



File Code: 2670
Date:

Collette Adkins
Carnivore Conservation Director, Senior Attorney
Center for Biological Diversity
P.O. Box 595 Circle Pines, MN 55014-0595
Tel: (651) 955-3821
Email: cadkins@biologicaldiversity.org

Dear Director Adkins:

This is in response to the February 22, 2023, 60 Day Notice of Intent to Sue (NOI) alleging violations of Section 7(a)(1) of the Endangered Species Act (ESA) related to management of gray wolves on the Medicine Bow-Routt National Forests.

The Center for Biological Diversity alleges the Forest Service has failed to meet its obligations under the ESA by not conserving gray wolves on the Medicine Bow-Routt National Forests and requests that the Forest Service prohibit wolf hunting and trapping across the Medicine-Bow Routt National Forests, including in Wyoming where the gray wolf is not listed under the ESA.

The protected status for the gray wolf is different in Colorado and Wyoming. Wyoming wolves are part of the Northern Rocky Mountain gray wolf population, which remain delisted at the federal level, and are managed by the State of Wyoming. Consequently, the ESA, including Section 7(a)(1), does not apply to gray wolves located in Wyoming on the Medicine-Bow National Forest. Since the 2017 delisting of the wolf in Wyoming, the State of Wyoming has managed the population and any permitted hunting. In 2021, the Wyoming Game and Fish Department issued its annual report on wolf populations, which showed the wolf numbers above the minimum recovery population criteria established by the Fish and Wildlife Service (FWS).

The gray wolf is listed as endangered in the remainder of its range in the contiguous United States, including the State of Colorado and on the Routt National Forest. Currently, the individual wolves documented in Colorado likely have traveled from, and thus are part of, the recovered Northern Rocky Mountain gray wolf population. To our knowledge, there has not been any confirmed gray wolf populations, denning or gathering/rendezvous sites identified on the Routt National Forest. While the ESA applies to individual wolves entering Colorado, the Section 7(a)(1) obligation does not apply to individual wolves crossing state borders or to specific geographic areas, but to threatened or endangered species generally (like the broader listed gray wolf species). Because the NOI does not contain allegations that the Forest Service has failed to comply with Section 7(a)(1) obligations for threatened or endangered species generally or for the gray wolf species in particular, we do not further address our compliance with this statutory obligation.



In any event, we provide the following additional observations, which show the Forest Service is proceeding appropriately in terms of protecting and conserving gray wolves. Consistent with section 7 of the ESA, the Forest Service consults with the FWS for all listed species as appropriate, including the gray wolf, during the development of any project on the Routt National Forest. The Forest Service also communicates with Colorado Parks and Wildlife (CPW) to determine the likelihood of wolf presence within the project area in addition to the proximity to known denning and gathering/rendezvous sites. Thus, the Forest Service is actively engaged with FWS and CPW to ensure that any effects from a project on the gray wolf are fully considered, addressed, and disclosed.

In addition, the “Rocky Mountain Region Guidance Paper: Gray Wolf” (Guidance Paper) referenced in the NOI, provides guidance for consideration of the gray wolf. The Guidance Paper was developed in 2010 in response to occasional reports of individual wolf sightings in the State of Colorado, likely coming from the Greater Yellowstone Ecosystem. Although in 2010, the wolf was classified as extirpated from Colorado and was not a listed species under the ESA, the Guidance Paper was developed to provide forests in the region proactive, science-based guidance, on how and when to consider the gray wolf in forest management in light of these new wolf sightings. Since the development of the 2010 Guidance Paper the status of the gray wolf has changed several times and it is now listed as endangered under the ESA for Colorado. The Project Analyses and Effects Determinations section of the Guidance Paper along with the example screen provide general guidance on when and how to assess the need for consultation on proposed projects on the Routt National Forest. Now that the wolf is listed under ESA, the section regarding the need for a resident population to be present to trigger consideration is no longer applicable.

In 2020 Colorado passed Colorado Proposition 114, which mandates CPW to develop a plan to reintroduce wolves by the end of 2023. The State of Colorado is in the process of developing the reintroduction program and practices to avoid and minimize the loss of wolves when they eventually reside in the state. Currently, the proposed plan does not include the release of wolves onto National Forest System lands. In addition, the proposed plan provides that all released animals will be at a distance of 60 miles away from the Wyoming border and all released wolves will have a radio collar in order to track and monitor their movements. The Forest Service will continue to communicate and coordinate with FWS and CPW on any efforts to reintroduce the wolf in the State of Colorado.

Finally, the Forest Service anticipates initiating the process to assess the Medicine-Bow Land and Resource Management Plan (LRMP) and the Routt National Forest LRMP for revision in the next couple years. During the LRMP revision process, the Forest Service coordinates and consults with FWS on all protected species to not only avoid jeopardizing these species but also further explore tangible opportunities for proactive conservation. Until the LRMP revision is complete, the Forest Service will continue to meet its ESA obligations through project specific analysis under ESA section 7 and ongoing cooperation with the State of Colorado on their restoration program.

In sum, we disagree with the NOI's assertions that the Section 7(a)(1) obligation applies to individual wolves in specific geographic areas, rather than to "threatened or endangered species". We also see no support in the NOI that management actions taken for wolves located in Wyoming will have any benefit, let alone more than an insignificant conservation benefit, for the ESA-listed gray wolf species given the recovered status of the northern Rocky Mountains population and the lack of a population of gray wolves in the State of Colorado. Finally, the Forest Service has diligently considered gray wolves and complied with the ESA when managing the Medicine Bow-Routt National Forests. For these reasons, we determine that the Forest Service is not violating the ESA as alleged. If you have questions or would like to discuss this matter, please contact me at russell.bacon@usda.gov.

Sincerely,

RUSSELL M. BACON
Forest Supervisor

cc: Heather Hinton, Richard Truex, Peter McDonald, Jacqueline Buchanan