

DRAFT DELIBERATIVE – NOT FOR DISTRIBUTION

This framework for collaboration enables the signatory agencies to implement actions necessary to assist in Colorado Parks and Wildlife's gray wolf restoration efforts, protect the genetic integrity of the Mexican gray wolf and provide authority under a 10(a)(1)(A) permit for neighboring states outside of Colorado's 10(j) boundary to manage wolves that leave the experimental area. This collaboration is made and entered into by and among the following Federal and state agencies.

Signatory Agencies

The following Signatory Agencies have regulatory jurisdiction and management authority over gray wolves including Mexican gray wolves and/or regulatory jurisdiction and management over the lands that wolves occupy in Arizona, Colorado, New Mexico, and Utah and/or expertise in resolving conflicts between humans and wildlife, including threatened and endangered species.

Arizona Game and Fish Department (AGFD), as authorized to enter into MOUs as the administrative agent of the Arizona Game and Fish Commission, A.R.S. § 17-231.B.7; as authorized by Arizona Revised Statutes (Title 17) and by a Cooperative Agreement executed in 1985 by AGFD and USFWS, pursuant to Section 6 of the Endangered Species Act of 1973, as amended (ESA); a Memorandum of Understanding executed in 2008 with USFWS for ESA implementation in Arizona; and as authorized under permits issued to AGFD by USFWS under ESA Section 10;

Colorado Division of Parks and Wildlife and the Colorado Parks and Wildlife Commission (together, CPW), as authorized under C.R.S. 33-1-105(1)(e) to enter into cooperative agreements for the development and promotion of wildlife programs; and by a Cooperative Agreement executed in 1976 by CPW and USFWS, pursuant to Section 6 of the Endangered Species Act of 1973, as amended, and by *[regulations issued by the commission authorizing the take, possession, and transport of nongame species, either by FWS or by the other state's wildlife agency]*

New Mexico Department of Game and Fish (NMDGF), as authorized to enter into MOUs with federal agencies for the management of endangered species, under the Wildlife Conservation Act 17-2-37 to 17-2-46 NMSA 1978; and by a Cooperative Agreement executed in 1976 by NMDGF and the USFWS, entered into under Section 6 of the ESA; and as authorized under permits issued to NMDGF by USFWS under ESA Section 10.

Utah Division of Wildlife Resources (UDWR), as authorized to enter into MOUs with state and federal agencies for wildlife conservation and management-related purposes as authorized under Utah Code 23-22-1; and by a Cooperative Agreement executed in 1979 by UDWR and the USFWS, entered into under Section 6 of the ESA, and as authorized under permits issued to UDWR by USFWS under ESA Section 10.

~~United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service, Wildlife Services (WS), as authorized to enter into MOUs, Animal Damage Control Act of March 2, 1931, as amended, 7 USCA 8351) and the Act of December 22, 1987 (7USCA 8353); and~~ United States Department of Interior, Fish and Wildlife Service Region 2 and Region 6 (USFWS), as authorized under the ESA.

Commented [OE1]: Discuss with USFWS in how 10a1a is written and what discretion of designee as agent is allowed.

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Further details regarding the management authorities necessary to achieve the purposes of this framework will be outlined in a subsequent permit issued by the U.S. Fish and Wildlife Service (USFWS) pursuant to Section 10(a)(1)(A) of the Endangered Species Act.

Purpose

The purpose of this document is to generally outline the procedures to return wolves that originated in Colorado back to Colorado, should they disperse to Utah, Arizona or New Mexico. This framework necessarily aims to maintain geographic separation of the two subspecies for Mexican wolf recovery to prevent hybridization and establishes mutual agreement for the issuance of a single 10(a)(1)(A) permit that would provide authority for Arizona, New Mexico, and Utah to return wolves back to the Colorado 10(j) area.

Objectives

The objectives of this framework are as follows:

1. Notify Signatories of any wolves that are showing dispersal behavior outside their respective experimental areas.
2. Collaboratively work to capture and return dispersing animals from the Colorado experimental area or the Mexican Wolf Population Experimental Area to the respective population areas..

It is Mutually Agreed and Understood by and among the Signatories in this MOU that:

1. The Signatories in this framework and their respective agencies and offices will handle their own activities and use their own resources, including the expenditure of their own funds, in pursuing the objectives of this framework, except when transfers of funds are authorized by separate agreements or contracts. Each state is responsible for all staffing costs and other expenditures associated with capturing a wolf that has dispersed out of Colorado, unless collaboratively agreed to by the signatories. Once captured, the wolf will be transported to Colorado where it will be transferred to possession of CPW staff. Each party will carry out its separate activities in a coordinated and mutually beneficial manner. Employee assignment under this framework is subject to approval by the employing agency.
2. Certain discussions or documents provided to the Signatories or their designees may contain confidential information on the Mexican Wolf Recovery and Colorado gray wolf restoration programs. Any confidential information provided or shared among the Signatories will be marked CONFIDENTIAL and is provided to the Signatories for deliberative and advisory purposes. Signatories acknowledge the confidential nature of this information and that it is, accordingly, not intended for distribution or discussion outside of the appropriate personnel within the Signatories' agencies. The Signatories agree to maintain the confidentiality of the information they receive, to the extent permitted by law (e.g., FOIA or state public records law), and to limit its distribution or discussion outside of their organizational leadership, as required and appropriate, on a strictly need-to-know basis

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3. Any information provided to the Federal Agencies under this instrument may be subject to release under the Freedom of Information Act (5 U.S.C. 552) (FOIA) or state public records law. However, nothing in this framework shall be construed to affect the applicability of the exemptions set forth in 5 U.S.C. 552 (b). The Signatories will take all measures available to them by law to protect the confidentiality of confidential information.
4. This instrument in no way restricts the Signatories from participating in similar activities with other public or private agencies, organizations and individuals. This framework does not modify or supersede other existing agreements between or among any of the Signatories.
5. This framework takes effect on the date of the last signature of approval and shall remain in effect for 5 years after the date of the last signature. The Signatories will review the framework prior to its scheduled expiration and extend it if so desired. Any Signatory may withdraw from this framework with a 60-day written notice to the other Signatories. Withdrawal by one party shall not obligate any other Signatory to withdraw, nor shall it affect continued cooperation among remaining parties to this framework.
6. Conflicts between or among Signatories concerning this framework that cannot be resolved at the lowest possible level shall be referred to the next higher level, as necessary, for resolution.
7. Each Signatory shall identify principal implementation and contract administration contacts for this framework and provide their contact information to the other Signatories. Agencies may change their contact(s) by written notification to all Signatories. Contact changes by one Signatory shall not require concurrence of other Signatories.
8. This framework is not a Federal contract, rule or regulation. This shall not be construed as or interpreted to be final Federal agency action.
9. On behalf of itself, its officers, directors, members, employees, agents and representatives, each Signatory agrees that it will be responsible for its own acts and omissions and the results thereof and that it shall not be responsible for the acts or omissions of the other Signatories, nor the results thereof.
10. This framework imposes no legally binding requirements on the signatories. The provisions of any statutes and/or regulations cited in this MOU contain legally binding requirements. The MOU itself does not alter, expand, or substitute for those provisions or regulations, nor is it a regulation itself. Thus, this MOU does not impose legally binding requirements on the Parties that conflict with statute or regulations, nor does it create a legal right of action for the Parties or any third party.

Commented [OE2]: Check this with USFWS