



# Montana Fish, Wildlife & Parks

P.O. Box 200701  
Helena, MT 59620-0701  
(406) 444-3186  
FAX: 406-444-4952  
Ref: DO299-10  
August 25, 2010

Dear Interested Party,

First, many thanks for taking the time to meet with us to discuss what is undoubtedly the most challenging resource issue we have faced in Montana in recent history. The listed gray wolf population has implications to all walks of life in Montana, our wildlife resources and certainly our agency's ability to do our job.

As I mentioned, the objective of our meeting was to improve everyone's understanding of the issue and the challenges we face. Just as importantly we wanted to discuss options that we are considering, hear your reaction to those and listen to your ideas. Speaking for myself and my staff I want you to know we were impressed with your knowledge, interest and commitment.

We promised to provide you a summary of our discussion. Rather than repeat the introductory and history discussion, we summarized the discussion of options and action items.

While pursuing these options FWP will continue to aggressively respond to livestock depredations.

FWP is not optimistic any of these options will result in a hunting season in 2010.

## Legal Options

- FWP will appeal the district court decision to the Ninth Circuit Court.
- FWP will strongly urge the U.S. Fish and Wildlife Service to do the same.
- FWP will continue discussions with the plaintiffs. The intent is to better determine the position of the plaintiffs and to determine if there is any realistic opportunity for negotiation. Any negotiated draft resolution would be provided to the public before a final agreement.

Several members of the group did not believe that discussion would be fruitful.

## Federal Permit & Rule Making Options

- FWP will continue to aggressively pursue permitting and rule-making options with the US Fish & Wildlife Service under federal Endangered Species Act provisions that could:
  - Allow for a statewide conservation hunting season.
  - Provide authority to remove wolves in some areas where they are impacting other wildlife populations. Will evaluate teaming with Idaho as they pursue this option.
- FWP will seek to remove the wolf's dual classification status in Montana by requesting the US Fish & Wildlife Service down-list northern Montana's endangered population to threatened. That action would result in all wolves in Montana being classified as threatened and improve Montana's ability to respond to depredation issues.

There was a consensus that this was a path worth pursuing.

FWP will send a letter to the US Fish & Wildlife Service asking for a definitive yes or no answer to those options with a timeline for responses.

August 25, 2010  
DO299-10

**EQC**  
**SEPTEMBER 14, 2010**  
**EXHIBIT 5**

### **Federal Legislative Options**

- Pursue opportunities at the federal level via the legislative route to address returning management of wolves to Montana.

Sportsmen for Wildlife, The Rocky Mountain Elk Foundation and the Montana Wildlife Federation have been involved in discussions with Congressional staff on the above.

The group agreed that this was a viable option and one that we should aggressively pursue.

### **Discussions with Wyoming**

- FWP has been and will continue to discuss the issue with Wyoming seeking support in Wyoming's Legislature for a plan acceptable to the USFWS.
  - Recent discussion that FWP has had with Wyoming and others in the group that have been in touch with contacts in Wyoming indicate it is unlikely that Wyoming's Legislature will address the issue in a way that will solve the problem.

### **Other Options**

- Evaluate whether there is an emergency that would justify special action by the Secretary of the Interior.
- Petition the US Fish & Wildlife Service to again begin the delisting process. Sue the US Fish & Wildlife Service if they refuse.

### **Other Ideas/Suggestions**

- The Wool Growers suggested that the 2011 Montana legislature provide livestock loss mitigation funds from the general fund.

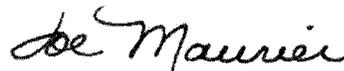
### **Next Steps**

- Groups involved need to correspond directly with the US Fish & Wildlife Service and express concerns and strong support for timely action.
- Letting our Congressional delegation know we are supportive of legislation returning management control to the State.
- Monitor closely legislation introduced in the 2011 Montana Legislative session.

Please let me know if we missed anything in the above summary.

If at any time you have questions or suggestions, please do not hesitate to contact me. We will keep you informed as things develop. And again, many thanks for your thoughtful input and taking the time to join us.

Sincerely,



Joe Maurier  
Director



## **Montana Fish, Wildlife & Parks**

P. O. Box 200701  
Helena, MT 59620-0701  
406-444-3186 - FAX:406-444-4952  
Ref:DO307-10  
August 30, 2010

Mr. Rowan Gould - Acting Director  
U.S. Fish and Wildlife Service  
1849 C Street, NW  
Washington, DC 20240

Dear Mr. Gould:

Wolves in the northern Rocky Mountains and in Montana are recovered and far exceed recovery criteria in the revised recovery plan. Montana has done everything asked of it to achieve recovery and meet delisting criteria, to include acceptable regulatory mechanisms. Yet, because of factors beyond Montana's control, gray wolves were returned to the federal endangered species list through court order. With the return of wolves to the endangered species list, management flexibility has been greatly reduced, and there doesn't appear to be a plan for delisting wolves in the northern Rocky Mountains in the foreseeable future.

Montana requires regulatory relief in order to manage wolves until such time as they can be delisted. By this letter Montana Fish, Wildlife and Parks (FWP) is requesting assurances from the U.S. Fish and Wildlife Service (USFWS) that a 10(a)(1)(A) enhancement of survival permit application will be processed and issued by November 30, 2010 to enable an abridged conservation hunt for gray wolves in 2010. FWP is also requesting the (USFWS) immediately promulgate simultaneous rules to downlist the Endangered portion of the Northern Rocky Mountain Distinct Population Segment of gray wolf, as well as a 4(d) rule to allow population management through a statewide conservation hunt, with the intention of having final rules in place by March 31, 2011 to enable a 2011 conservation hunt. We view the use of public hunting as the optimum population management tool.

FWP wants to work on these avenues of regulatory relief with the USFWS in a collaborative, proactive manner. However, time is of the essence and we request a written response to these requests by September 10, 2010 in order to determine next steps and assign agency resources.

The USFWS recognized that wolves in the Montana and Idaho portion of the Northern Rocky Mountain DPS were recovered when they delisted them in 2008. Their numbers have continued to increase since then. While Judge Molloy remanded the delisting decision, his ruling did not indicate any concern with population levels or management in Montana or Idaho. His ruling was based specifically on the USFWS's carving out of Wyoming from the delisting rule because Wyoming does not have an approved wolf management plan. Because wolves in Montana are recovered, because Montana has an approved wolf management plan, and because Montana has demonstrated responsible, effective wolf management, FWP is confident that implementation of a conservation hunt under Section 10(a) (2010) and Section 4(d) (2011 and beyond) is legal, defensible, and necessary.

Montana has been effectively managing wolves for the past several years. Management is guided by the Montana Wolf Management Plan (completed in 2003). The Montana wolf plan outlines an adaptive management framework, through which FWP will work to integrate gray wolves into the natural and human landscapes. Wolves will be conserved and managed in conjunction with Montana's other resident wildlife. As you are aware, wolves in Montana greatly exceed federal recovery goals identified in the Wolf Recovery Plan and the minimum conservation goals of 150 wolves and 15 breeding pairs in Montana's wolf management plan -- a plan that was deemed adequate by the USFWS.

Montana began 2010 with a minimum of 504 wolves, even after a conservative but successful 2009 hunting season. This number of wolves has reached a level where biological and social impacts are exceeding carrying capacity. FWP has developed a hunting season structure and quota that will enable addressing of impacts associated with this high number of wolves, while still far exceeding federal and state recovery criteria. The objectives of the conservation hunt were developed through a structured decision-making process and were endorsed by the FWP Commission. They include:

- *Maintain a viable and connected wolf population in Montana.*
- *Gain and maintain authority for State of Montana to manage wolves.*
- *Maintain positive and effective working relationships with livestock producers, hunters, and other stakeholders.*
- *Reduce wolf impacts on livestock.*
- *Reduce wolf impacts on big game populations.*
- *Maintain sustainable hunter opportunity for wolves.*
- *Maintain sustainable hunter opportunity for ungulates.*
- *Increase broad public acceptance of sustainable harvest and hunter opportunity as part of wolf conservation.*
- *Enhance open and effective communication to better inform decisions*
- *Learn and improve as we go.*

FWP is committed to managing and conserving wolves under the guidance of these objectives. Please note the first objective – maintain a viable and connected wolf population in Montana.

Wolves in Montana are recovered. Montana has and will continue to manage wolves so they remain an integral part of Montana's wildlife heritage. To do so requires the ability to manage wolf populations to address both social and biological factors. While wolves remain on the Endangered Species List because of factors beyond Montana's control, it is important that mechanisms for management of wolves in Montana be allowed. Those mechanisms must include take authority under Section 10 and Section 4.

FWP is committed to managing wolves, and requests assistance from the USFWS to do so. I look forward to your reply by September 10.

Sincerely,

Joe Maurier  
Director

c: Governor Brian Schweitzer  
Ken Salazar, Secretary of Interior  
Senator Max Baucus  
Senator Jon Tester  
Representative Denny Rehberg  
Montana Wolf Coalition  
Dan Ashe, USFWS, Washington, D.C.  
Gary Frasier, USFWS, Washington, D.C.  
Steve Guertin, USFWS, Denver  
Robyn Thorson, USFWS, Portland



**FOR IMMEDIATE RELEASE – AUGUST 5, 2010**

Contact Tom Palmer, (406) 444-3051; Carolyn Sime, 406-461-0587; or visit FWP's website at [fwp.mt.gov/wolf](http://fwp.mt.gov/wolf)

## **FWP Fact Sheet Montana Wolf Relisted**

### Wolves are Relisted in the Northern Rocky Mountains

- A U.S. Federal District Court formally reinstated federal Endangered Species Act protections for wolves in the Northern Rockies on August 5, 2010.
- FWP is reviewing the ruling to determine what options (legal and otherwise) remain.
- Federal laws and regulations apply statewide.

### Legal Status of Wolves in Montana

- Wolves across northern Montana are classified back to endangered and wolves across southern Montana are reclassified to experimental under the federal Endangered Species Act. See the map for the Federal Interim Wolf Management Area boundaries.
- Federal laws and regulations guide the actions of private citizens and Montana Fish, Wildlife & Parks wolf management activities.

### Wolf Management in Montana

- FWP will retain the authority to manage wolves according to the federal regulations while federal and state efforts to delist wolves resume.
- An interagency cooperative agreement with the U.S. Fish and Wildlife Service grants authority to FWP to implement as much of Montana's plan as allowed by federal regulations.
- FWP continues to be the lead agency for wolf monitoring, public outreach, research, and addressing wolf-livestock conflicts.
- The state program will still be funded by federal dollars.

### Wolves, Livestock and Pets

- Federal regulations guide how FWP and Montana citizens can address wolf-livestock interactions in each of the two interim management areas (see map).
- Across northern Montana where wolves are classified as endangered, agency management decisions will be more conservative. Also, livestock owners or private citizens are not allowed to haze or harass wolves or kill wolves seen attacking livestock or domestic dogs.
- Across southern Montana where wolves are classified as experimental, agency management decisions are guided by the 10j regulations. Livestock owners, their immediate family members, or their employees can haze or harass wolves or kill wolves they see actively chasing, molesting or harassing livestock, herding or guarding animals, or domestic dogs on public or private lands. The incident must be reported to FWP within 24 hours.
- USDA Wildlife Services agents investigate reports of injured or dead livestock and carry out FWP decisions if wolf predation is confirmed.

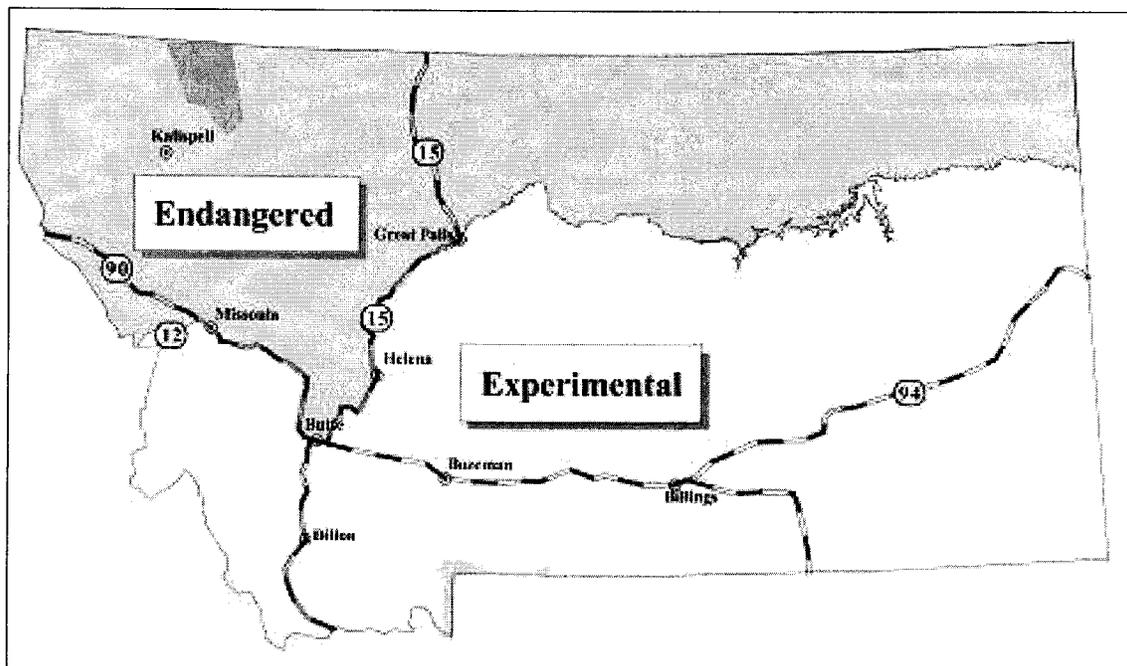
### Wolves and Human Safety

- Federal regulations allow anyone to kill a wolf in self defense or defense of others. Report the incident to FWP within 24 hours.

### Wolf Hunting Season

- Federal regulations do not allow any public hunting or trapping of wolves.
- FWP and the FWP Commission had finalized a hunting season for the Fall of 2010. However with the change in legal status back to a federally protected species, public wolf hunting is prohibited. No licenses will be sold and no hunting will occur.

## **Federal Interim Wolf Management Areas**



To learn more about Montana's wolf population, federal regulations, and to help FWP monitor wolves by reporting wolf sign, visit FWP at: <http://fwp.mt.gov/wolf>.

To anonymously report an injured or dead wolf or suspected illegal activity, call: 1-800-TIP-MONT.

To request an investigation of injured or dead livestock, call USDA Wildlife Services directly in western Montana / Helena area at 458-0106 or in eastern Montana / Billings area at: 657-6464. Or call your nearest FWP representative to have your call referred to USDA Wildlife Services.

If you have a confirmed or probable livestock loss due to wolves, USDA Wildlife Services will supply you with a copy of the Loss Reimbursement Application form. For more information, see <http://liv.mt.gov/liv/LM/index.asp>.



FOR IMMEDIATE RELEASE – AUGUST 5, 2010

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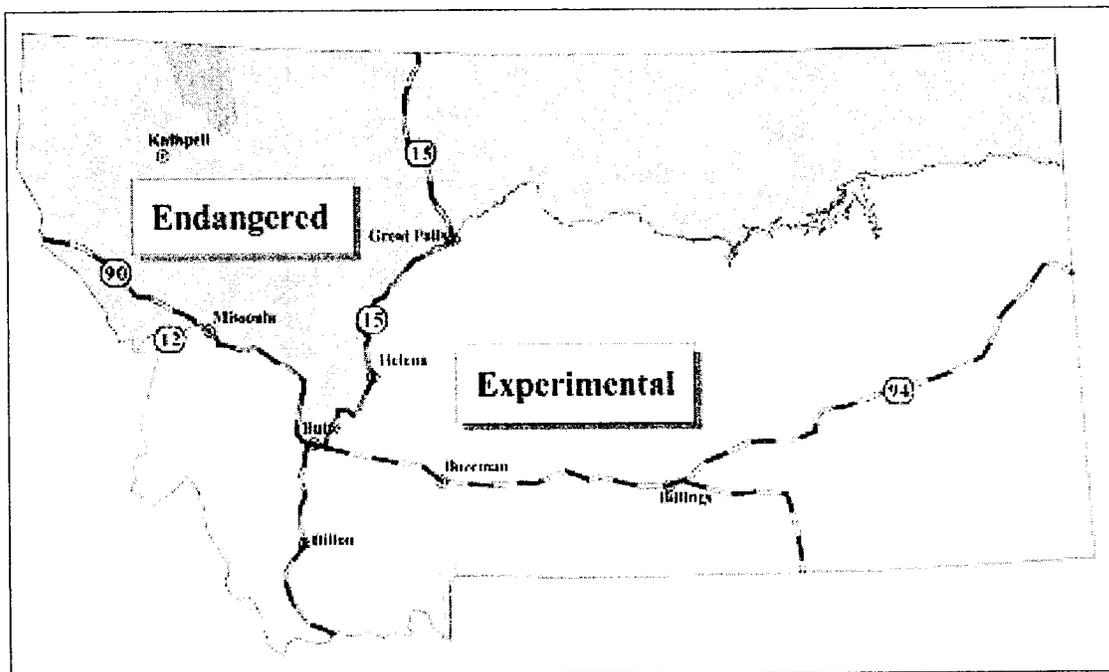
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OFFICE OF THE GOVERNOR  
STATE OF MONTANA

BRIAN SCHWEITZER  
GOVERNOR



JOHN BOHLINGER  
LT. GOVERNOR

September 3, 2010

The Honorable Ken Salazar, Secretary  
Department of Interior  
1849 C Street NW  
Washington DC 20240

Dear Secretary Salazar:

Enclosed is a resolution passed unanimously by the Montana Fish, Wildlife and Parks Commission strongly supporting a multi-pronged approach to address future management of the northern Rocky Mountain gray wolf. Notably, the Commission urges the U.S. Fish and Wildlife Service to appeal the recent Federal District Court ruling and to outline a timely process to accomplish delisting. Further, the Commission supports Montana efforts to seek interim management authority to implement a fair chase hunting season as soon as possible.

By any credible standard, wolves are now biologically recovered, and it is time for state management. Montana is committed to managing for a viable and connected wolf population, and that means managing for a population considerably above the minimum recovery goals. Thus, questions about whether the actual numeric recovery goal is high enough are moot.

Montana's history is filled with successful wildlife restoration and management efforts. Our approach to wolves has been no less successful. To continue that successful trend Montana requires full management authority. Delay represents real, on-the-ground setbacks to wolf conservation. Montana must be allowed to manage its own resident wildlife, regardless of the adequacy of plans in adjacent states.

I too strongly urge the U.S. Fish and Wildlife Service to support state management by appealing the Montana Federal District Court ruling that vacated the final delisting rule and reinstated Endangered Species Act protections for gray wolves in the northern Rocky Mountain region. Montana believes that Congressional intent upholds the Service's decision to delist wolves in Idaho and Montana, and is prepared to pursue Congressional action to affirm that intent.

I am aware that some are calling upon you to start northern Rocky Mountain recovery planning all over again and to establish higher numeric recovery goals. They further call for re-doing state wolf management plans and convening new stakeholder processes, predicting that this will decrease polarity and tensions in the region and benefit wolf conservation. I firmly believe any such effort will have precisely the opposite effect.

I know you understand how polarizing this issue is. Western wolf recovery *started* in Montana when wolves began recolonizing Glacier National Park 25 years ago. Since then, wolf numbers increased and distribution expanded such that recovery criteria were first met back in 2002. By

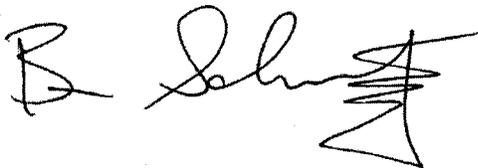
2004, the U.S. Fish and Wildlife Service had approved Montana's management plan, which was developed through a collaborative stakeholder process and has a sound scientific foundation.

Starting federal recovery and state management planning all over again would be a significant setback. It would escalate tensions, deepen polarity, and in fact would jeopardize conservation capacity for wolves, other wildlife, and wildlife habitats stewarded by private landowners in Montana. Montana's conservation investments and wildlife heritage can ill afford "hitting the reset button" on gray wolf recovery.

Wolves are here to stay, and there is no biological reason why they should not be delisted and managed as resident wildlife. Further delays are unacceptable. Wolf recovery has been a success story, and Montana has shown it is fully capable of managing wolves, including regulated, fair chase hunting.

I urge you to do all in your power to restore state management authority in Montana as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Schweitzer". The signature is fluid and cursive, with a large initial "B" and a stylized "S".

BRIAN SCHWEITZER  
GOVERNOR

Enc: Resolution of the Montana Fish, Wildlife & Parks Commission Regarding Gray Wolf Relisting and Future Management, Adopted August 31, 2010

c: FWP Commission  
FWP Director Maurier  
Senator Baucus  
Senator Tester  
Representative Rehberg  
Steve Doherty  
USFWS Director Gould

**RESOLUTION OF THE MONTANA FISH, WILDLIFE & PARKS COMMISSION  
REGARDING GRAY WOLF RELISTING AND FUTURE MANAGEMENT  
ADOPTED AUGUST 31, 2010**

WHEREAS the fundamental backbone of wildlife conservation and management rests with state fish and wildlife agencies and their associated commissions, which collectively bear the responsibility for wildlife stewardship in perpetuity through the North American Model of Wildlife Conservation; and

WHEREAS the gray wolf population in the northern Rocky Mountains is biologically recovered and far exceeds recovery criteria in the revised Northern Rockies Wolf Recovery Plan; and

WHEREAS Montana's wolf population is recovered and its future status is secured through federally-approved regulatory mechanisms; and

WHEREAS legal challenges to federal delisting efforts have prevented transition of full, unencumbered management authority to Montana because the gray wolf was returned to the federal endangered species list a second time on August 5, 2010 through court order; and

WHEREAS the Montana Fish, Wildlife & Parks Commission (Commission) strongly urged Montana Fish, Wildlife & Parks (FWP) to appeal the federal court decision and that the Commission has been informed by FWP that an appeal will be made; and

WHEREAS there isn't a definitive plan or timeline to delist the gray wolf in the northern Rocky Mountains or Montana in the foreseeable future; and

WHEREAS federal regulations for Montana's endangered and the experimental areas differ, respectively and greatly reduce Montana's flexibility to manage wolves as resident wildlife under Montana Code Annotated and according to the state's management plan; and

WHEREAS state statutes under Montana Code Annotated outline the duties and powers of the Commission and charge it to conserve and manage resident wildlife, including the gray wolf; and

WHEREAS Montana's comprehensive approach to wildlife conservation and management includes habitat stewardship, public outreach, research, conflict resolution, population surveys and inventory, human safety, law enforcement, and population management through fair chase hunting; and

WHEREAS Montana requires regulatory relief in order to manage the wolf population until such time as delisting is accomplished and any future litigation is resolved and that population management is accomplished through implementation of a regulated hunting season that would be implemented as soon as possible;

