



United States Department of the Interior



FISH AND WILDLIFE SERVICE Mountain-Prairie Region

IN REPLY REFER TO:
FWS/R6
ES

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Lakewood, Colorado 80228-1807

NOV 25 2008

Rob Edward, Director
Carnivore Recovery Program
~~WildEarth Guardians~~
1536 Wynkoop, Suite 302
Denver, Colorado 80202

Dear Mr. Edward:

This letter responds to your September 23, 2008, petition for a recovery plan and critical habitat designation for the gray wolf in the Southern Rocky Mountains.

According to the petition, your request was submitted pursuant to 16 U.S.C. §1531 et seq., of the Endangered Species Act (ESA) and Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. §553). Section 4 of the ESA authorizes petitions: to list, reclassify, or delist a species; and to amend existing critical habitat designations. Section 553(e) of the APA provides interested parties the right to petition for the issuance, amendment, or repeal of a rule. Contrary to the assertion in your petition, recovery plans do not meet the definition of a rule or rulemaking. Thus, neither of these statutes or their implementing regulations authorize petitions to develop or implement recovery plans.

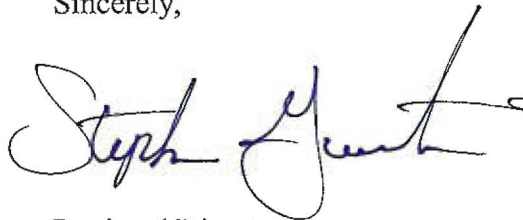
Furthermore, we believe we have satisfied our statutory responsibilities for recovery planning. Section 4(f)(1) of the ESA instructs us to develop plans for the conservation and survival of threatened and endangered species. The ESA further states that priority be given to species that are most likely to benefit from such plans. To this end, we have prioritized gray wolf recovery planning efforts to focus on the Northern Rocky Mountains, the Great Lakes Region, and the Southwest. In the Northern Rocky Mountains, a recovery plan was completed in 1980 and revised in 1987. In the Great Lakes Region, a recovery plan was completed in 1978 and revised in 1992. In the Southwest, a recovery plan was completed in 1982. Any additional planning is discretionary. Given the above, no further consideration will be given to recovery planning portion of your petition.

Regarding the remainder of your petition, the ESA does not provide authority for citizens to petition for the designation of critical habitat. However, the APA provides parties the right to petition for any rulemaking including the designation of critical habitat. Thus, we are considering your petition for the designation of critical habitat under the APA.

Section 3(5)(A)(ii) of the ESA states that unoccupied areas are critical habitat if they are "essential to the conservation of the species." Your petition does not evaluate or discuss whether the Southern Rocky Mountain Ecosystem meets this standard. At present, no wolves occupy the Southern Rocky Mountain Ecosystem. Wolves are not likely to naturally reoccupy the area. Neither the State of Colorado nor the U.S. Fish and Wildlife Service has plans to reintroduce wolves into the area. Given the area's current and likely future unoccupied status, we find that the area is not essential to the conservation of the species and does not warrant designation as critical habitat. Section 3(5)(C) supports this determination in its conclusion that critical habitat shall not include the entire geographic area which can be occupied by the threatened or endangered species. Thus, no further consideration will be given to the critical habitat portion of your petition.

Thank you for your interest in conserving the gray wolf. If you need further assistance, please do not hesitate to contact me at the above address.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steph Gunt". The signature is fluid and cursive, with a long horizontal stroke at the end.

Regional Director

cc: Congressman Mark Udall
Washington, D.C.

Tom Remington, Director
Colorado Division of Wildlife