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January 6, 2015

By Certified Mail
Sally Jewell, Secretary
U.S. Department of Interior
1849 C Street, N.W.
Washington, D.C. 20240

Daniel Ashe, Director
U.S. Fish and Wildlife Service
Department of Interior
1849 C Street, N.W.
Washington, D.C. 20240

RE: Notice of Intent to Sue for Failure to Develop a Recovery Plan for the Mexican Gray Wolf (*Canis lupus baileyi*) that Meets the Legal Requirements in Section 4(f) of the Endangered Species Act.

Dear Secretary Jewell and Director Ashe:

The Arizona Game and Fish Department (Department) provides you notice of intent to bring a civil action pursuant to section 11(g)(1)(C) of the Endangered Species Act (ESA), 16 U.S.C. § 1540(g)(1)(C), for the Secretary's failure to develop a recovery plan for the Mexican gray wolf that meets the legal requirements in section 4(f) of the ESA, 16 U.S.C. § 1533(f). The Secretary has a non-discretionary duty under section 4(f) to develop a recovery plan that incorporates "objective, measurable criteria which when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list." The Secretary has failed to meet this legal mandate. If the Secretary does not respond to this notice of intent within sixty (60) days with a commitment to develop within a reasonable period a legally sufficient recovery plan for the Mexican wolf, the Department will seek authorization to pursue a civil action to compel the Secretary to develop a Mexican wolf recovery plan as mandated by the ESA.

The United States Fish and Wildlife Service (Service) developed a plan in 1982 for Mexican wolf conservation. The Service, however, failed to incorporate into that plan the criteria the ESA mandates for a recovery plan. Under the 1982 plan, the Service's principle objective for Mexican wolf conservation was "maintaining a captive breeding program and re-establishing a viable, self-sustaining population of at least 100 Mexican wolves in the middle to high elevations of a 5,000-square-mile area within the Mexican wolf's historic range."

The Service has since acknowledged that the objective in the original plan for "the reestablishment of a single experimental population of Mexican wolves is inadequate for recovery." *Final Environmental Impact Statement for Proposed Revisions to the Regulations for the Nonessential Experimental Population of the Mexican Wolf (Canis lupus baileyi)*, Ch. 1 at 17 (November 25, 2014). The Service has further stated that the 1982 plan "did not contain objective and measurable criteria for delisting as required by section 4(f)(1)." *Proposed Revision to the Nonessential Experimental Population of the Mexican Wolf*, 78 Fed.Reg. 35719, 35726 (June 13 2013).

The Service not only acknowledges that the 1982 plan is legally deficient, the Service has offered no reasons that recovery cannot be achieved through revising the recovery plan, or the determination of objective measurable criteria for recovery is impracticable. *See Draft Mexican Wolf Recovery Plan*, (May 7, 2012). Accordingly, the Secretary has a mandatory duty to develop a revised recovery plan and incorporate the necessary recovery criteria.

Because the Secretary is obligated to develop a recovery plan with criteria which when met will lead to the recovery and delisting of the Mexican wolf, such criteria necessarily require that the Secretary include in the recovery plan the objective of Mexican wolf restoration in Mexico. Current recovery efforts by the Service are focused on areas in the U.S. well outside historical range of the Mexican wolf, with inadequate attention to areas located within core historical range in Mexico.

Mexican wolves evolved as a unique entity in relative isolation in the mountains of central Mexico, and the last remaining wild Mexican wolves were found there (McBride 1980). Several conservation assessments of wolf habitat in Mexico (Araiza Ortiz, 2002; Servin, 1986) show good potential for Mexican wolf recovery in their core habitat there (Carroll et al., 2004). More recently, Servin (2007) conducted a thorough analysis of wolf habitat in Mexico which identified potential introduction areas. The Service has ample precedent for including Mexico in recovery planning, including thick-billed parrot (USFWS 2013), Sonoran pronghorn (USFWS 1998), Kemp's Ridley Sea Turtle (2011), and with current, ongoing endangered carnivore recovery planning for jaguar and ocelot (USFWS 2009). To succeed, Mexican wolf recovery must reflect an integrated, bi-national approach, and fully incorporate and expand recovery efforts already underway in Mexico.

The unique genetic and morphological characteristics of Mexican wolves (Bogan and Mehlhop 1983, Vonholdt et al., 2011) also argue for their reestablishment in the ecological environment within which they evolved. All *C. lupus baileyi* are derived from only seven founding

individuals and that genetic stock has been carefully and scientifically managed to preserve the integrity of the Mexican wolf. The October 2014 occurrence of a gray wolf from the Rocky Mountains population appearing in the Grand Canyon region of Arizona illustrates the serious risk of any Mexican wolf population in northern Arizona interbreeding with Rocky Mountain wolves (*Canis lupus*). Ten years previous, a wolf traveled from Yellowstone NP and was killed west of Denver, Colorado on Interstate 70, which was identified as the boundary for Mexican wolf recovery in the latest Draft Mexican Wolf Recovery Plan (USFWS 2012). Introduction of northern wolf genes into the relatively small Mexican wolf population during the early stages of recovery would most certainly result in genetic swamping of the wild Mexican wolf gene pool (Adams et al., 2011). Establishing several subpopulations with some connectivity among them, while maintaining separation from wolves to the north, is a critical aspect of Mexican wolf recovery. Based on what is known about historical Mexican wolf distribution, current evaluations of suitable habitat availability in Mexico, and the need to protect the genetically-based adaptations of the Mexican wolf, adherence to the principle of best available science requires that Mexican wolf recovery occur in the animal's core historical range in Mexico. Therefore, a legally sufficient recovery plan must include wolf restoration in Mexico.

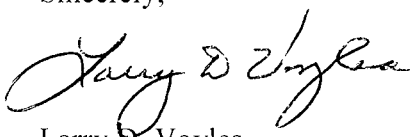
The Service is also required in developing a new recovery plan for the Mexican wolf to comply with the Service's *Interagency Policy Regarding the Role of State Agencies in ESA Activities*. 59 Fed.Reg. 43275 (July 1, 1994). That policy mandates that the Service "[u]tilize the expertise and solicit information and participation of State agencies in all aspects of the recovery planning process."

The Department has been an active partner in Mexican wolf recovery for more than 30 years. The original Mexican Wolf Recovery Team was formed in 1979 with the Department as an active member in developing the 1982 Mexican Wolf Recovery Plan signed by the United States and Mexico. A recovery team was assembled in the mid-1990s to revise the original recovery plan, but no plan was finalized as a result of that effort. The Department also assisted in the development of the 1998 Interagency Management Plan to facilitate the first release of Mexican wolves into the wild that year.

In 2003, the Service reclassified the gray wolf in North America creating three Distinct Population Segments and convened a recovery team, including a Department representative, to develop a new recovery plan for the Southwestern Distinct Population Segment (SWDPS). Recovery planning for the Mexican wolf was put on hold in January 2005 when a court ruling abolished the SWDPS. In 2010, the Service chartered the latest iteration of recovery planning for the Mexican wolf. This latest Recovery Team included a member of the Department on the Science and Planning Subgroup and another on the Agency Stakeholder Subgroup. As with the Department's prior participation with Mexican wolf recovery planning, the Department is entitled to provide input to a revised Mexican wolf recovery plan and to participate on any Mexican wolf recovery team.

In summary, the Secretary is violating a non-discretionary duty in Section 4(f) of the ESA to develop a Mexican wolf recovery plan that includes objective measurable criteria that will lead to recovery and delisting. Unless the Secretary agrees to a reasonable period to remedy this failure, the Department will pursue a civil action in federal district court to compel the Secretary to develop a recovery plan that has been unreasonably delayed.

Sincerely,



Larry D. Voyles
Director

cc: Dr. Benjamin Tuggle, Southwest Regional Director
United States Fish and Wildlife Service
Arizona Game and Fish Commission

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