comments and work with their leadership to adjust the rule based on the comments and on Service leadership priorities.

White River & Douglas Creek Conservation Districts asked if economic impacts would be considered in the ungulate provision decision-making process. They noted that if game species were heavily impacted in places like Meeker there would be a significant economic impact.

- The Service confirmed that economic impacts are considered in the draft EIS.

AZDGF shared that the provision for ungulates is in the 10(j) rule for Mexican wolves because the prey base available for Mexican wolves is >90% dependent on wild ungulates. The concern was if the ungulate population becomes too depressed it can end up hurting the wolf population, so the argument for the provision was not just for hunters or for economic reasons.

Moffat County asked why the Introduction Boundary Map (Figure 3 on page 26) of the proposed rule is different than Colorado Parks and Wildlife's Introduction Map in the Draft State Plan.

- The Service explained that they included the entire counties in their map and that the purpose behind their map was to represent where wolves may migrate to, rather than just the reintroduction sites. The map is for informational purposes and will be made consistent with the State Plan map if their plan is finalized before the Service's.

Garfield County asked about wolves that migrate out of state and where there may be an effort to bring wolves back to Colorado.

- The Service said that relocation back to Colorado is not in the proposed rule, but there are conversations going on with Utah, Arizona, New Mexico, Kansas, and Nebraska about what will happen when wolves leave Colorado. The Service is working on permits for these states for what will happen when a wolf migrates across state lines and under what conditions Colorado will accept the wolf back. Wyoming is not included because wolves are delisted there.

Garfield County asked who would bear the costs.

- The Service said that since it would be a commitment by Colorado, this would be a question for the State to answer. The Service plans to collaborate with neighboring states to ensure they have the permits they need for this process.

Garfield County asked what will happen if a wolf travels north to Wyoming.

- The Service clarified that if a wolf is within the 10(j) boundary, the 10(j) rule applies. Once the wolf leaves the boundary it has the Endangered Species Act protections of where it has migrated to. A wolf from Colorado that ends up in Wyoming would be delisted, and a wolf from Wyoming that ends up in Colorado would have the protections of the 10(j) rule.

Moffat County asked about the definition of a problem wolf and when take would be allowed for a problem wolf.

- The Service said that if the livestock operator is issued a take authorization permit then they can take the wolf.

Moffat County asked the Service to clarify the distinction between the “caught in the act” provision and the two-attack requirement for a wolf to be considered a problem wolf.

- The Service explained that the two provisions are different. For the “caught in the act” provision, a person may take a wolf that is actively attacking livestock. For the problem wolf provision, one would need evidence of two previous attacks to be issued a limited authorization permit to take that problem wolf.

Moffat County asked for clarification on State permits and permits issued by the Service.

- The Service said that this would depend on the designated agent. The Service expects to make the State a designated agent, so all permits would likely come from the State.

Colorado Department of Agriculture asked about the definition of “in the act of attacking”. They asked whether actual teeth marks need to be present or if take would be allowed if the wolf is harassing the livestock and a reasonable person would think the wolf is going to attack.

- The Service said that you would have to see the wolf in the act of attacking to take it and that you would have to abide by reporting requirements. The Service clarified that seeing a wolf running through a pasture would not justify take, but the wolf would have to actively be going after livestock. The State would be the authorizing agent for majority of take that would occur.

Garfield County asked about the timing of the State Plan and the Service's final rule. They also asked about what would be done about discrepancies between the State Plan and the Service's rule.

- The Service said that the final rule is expected to be complete and effective by the end of 2023. The Service has been meeting with Colorado Parks and Wildlife frequently. Currently, the provisions for ungulates and protections for pets are the key discrepancies. The Service wants to create a rule with flexibility so that the State can adjust their policies as wolves move toward becoming delisted in Colorado. Since changing the rule is a long and laborious process, the Service is trying to create a rule that is adaptable as the status of wolves under the State management plan changes.

Moffat County asked if the 10(j) rule would definitely be in effect prior to when wolves are on the ground.

- The Service said their intent is to have the rule and EIS in place prior to any state reintroduction.

APHIS shared that at the Colorado Parks and Wildlife meeting, many commenters said that they do not want the State to reintroduce wolves prior to the 10(j) rule being in effect. They also said that the State covers working dogs under their plan.

- The Service explained that their proposed rule has a more expansive definition of dogs, where pet dogs are protected along with working dogs.

Conclusion

The Service shared their email addresses for cooperating agencies to ask more questions:

- nicole_alt@fws.gov
- kurt_broderdorp@fws.gov
- lauren_toivonen@fws.gov

The Service adjourned the meeting and will schedule another cooperating agency meeting to discuss the timeline for the cooperating agency review period and any other questions.