



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington, D.C. 20240

OCT 14 2015



In response reply to:
FWS/R2/ES-ARD/061414

Ms. Alexandra Sandoval, Director
New Mexico Department of Game and Fish
1 Wildlife Way
P.O. Box 25112
Santa Fe, New Mexico 87507

Dear Director Sandoval:

In 2015, the U.S. Fish and Wildlife Service (Service) applied for permits from the New Mexico Department of Game and Fish (Department) to import Mexican wolves into the state and release Mexican wolves onto National Forest Service lands in New Mexico. The Department has not responded favorably to our permit requests, delaying determination or denying our import permit requests and denying our applications to release Mexican wolves onto National Forest Service lands in New Mexico. On September 29, 2015, in response to the Service's appeal of the Director's denial of release permits, the New Mexico State Game Commission upheld the Director's decision.

As signatories to the Mexican Wolf Memorandum of Understanding (MOU) in 2003 and 2010, the Department and the Service have a history of working collaboratively on issues pertaining to Mexican wolves. In 2011, as directed by the New Mexico Game Commission, the Department suspended participation in Mexican wolf recovery and withdrew from the MOU. The Service continues to keep the Department apprised of important Mexican wolf issues in New Mexico. We were also grateful the Department accepted our invitation to collaborate on the environmental impact statement and associated final rule (80 F.R. 2512, Jan. 16, 2015); the expertise of Department staff led to a stronger product and demonstrates the benefits of collaboration.

The Service, in an attempt to continue this partnership, applied for the subject permits. At this point, the Service has complied with the Department of the Interior regulations (43 C.F.R. 24.4(i)(5)(i)) that direct the Service to comply with State permit requirements. The regulation discusses, however, if that compliance prevents us from carrying out our statutory responsibilities we can move forward without that compliance. This provision in the regulation applies to "carrying out research programs involving the taking or possession of fish and wildlife or programs involving reintroduction of fish and wildlife."

The Service will not be able to meet our Endangered Species Act (ESA) responsibilities if we are precluded from taking actions to promote the conservation of Mexican wolves because we do not possess permits from the State of New Mexico. Based on the best available scientific information, the Service needs to improve the genetic diversity and reduce the kinship of the Mexican wolves in the wild to achieve recovery. The Service is unable to address these genetic

concerns without the ability to release wolves from captivity in the Mexican Wolf Experimental Area in both New Mexico and Arizona. Given the denial of our permit applications, we are left with no option except to continue to move forward with wolf recovery efforts.

The Service has concluded that it has independent legal authority, pursuant to Federal statutes and regulations, to engage in all activities regarding the reintroduction of the Mexican wolf in New Mexico. Exercising this authority will allow the Service to import, export, hold and transfer Mexican wolves in the State of New Mexico; and to release Mexican wolves on federal lands in New Mexico without a State permit. We will conduct these actions to carry out our statutory responsibility to recover the Mexican wolf pursuant to the ESA and the regulations for the Nonessential Experimental Population of the Mexican Wolf (80 Federal Register 2512, Jan. 16, 2015).

The State of New Mexico is a valued partner and we hope that the Service and New Mexico can have a more collaborative working relationship in the future and invite New Mexico to reengage with the Service in our efforts to recover the Mexican wolf. If you have any questions please contact the U.S. Fish and Wildlife Service's Southwest Regional Director, Benjamin N. Tuggle, at 505-248-6282.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Tuggle", is written over a horizontal line.

DIRECTOR