

**PETITION TO EXTEND BY FIVE YEARS THE POST-
DELISTING MONITORING PERIOD OF THE NORTHERN
ROCKY MOUNTAINS POPULATION OF THE GRAY WOLF**



PETITIONERS

CENTER FOR BIOLOGICAL DIVERSITY
WESTERN WATERSHEDS PROJECT
FRIENDS OF THE CLEARWATER
CASCADIA WILDLANDS
WILDWEST INSTITUTE

JANUARY 5, 2016

Via Electronic and Certified Mail/Return Receipt Requested

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

Dan Ashe, Director
U.S. Fish and Wildlife Service
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Jewell and Director Ashe,

The Center for Biological Diversity, Western Watersheds Project, Friends of the Clearwater, Cascadia Wildlands, and WildWest Institute hereby formally petition the U.S. Department of the Interior and the U.S. Fish and Wildlife Service (“Service”) to extend the post-delisting monitoring period for the northern Rocky Mountain population of the gray wolf (herein referred to as “Rocky Mountain wolf” or simply “wolf”) for an additional five years from the date the current five-year monitoring period ends (May 5, 2016).

Under the Endangered Species Act, the Service is required to monitor a species from which protections of the Act are removed for five years following delisting. 16 U.S.C. § 1533(g)(1). In its rule removing Endangered Species Act protections for the Rocky Mountain population of gray wolf (*Canis lupus*), the Service set forth a requirement to extend the five-year post-delisting monitoring period. 74 Fed. Reg. 15,123 (Apr. 2, 2009) (herein referred to as the “NRM DPS Delisting Rule”). Under the rule, if any one of three criteria occurs within the initial five-year monitoring period, the Service must extend the post-delisting monitoring period by five years. One of these criteria requires such an extension if “a change in State law or management objectives would significantly increase the threat to the wolf population.” *Id.* at 15,186. The best available information conclusively shows this criterion has been triggered.

The states of Idaho and Montana have both substantially revised their management of wolves to aggressively reduce the wolf populations through sport hunting of wolves as well as killing of wolves in remote areas, to the point that the threat to the wolf population has significantly increased. As a consequence, the wolf population in these states—which was supposed to be “a reliable and constant source of dispersing wolves” for recovery of gray wolves throughout the lower 48 states, *see* 78 Fed. Reg. 35,664, 35,689 (June 13, 2013)—is on a steep decline with no end to this decline in sight. The states have not followed management objectives that they communicated to the Service, and instead have made significant changes to reduce the wolf population. Hence, in accordance with the delisting rule for the Rocky Mountain wolf, 74 Fed. Reg. at 15,186, we hereby petition the Service to extend the post-delisting monitoring period by five years, to ensure the continued survival and recovery of the northern Rocky Mountains gray wolf population.

Petitioners file this petition pursuant to § 553(e) of the Administrative Procedure Act, 5 U.S.C. §§ 553(e) (“APA”) and § 1533(b)(3) of the ESA, and 50 C.F.R. Part 424, which grant interested parties the right to petition the Secretary of the Interior for issuance or amendment of a rule.

Petitioners recognize this petition sets in motion a specific process placing definite response requirements on the Service and very specific time constraints upon those responses. Petitioners therefore request a response to this petition no later than February 15, 2016.

STANDING TO PETITION

The Center for Biological Diversity (“the Center”) is a non-profit environmental organization dedicated to protecting endangered species and wild places through science, policy, education, and environmental law. The Center submits this petition on its own behalf and on behalf of its members and staff, with an interest in protecting the wolf and its habitat.

Western Watersheds Project (“WWP”) is a regional, membership, non-profit conservation organization with over 1400 members dedicated to protecting and restoring the public lands and natural resources of watersheds in the American West. WWP is headquartered in Hailey, Idaho, and has offices in Boise, Idaho, Montana, Wyoming, Oregon, Arizona, and California. WWP’s members enjoy observing gray wolves in the northern Rocky Mountains.

Friends of the Clearwater (“FOC”) is a non-profit public interest organization dedicated to the protection and preservation of the native biodiversity of the Clearwater Bioregion and surrounding areas. Its office is located in Moscow, Idaho. FOC has about 800 members. Members of FOC include biologists, outfitters, recreationists, and researchers who observe, enjoy, and appreciate the wildlife of the Northern Rockies including wolves.

Cascadia Wildlands is a non-profit conservation organization headquartered in Eugene, Oregon, and represents approximately 10,000 members and supporters throughout the country. Cascadia Wildlands works to protect and restore the wildlands and species in the Cascadia bioregion. Wolves are of particular interest to our organization.

WildWest Institute is a non-profit, grassroots environmental organization based in Missoula, Montana. Its mission is to protect and restore forests, wildlands, watersheds and wildlife in the Northern Rockies, including wolves.

Petitioners and their members are “interested persons” within the meaning of the APA, and hence petition the Service to extend the post-delisting monitoring period for the distinct population segment of gray wolf in the northern Rocky Mountains by five years. *See* 5 U.S.C. § 553(e) (granting any “interested person the right to petition for the issuance, amendment, or repeal of a rule”); *id.* § 551(4) (a “rule” is “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy”); *see also Ctr. for Biological Diversity et al. v. Salazar et al.*, Civ. No. 11-35661, memorandum opinion (9th Cir. Mar. 14, 2012) at 3077 (“the 2009 Rule does provide standards by which the agency is to evaluate the continuing viability of wolves in Montana and Idaho”) (citing 74 Fed. Reg. at 15,186). For all of the reasons set forth in this petition and as a matter of law, the Service is required to respond to this petition extending by an additional five years the post-delisting monitoring period for the northern Rocky Mountains wolf population.

Should the Service fail to comply with these mandatory obligations, petitioners may pursue relief from a federal district court. 5 U.S.C. § 702 (“A person suffering legal wrong because of agency

action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.”); *id.* § 551(13) (“agency action” includes “the whole or a part of an agency rule, ... or the equivalent or denial thereof, or failure to act”); *id.* § 706(1) and (2)(A) (granting a reviewing court the authority to “compel agency action unlawfully withheld or unreasonably delayed” and/or to “hold unlawful and set aside agency action ... found to be ... arbitrary, capricious, an abuse of discretion”); *see also* 16 U.S.C. § 1540(g)(1)(C) (“any person may commence a civil suit on his own behalf” “against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under section 4 which is not discretionary with the Secretary”).

THE SERVICE MUST EXTEND THE POST-DELISTING MONITORING PERIOD BY FIVE YEARS, AS REQUIRED BY THE NRM DPS DELISTING RULE

Since federal protections for wolves in the northern Rocky Mountains were removed, the states of Idaho and Montana have changed their laws and/or management objectives and have significantly increased threats to the still-recovering wolf population. These changes are leading to declines in the wolf population, with no end in sight.

A new study examines the status of wolves and these aggressive policies and casts serious doubt on the Service’s claims that the northern Rockies wolf population is stable under state management.¹ Specifically, Creel *et al.* (2015) question the states’ and Service’s conclusion that the loss of up to 50 percent of the population has little or no effect on gray wolf population dynamics in the northern Rocky Mountains. To the contrary, the study’s 14 authors document decreasing pack sizes, disruption of the social organization of packs, and reductions in juvenile survival and recruitment, all indicating a declining population. This decline is clearly the result of state laws and management that encourage aggressive hunting and trapping.

Indeed, the study observed that according to the International Union for Conservation of Nature, a species population qualifies as endangered “if it holds fewer than 2500 individuals and has declined by $\geq 20\%$ in < 5 years” and particularly “in Idaho, delisting and subsequent legal harvest produced a 22.4% decline in population counts from 2008 to 2013.” Moreover, the study determined that the Service and Idaho and Montana are underestimating the impacts and risk of aggressive hunting policies for gray wolves that have been instituted since Endangered Species Act protections were lifted by the Service in April, 2009 and, after the 2009 rule was invalidated by a federal court, by Congressional fiat in May, 2011.² Specifically, the study documented that Idaho and Montana changed their counting methods since delisting, severely undermining the veracity of their population estimates. Thus, the Service’s conclusions to the contrary, the study finds that laws and policies in Idaho and Montana are driving a population decline, with no “shut-off” for this decline, and hence these laws and policies are increasing the risk to this population.

¹ Creel, S., Becker, M., Christianson, D., Hayward, M.W., Kranth, U., Loveridge, A., Macdonald, D.W., Matandiko, W., M’soka, J., Murray, D., Rosenblatt, E. & Schuette, P., 2015, Questionable policy for large carnivore hunting: U.S. wolf-hunting policies do not align with ecological theory or data, *Science*, v. 350(6267), pp. 1473-1475 (“Creel *et al.* (2015)).

² 74 Fed. Reg. 15,123; 76 Fed. Reg. 25,590 (May 11, 2011).

Changes in Law and Management Threatening Wolves in Idaho

In Idaho especially, wolves are under attack from all relevant aspects of State law and policy, including those enacted by the Legislature, the Governor, and the Idaho Department of Fish and Game (“IDFG”). In 2014, for example, the Idaho Legislature created a Wolf Depredation Control Board, with members appointed by Idaho Governor Butch Otter, who has consistently expressed his extreme animosity toward wolf recovery.³ According to the supporters of the bill, the goal of the law—which is effective through June 30, 2019—is to reduce Idaho’s wolf population to as few as 150 individuals.⁴ To accomplish this, in 2014 the Legislature allocated \$400,000 to kill wolves in Idaho annually.⁵ In addition to the \$400,000 allocation, the law provides up to \$110,000 annually from assessments made on livestock producers, as well as another \$110,000 annually from IDFG to be deposited into subaccounts. With the exception of the money provided by IDFG, the law requires that all of the money (up to \$510,000 annually) be used for lethal control of wolves. The Board also engages USDA-APHIS Wildlife Services, a highly-controversial federal program that kills millions of wild animals across the country each year, to kill numerous Idaho wolves. Through the Wolf Depredation Control Program, the Board passes money from the state, sportsmen, and livestock producers to Wildlife Services to eliminate wolves.⁶ In early 2015, the Board requested, and was granted, another \$400,000 by the Legislature to remove more wolves from the population during the 2015-16 fiscal year.⁷

In addition, since wolves lost federal protection, Idaho has taken aggressive tactics to aerial gun wolves from the Lolo and Selway Zones in northern Idaho to reduce wolf numbers and increase elk populations. Idaho admits that elk populations have declined as a result of a decline in elk habitat quality that began well before wolves were reintroduced in Idaho in the mid-1990s, but

³ See Alderman, Jesse Harlan, “Idaho Governor Calls for Gray Wolf Kill,” in *The Washington Post* (Jan. 11, 2007) (Governor Otter stating he is “prepared to bid for that first ticket to shoot a wolf myself”), available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/11/AR2007011101613.html> (last visited Jan. 4, 2016).

⁴ See, e.g., Idaho House Committee Meeting, Representative Gibbs at 51:58 (discussing introduction of the first version of the wolf control board bill, HB423, and stating that “I think the numbers this board are willing to work toward are the numbers in the wolf control plan.”) (Jan. 27, 2014), available at <https://drive.google.com/file/d/0B-Uve8oQMRoAeTRSTVV0RXFCTmc/view> (last visited Jan. 4, 2016); Idaho Legislative Wolf Oversight Committee, as amended by the 56th Idaho Legislature, Second Regular Session, Idaho Wolf Conservation and Mgmt. Plan (March 2002), at 5, Table 1 (depredation control is treated like all other large mammalian predators unless population estimates show less than 15 packs), available at <http://fishandgame.idaho.gov/public/docs/wolves/plan02.pdf> (last visited Jan. 4, 2016).

⁵ I.C. §§ 22-5301 et al. (2014).

⁶ See Office of the Governor, Wolf Depredation Control Board, FY 2016 Idaho Legislative Budget Book, at 6-121, available at <http://legislature.idaho.gov/budget/publications/LBB/current/GenGov/21Wolf.pdf> (last visited Jan. 4, 2016).

⁷ See Russell, Betsy Z., “Idaho lawmakers vote to renew wolf-kill program funds,” in *Spokesman Review* (Mar. 11, 2015), available at <http://www.spokesman.com/outdoors/stories/2015/mar/11/idaho-lawmakers-vote-to-renew-wolf-kill-program/> (last visited December 30, 2015).

now asserts that wolves are to blame for preventing the elk population from rebounding.⁸ IDFG's Predator Management Plan for the Lolo and Selway Zones calls for significant reductions in wolf numbers, which could decimate wolf numbers in the area.⁹ Because the Lolo and Selway areas are relatively remote with few roads for hunters and trappers to access the area, but for Idaho's actions, these wolves would remain robust. In the 2009 NRM DPS delisting rule, the Service made clear that it did not foresee Idaho taking aggressive actions against wolves in wilderness areas or other remote federal lands:

Management by State would still maintain a robust wolf population in each core recovery area because they each contain manmade or natural refugia from human-caused mortality (e.g., National Parks, wilderness areas, and remote Federal lands) that guarantee those areas remain the stronghold for wolf breeding pairs and source of dispersing wolves in each State.¹⁰

Nevertheless, as of March 2015, Idaho has killed or contracted to kill nearly 70 wolves in the Lolo area over the past five years, including 23 wolves in 2014 and 19 wolves in 2015.¹¹ IDFG has also contracted with USDA-APHIS Wildlife Services to conduct wolf control in these elk management zones, thus also using federal funding to conduct helicopter wolf-killing operations. These aggressive and lethal actions in remote federal lands such as the Lolo and Selway Zones directly contravene the Service's management expectations and have significantly increased threats to the wolf population.

The Lolo and Selway Zones are not the only areas in Idaho where IDFG is aggressively reducing the wolf population. In 2014, IDFG began implementing a plan to use professional hunters and trappers to eliminate 60 percent of the wolves in the Middle Fork Region of the Frank Church-River of No Return Wilderness Area ("Frank Church"), with the objective of inflating the elk population in that region for the benefit of commercial outfitters and recreational hunters.¹² The Forest Service aided Idaho in accomplishing its wolf elimination objectives, allowing the hired

⁸ See IDFG, Predation Mgmt. Plan for the Lolo and Selway Elk Zones (rev'd Dec. 31, 2011), available at <https://fishandgame.idaho.gov/public/wildlife/planLoloSelwayPredation.pdf> (last visited Dec. 29, 2015).

⁹ *Id.*

¹⁰ 74 Fed. Reg. at 15,132.

¹¹ See Idaho Fish and Game, News Release, "Wolf Control Action Completed in the Lolo Zone" (Feb. 28, 2014) (Wildlife Services killed 23 wolves from a helicopter in the Lolo Zone in February 2014), available at <http://fishandgame.idaho.gov/public/media/viewNewsRelease.cfm?newsID=7007> (last visited Jan. 4, 2016); Idaho Fish and Game, News Release, "Wolf Control Action Completed in the Lolo Zone" (Mar. 9, 2015) (Wildlife Services killed 19 wolves through aerial control in February 2015, and "[d]uring the last five years, six other agency control actions in the Lolo zone removed an additional 48 wolves"), available at <https://fishandgame.idaho.gov/public/media/viewNewsRelease.cfm?newsID=7545> (last visited Jan. 4, 2016).

¹² See IDFG, Predation Mgmt. Plan for the Middle Fork Elk Zone at 10-11 (Feb. 2014), available at <http://fishandgame.idaho.gov/public/wildlife/planMiddleForkPredation.pdf> (last visited Dec. 29, 2014); IDFG, Idaho Elk Mgmt. Plan 2014-2024 at 60 (Jan. 2014), available at <http://fishandgame.idaho.gov/public/wildlife/planElk.pdf> (last visited Dec. 29, 2014).

trapper to use federal structures on federal land. Although several conservation organizations, including the Center and WWP, filed suit against the Forest Service and IDFG in January 2014 to halt the first phase of the program, the court denied issuing an injunction to immediately stop the trapping.¹³ Nevertheless, shortly after the groups appealed this ruling, IDFG pulled the trapper from the Frank Church, stating that he had eliminated the Golden Creek and Monumental Creek wolf packs.¹⁴ Although IDFG has informed the Forest Service that it does not plan to kill more wolves in the Frank Church in the winter of 2015-16, IDFG has now proposed to use helicopters to collar elk in the Wilderness area to track elk populations, with a reasonably-foreseeable outcome of killing wolves where elk populations do not reach IDFG's targeted population goals, even as it acknowledges that these elk populations have declined as a result of lack of quality habitat, not wolf predation.¹⁵

Not only has IDFG changed many of its relevant policies on wolf management since federal protections on wolves have been removed, but it has also ignored its own policies that would protect wolves from needless killing. In 2013, a group called "Idaho for Wildlife" sponsored a hunting contest to kill wolves and coyotes on federal, state, and private land in Idaho for cash and prizes.¹⁶ IDFG has an official policy which states that IDFG "[does] not support any contests or similar activities involving the taking of predators which may portray hunting in an unethical fashion, devalue the predator, and which may be offensive to the general public."¹⁷ Nevertheless, despite extreme public opposition to Idaho for Wildlife's "Predator Derby," IDFG made no attempt to deter the group from moving forward with the event. To the contrary, Idaho for Wildlife has sponsored the event two years in a row, and desires to make it an annual event.¹⁸ Although no wolves have been killed during this contest yet, the participants are highly encouraged to make wolves their prime target.

¹³ See *Maughan v. Vilsack*, Case No. 4:14-CV-0007-ELJ, 2014 U.S. Dist. LEXIS 6697 (D. Idaho Jan. 17, 2014).

¹⁴ See Associated Press, "Professional hunter eliminated 2 wolf packs in Frank Church Wilderness," in *Missoulian* (Jan. 30, 2014), available at <https://fishandgame.idaho.gov/public/media/viewNewsRelease.cfm?newsID=7545> (last visited Jan. 4, 2016).

¹⁵ See U.S. Dep't of Agric., Forest Service, Intermountain Region, Environmental Assessment, Middle Fork Zone Elk Monitoring Project (Oct. 2015), available at http://data.ecosystem-management.org/nepaweb/nepa_project_exp.php?project=47584 (last visited Jan. 4, 2016). Conservation organizations, including the Center, WWP, and FOC, filed an objection to stop these activities.

¹⁶ See Zuckerman, Laura, "Competitive hunting of wolves, coyotes in Idaho sparks outcry," in *Reuters* (Dec. 11, 2013), available at <http://www.reuters.com/article/us-usa-hunt-idaho-idUSBRE9BB02120131212> (last visited Jan. 4, 2016).

¹⁷ See IDFG, Policy for Avian and Mammalian Predation Management (Aug. 24, 2000), available at <https://fishandgame.idaho.gov/public/wildlife/?getPage=331> (last visited Dec. 30, 2015).

¹⁸ See Mosendz, Polly, "Wolf Hunting Event Breeds Controversy in Idaho," in *Newsweek* (Jan. 3, 2015), available at <http://www.newsweek.com/wolf-hunting-event-breeds-controversy-idaho-296390> (last visited Jan. 4, 2016).

Importantly, Idaho laws and policies that target wolves are occurring in remote areas of the state, including on federal public lands that were supposed to provide core refugia for the still-recovering—but now declining—northern Rocky Mountain wolf population.¹⁹

Idaho's new laws and policies have led to a decline in Idaho's wolf population, though the extent of the decline is difficult to determine.²⁰ In order to determine the estimated wolf population, Idaho uses a mean or median pack size to estimate wolves in packs that are documented with incomplete member counts.²¹ At the end of 2014, complete pack size counts were obtained for only 27 packs, totaling just 175 wolves.²² Idaho then determined there were 77 packs with absent or incomplete accounts, and thus multiplied 77 packs by the median pack size of 6.5 wolves.²³ This convoluted counting methodology leaves a large margin for error and has a strong probability of overestimating the actual wolf population in Idaho.²⁴ The fact that harvest totals have decreased by almost 25% since delisting, despite liberal wolf hunting and trapping seasons, is indicative that the population is declining.²⁵

Changes in Law and Management Threatening Wolves in Montana

In Montana, the Montana Fish, Wildlife and Parks (“MFWP”) permitted the sport hunting of wolves immediately following removal of federal protections. In 2009, MFWP imposed a statewide hunting quota of 75 wolves. The hunting season began September 15, and although it was supposed to go through November, MFWP closed the season two weeks early when 72 wolves had already been killed, nearly reaching the state quota.²⁶

¹⁹ See, e.g., 74 Fed. Reg. at 15,132.

²⁰ Cf. 2010 Idaho Annual Report, at 6, Fig. 4 (estimating population at 870 wolves at the end of 2009), available at <http://www.nezperce.org/official/PDF/WOLFConservation20101report.pdf> (last visited Jan. 4, 2016), with 2014 Idaho Annual Report, at ii (estimating population at 770 wolves at the end of 2014), available at <https://fishandgame.idaho.gov/public/docs/wolves/reportAnnual14.pdf> (last visited Jan. 4, 2016).

²¹ 2014 Idaho Annual Report, at 69, App. A, available at <https://fishandgame.idaho.gov/public/docs/wolves/reportAnnual14.pdf> (last visited Jan. 4, 2016).

²² *Id.*

²³ *Id.*

²⁴ See Creel et al. (2015), *supra* note 1, at 1475 (noting “the Idaho estimate is ~1.75 times the number of individuals known to be alive”).

²⁵ See *id.* (“a 25% decrease in the number of wolves harvested in Idaho and Montana in 2013 . . . , despite extended hunting seasons and liberalized hunting limits that have increased the proportion of the population killed . . . , a pattern that is commonly taken to indicate that harvest is driving a decline.”).

²⁶ See 2009 Montana Wolf Hunting Season Report, available at <http://fwp.mt.gov/fishAndWildlife/management/wolf/> (last visited Jan. 4, 2016).

In 2010, MFWP proposed to the Commission a harvest quota of 186 wolves, with sub-quotas in three areas, including north of Yellowstone National Park.²⁷ The hunting season, however, was cancelled by a federal court order.²⁸

Two years later, in 2011, MFWP nearly tripled the statewide quota from 2009, setting it at 220 wolves.²⁹ Sub-quotas were also designated in each Wolf Management Unit (“WMU”).³⁰ By the end of the season, which had been extended to February 15 when hunters had not come close to reaching the quota, hunters had killed 166 wolves.³¹

In 2012, MFWP made significant changes to expand how and when wolves could be killed. After several years of allowing just hunting, trapping was permitted.³² The statewide quota was eliminated, and only two small WMUs had any quotas.³³ Additionally, while broken into different seasons for archery, rifle, and trapping, the wolf harvest season ran from September 1 through February 28—*i.e.*, half the year.³⁴ In February, the Montana Legislature also passed a new law allowing hunters to purchase up to three wolf licenses.³⁵ At season end, 225 wolves had been killed, including 128 from hunting and 97 from trapping.³⁶

Although the state’s wolf population decreased following the 2011 and 2012 seasons, MFWP lengthened the wolf season even more, this time extending it to March 15.³⁷ The quotas for the two remaining WMUs that still had quotas during the 2012 season were eliminated, and MFWP increased the bag limit to 5 wolves in any total combination of hunting or trapping.³⁸ With the aggressive hunting and trapping season, over 200 wolves were killed. By season end, 230 wolves had been reported killed, including 143 hunted and 87 trapped.³⁹

²⁷ See Volz, Matt, “Montana FWP will recommend wolf hunt quota of 186,” *Missoulian* (July 7, 2010), available at http://missoulian.com/news/local/montana-fwp-will-recommend-wolf-hunt-quota-of/article_3c4491e2-8900-11df-83a4-001cc4c03286.html (last visited Jan. 4, 2016).

²⁸ See *Defenders of Wildlife v. Salazar*, 729 F. Supp. 2d 1207 (D. Mont. 2010) (vacating as invalid 2009 delisting rule), *judgment vacated*, 2012 U.S. App. LEXIS 26769 (9th Cir. Nov. 7, 2012).

²⁹ See 2011 Montana Wolf Hunting Season Report, available at <http://fwp.mt.gov/fishAndWildlife/management/wolf/> (last visited Jan. 4, 2016).

³⁰ *Id.*

³¹ *Id.*

³² See 2012 Montana Wolf Hunting Season Report, available at <http://fwp.mt.gov/fishAndWildlife/management/wolf/> (last visited Jan. 4, 2016).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ See 2013 Montana Wolf Hunting Season Report, available at <http://fwp.mt.gov/fishAndWildlife/management/wolf/> (last visited Jan. 4, 2016).

³⁸ *Id.*

³⁹ *Id.*

The 2014 season was similar to the 2013 season, with no quotas and increased bag limits.⁴⁰ That year, 206 wolves were reported as killed by the end of the season, including 130 hunted and 76 trapped.⁴¹

Following these increasingly aggressive wolf hunting and trapping seasons, the minimum population reportedly dropped by approximately 100 wolves since 2011 reported totals.⁴² Even more concerning, however, is that there is a strong likelihood that the population has actually dropped more than reported.

In its 2013 annual report, MFWP reported that it had increased its staff and volunteers to track and monitor wolves.⁴³ It follows that more wolves are likely to be found and reported. Creel *et al.* (2015) found that even though Montana reported an increase in the population from 2008 to 2011, the perceived increase is unlikely, but rather is likely the result of Montana adding additional staff and volunteers to monitor the wolf population during this period in conjunction with the initiation of a program to gather sightings from the public.⁴⁴ Therefore, the Service's conclusion that Montana's change in policies with regard to hunting and trapping have not significantly increased threats to the northern Rockies wolf population is not supported by the data.⁴⁵

Legal Foundation for an Extension to the Monitoring Period

In its delisting rule, the Service made clear that the post-delisting monitoring period shall be extended for an additional five years if a change in State law or management objectives significantly increase the threat to the wolf population.⁴⁶ This mandate is nondiscretionary and, for all of the reasons set forth above, legally required.⁴⁷ Changes in law and management objectives, in particular Idaho's aggressive tactics to eliminate or drastically reduce the wolf population, have significantly increased the threat to the gray wolf population in the northern Rocky Mountains. The best available information, including the Creel *et al.* (2015) study confirming the significant threats to the wolf population from these new laws and management objectives, demand that the Service extend the post-delisting monitoring period for wolves. Accordingly, we hereby petition the Service to enact a five-year extension of the post-delisting monitoring period, as required by the NRM DPS Delisting Rule.

⁴⁰ See 2014 Montana Wolf Hunting Season Report, *available at* <http://fwp.mt.gov/fishAndWildlife/management/wolf/> (last visited Jan. 4, 2016).

⁴¹ *Id.*

⁴² *Cf.* 2011 Annual Report, at 1 (estimating population of 653 wolves in Montana) with 2014 Annual Report, at 1 (estimating population of 554 wolves in Montana), *available at* <http://fwp.mt.gov/fishAndWildlife/management/wolf/> (last visited Jan. 4, 2016).

⁴³ See 2013 Annual Report, at 3, *available at* <http://fwp.mt.gov/fishAndWildlife/management/wolf/> (last visited Jan. 4, 2016).

⁴⁴ Creel *et al.* (2015), *supra* note 1, at 1475.

⁴⁵ *Id.*

⁴⁶ 74 Fed. Reg. at 15,186.

⁴⁷ See 76 Fed. Reg. 25, 590 (May 5, 2011) (reissuing 2009 delisting rule); *see also* *Ctr. for Biological Diversity et al. v. Salazar et al.*, Civ. No. 11-35661, memorandum opinion (9th Cir. Mar. 14, 2012) at 3077 (“the 2009 Rule does provide standards by which the agency is to evaluate the continuing viability of wolves in Montana and Idaho”) (citing 74 Fed. Reg. at 15,186).

CONCLUSION

For all of the foregoing reasons, the Service must respond to this petition by extending the post-delisting monitoring period for the northern Rocky Mountains population of gray wolf by an additional five years from May 5, 2016.

We look forward to your timely response.

Sincerely,

Andrea Santarsiere, Staff Attorney
Center for Biological Diversity

Travis Bruner, Executive Director
Western Watersheds Project

Gary Macfarlane, Ecosystem Defense Director
Friends of the Clearwater

Nick Cady, Legal Director
Cascadia Wildlands

Matthew Koehler, Director
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