(b)(6), (b)(7)(C)

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
OFFICE OF LAW ENFORCEMENT

REPORT OF INVESTIGATION
REPORT#: 2013200634R003
APPROVED - CASE CLOSED

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CASE TITLE	*REPORT DATE*	*CASE NUMBER*
MEXICAN GRAY WOLF #1288 ***SENSITIVE CASE***	08/14/2013	2013200634
	REPORTING OFFICER [redacted]	*CASE STATUS* RECOMMENDED FOR CLOSURE
	APPROVED BY [redacted] 08/14/2013 08/14/2013 08/14/2013	

SUBJECTS OF REPORT
USDA/APHIS WILDLIFE SERVICES (NEW MEXICO)
[redacted]

SYNOPSIS

This report documents a review of the 2011 Biological Opinion pertaining to the Mexican gray wolf.

On April 9, 2013, U.S. Fish and Wildlife Service/Office of Law Enforcement (USFWS/OLE) Special Agent (SA) [redacted] presented the preliminary findings of the investigation to the U.S. Attorney's Office/District of New Mexico for review.

On May 16, 2013, SA [redacted] received all of the final forensics reports from the National Fish and Wildlife Forensics Laboratory in Ashland, Oregon. The reports confirmed that the canine was in fact a Mexican gray wolf, which had perished due to a gunshot wound. The forensic reports further documented that the Mexican gray wolf had sustained a prior gunshot wound to the neck. This wound appeared to have had little impact on the animal and may have occured at least one (1) week prior to the wolf's death.

On June 7, 2013, the USFWS/OLE received notification from the U.S. Attorney's Office/District of New Mexico that they would not be seeking Federal prosecution [redacted] of the U.S Department of Agriculture/Animal and Plant Health Inspection Service's (USDA/APHIS) WILDLIFE SERVICES. The case had been reviewed by various Assistant U.S. Attorney's, to which the final decision was made by the U.S. Attorney for the District of New Mexico.

On August 5, 2013, SA [redacted] disposed of the carcass belonging to Mexican gray wolf #1288 in accordance with USFWS/OLE regulations.

On August 14, 2013, the USFWS/OLE provided copies of all investigative reports from this investigation to USDA/APHIS for their internal use.

This case is recommended for closure.

DISTRIBUTION
Internal List
[redacted]

(b)(7)(E)

DETAILS OF INVESTIGATION

Review of the Biological Opinion for the Mexican Wolf

Species and Reintroduction Program History

The Mexican gray wolf historically ranged in the Sierra Madre and outlying mountain ranges of Mexico and in mountain ranges throughout Arizona, New Mexico, and parts of Texas. Mexican gray wolves were considered extirpated from the southwestern United States by the 1970s and were listed as an endangered species in 1976. Five (5) wolves were later captured in Mexico to establish a captive breeding program to ensure the survival of this species. In 1979, the U.S. Fish and Wildlife Service (USFWS) formed the Mexican Wolf Recovery Team. Finally, in 1998, the USFWS released the first eleven (11) Mexican gray wolves into the wild within the Blue Range Wolf Recovery Area located within the states of Arizona and New Mexico.

Purpose of Biological Opinions

To avoid violating the Endangered Species Act (ESA), Federal agencies must consult with the USFWS when their actions may jeopardize the existence of an endangered species. After consultation, the USFWS issues its opinion in the form of a Biological Opinion. As noted in the Final Section 7 ESA Consultation Handbook, dated March 1998, "A formal biological opinion consists of a description of the proposed action, status of the species/critical habitat, the environmental baseline, effects of the action, cumulative effects, the USFWS's conclusion of jeopardy/no jeopardy and/or adverse modification/no adverse modification, and reasonable and prudent alternatives, as appropriate."

Specifically, under Title 16, United States Code, Section 1536(b)(3)(A):

> "... the Secretary shall provide to the Federal agency and the applicant, if any, a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. If jeopardy or adverse modification is found, the Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action."

2011 Biological Opinion for the Mexican Wolf (Canis lupus baileyi)

In 2011, the USFWS produced a Biological Opinion based on a review of the proposed U.S. Department of Agriculture/Animal and Plant Health Inspection Service (USDA/APHIS), WILDLIFE SERVICES' (WS) Wildlife Damage Management (WDM) Program implemented in the United States and its potential effects on the Mexican gray wolf (*Canis lupus baileyi*) in accordance with Section 7 of the ESA. The consultation pertaining to the WDM Program was necessary due to WILDLIFE SERVICES' program expansion of existing operational activities, as well as the establishment of new operational activities and implementing procedures, and the development and utilization of new methodologies.

The information provided in the Biological Opinion was "based on information provided in the May 2007 Biological Assessment and associated amendments." Based on information provided in the aforementioned Biological Assessment, WILDLIFE SERVICES "has determined that the WDM Program activities conducted by WS personnel in the southwestern United States are likely to adversely affect the Mexican wolf." It was documented within the Biological Opinion that WILDLIFE SERVICES had no history of incidental take of a Mexican gray wolf between the period when the Mexican gray wolf was listed as endangered under the ESA in 1976 and December 31, 2010. [***Agent's Note:*** *In 2003, the USFWS revised the endangered listing status to threatened for two (2) distinct population segments of gray wolves within the United States. The Mexican gray wolves, which were categorized as the Southwest distinct population segment, retained their endangered or experimental population status.*] However, WILDLIFE SERVICES "has been asked to capture Mexican wolves that have moved outside of the Mexican Wolf Experimental Population Area boundaries and to return them to the Blue Range Wolf Recovery Area or to captivity." [***Agent's Note:*** *The following boundaries have been defined in Title 50, Code of Federal Regulations (CFR), Sections 17.84(k)(9)(i) & (iii):*

- *The Mexican Wolf Experimental Population Area is defined as "the portion of Arizona lying north of the Interstate Highway 10 and south of Interstate Highway 40; the portion of New Mexico lying north of Interstate Highway 10 in the west, north of the New Mexico-Texas boundary in the east and south of Interstate Highway 40; and the portion of Texas lying north of United States Highway 62/180 and south of the Texas-New Mexico boundary."*

- *The Blue Range Wolf Recovery Area is defined as "all of the Apache National Forest and all of the Gila National Forest in east-central Arizona and west-central New Mexico."*

It was also noted that predator damage management methods used by WILDLIFE SERVICES personnel in the southwestern United States included the following: "M-44 devices and livestock protection collars; foothold traps; foot, leg, and neck snares; denning/large gas cartridges; use of DRC-1339 to control raven depredation on livestock; and ground and aerial shooting." Other recommended methodologies to reduce livestock depredation included "habitat management; changes in animal husbandry techniques; use of livestock guard animals; physical exclusion; use of frightening devices such as electronic guards, pyrotechnics, mylar tape, rubber bullets, paint balls, and bean bags; cage traps, net guns; dogs for tracking, trailing, and denning, or as decoys when ground shooting."

In section II of the Biological Opinion, subsection C, titled "Status and distribution," it is noted that the 1998 10 (j) rule states:

> "(11) If any wolves move onto private land outside the designated recovery area(s), but within the Mexican Wolf Experimental Population Area, the Service or an authorized agency will develop management actions in cooperation with the landowner including capture and removal of the wolf or wolves if requested by the landowner."

In section IV of the Biological Opinion, titled "Effects of the Action", the following information was documented:

> "Where the Mexican wolf is listed as endangered (this would include any released wolves dispersing into the United States from Mexico) the following activities conducted by WS personnel to reduce damage by wildlife have the potential to result in incidental take: use of M-44 devices and LPCs; strychnine application; use of foot-hold traps; use of foot, leg, and neck snares; beaver trapping, and ground and aerial shooting. Wolves that are part of the nonessential experimental population are subject to a special rule (50 CFR 17.84(k)) that does not prohibit accidental, unintentional take outside occupied wolf range, or such take within occupied wolf range so long as due care was exercised to avoid taking a wolf." [***Agent's Note:*** *The following details portions of the Special Rules of 50 CFR 17.84(k) as they pertain to Mexican gray wolves and their take:*
>
> - *50 CFR 17.84(k)(3) states, "No person, agency, or organization may "take" any wolf in the wild within the Mexican Wolf Experimental Population Area, except as provided in this rule. The Service may investigate each take of a Mexican wolf and may refer the take of a wolf contrary to this rule to the appropriate authorities for prosecution."*
> - *Take is defined in 50 CFR 17.84(k)(15) as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."*
> - *50 CFR 17.84(k)(3)(i) states "Throughout the Mexican Wolf Experimental Population Area, you will not be in violation of the Act or this rule for "unavoidable and unintentional take" of a wolf. Such take must be non-negligent and incidental to a legal activity, such as military training and testing, trapping, driving or recreational activities. You must report the take within 24 hours to the Service's Mexican Wolf Recovery Coordinator or to a designated representative of the Service."*
> - *50 CFR 17.84(k)(3)(iii) states "Throughout the Mexican Wolf Experimental Population Area, excluding areas within the national park system and national wildlife refuge system, no Federal agency or their contractors will be in violation of the Act or this rule for unavoidable or unintentional take of a wolf resulting from any action authorized by that Federal agency or by the Service."*
> - *Unavoidable and unintentional take is defined in 50 CFR 17.84(k)(15) as "accidental, unintentional take which occurs despite reasonable care, is incidental to an otherwise lawful activity, and is not done on purpose." The definition further states "Taking a wolf with a trap, snare, or other type of capture device within occupied wolf range will not be considered unavoidable, accidental, or unintentional take, unless due care was exercised to avoid taking a wolf. Taking a wolf by shooting will not be considered unavoidable, accidental, or unintentional take. Shooters have the responsibility to be sure of their targets."*

In section IV of the Biological Opinion, a subsection titled "Ground Shooting" stated the following:

> WILDLIFE SERVICES "uses training and experienced specialists in areas where Mexican wolves are known or suspected of livestock depredations. Shooting is a target-specific methodology that could result in the unintentional removal of Mexican wolves. In addition, WS personnel utilize predator calls to shoot coyotes during daylight hours and night hunt coyotes via spotlights and night vision scopes. These methods are species selective, but there is a slight potential for misidentification (e.g., a small wolf could be mistaken for a coyote). WS uses experienced personnel to conduct these operations and limit the risk of misidentification."

In section VI of the Biological Opinion, title "Conclusion," it is noted that the USFWS's "biological opinion that the WDM Program activities, as proposed, are not likely to jeopardize the continued existence of the Mexican wolf." It also states that "There is only a slight potential for the WS WDM Program activities to result in incidental take of Mexican wolf through the use of LPCs, sub-surface application of strychnine, capturing Mexican wolf instead of target species of similar weight, or through mistaken identification when using firearms. While FWS anticipates WS will not incidentally take any Mexican wolf, exempting the incidental take of one Mexican wolf rangewide in the contiguous 48 States in five years addresses the slight potential for WS to incidentally take one Mexican wolf at some future time."

Within the "Incidental Take Statement" of the Biological Opinion, it states "...for the experimental population of the Mexican wolf does not prohibit accidental, unintentional take outside occupied wolf range, or such take within occupied wolf range so long as due care was exercised to avoid taking a wolf." (See attachment #1, Biological Opinion, Mexican Wolf).

Receipt of Preliminary Forensic Reports

On March 23, 2013, U.S. Fish and Wildlife Service/Office of Law Enforcement (USFWS/OLE) Special Agent (SA) [redacted] received a Veterinary Pathology Examination Preliminary Report from the National Fish and Wildlife Forensics Laboratory (NFWFL) in Ashland, Oregon. SA [redacted] had submitted the carcass of Mexican gray wolf #1288 to the NFWFL in order to have a necropsy completed to determine the cause of death for the wolf and to confirm the animal was in fact a Mexican gray wolf (See attachment #2, Evidence Submittal Form and Examination Request). The Veterinary Pathology Examination Preliminary Report, which was prepared [redacted] detailed the initial examination of Mexican gray wolf #1288 (See attachment #3, Veterinary Pathology Examination Preliminary Report). [redacted] noted the carcass of Mexican gray wolf #1288 was in "good" post mortem condition and that the animal was in "good" nutritional condition. [redacted] further noted that a radiographic examination of the carcass indicated that "caudal to the larynx, on the left and at the level of C2-3, there is a 13 X 6 mm, bullet shaped, metal density object. Throughout the chest cavity but largely concentrated at the 6th through the 8th ribs, there is a "lead snowstorm" effect with metal density particles that are up to 6 X 4 mm." Further examination of the carcass

indicated that there was a 12 mm diameter hole on the right side of the wolf between the 6th and 7th ribs.

Case Presented to U.S. Attorney's Office for Review

On April 9, 2013, SA [redacted] traveled to the U.S. Attorney's Office in Las Cruces, New Mexico, and met with Assistant U.S. Attorney (AUSA) Richard Williams to present the facts of this investigation for review and determination as to whether or not Federal prosecution would be sought. Upon presenting the information, SA [redacted] explained to AUSA Williams that the final forensics reports had not yet been received, but that the Veterinary Pathology Examination Preliminary Report had verified the information provided by both WILDLIFE SERVICES' [redacted] and [redacted] AUSA Williams agreed to review the information and provide SA [redacted] with a response as to whether or not Federal prosecution would be sought against [redacted] On April 12, 2013, SA [redacted] received a declination letter from AUSA Williams indicating that the U.S. Attorney's Office/District of New Mexico would not be seeking Federal prosecution against [redacted] (See attachment #4, declination letter dated April 12, 2013). SA [redacted] was later advised that U.S. Attorney Kenneth Gonzales wished to further review the case before making a final determination as to whether or not the case would be federally prosecuted.

Receipt of Final Forensics Reports

On May 16, 2013, SA [redacted] received several forensic reports from the NFWFL in Ashland, Oregon. The reports included a Veterinary Pathology Examination Final Report, a Criminalistics Examination Report, a Genetics Examination Report, and a Multimedia Examination Report.

The Veterinary Pathology Examination Final Report, which was prepared [redacted] noted that a gunshot injury was the cause of the death for Mexican gray wolf #1288 (See attachment #5, Veterinary Pathology Examination Final Report). [redacted] stated that "the wound tract was associated with marked tearing of the heart muscle, laceration of the diaphragm, and fractures of several ribs." [redacted] further stated that "this trauma caused rapid respiratory decompensation, massive hemorrhage, and near instantaneous death." Fragments of lead and copper were retrieved from the wound tract of the wolf carcass, but none of the pieces were large enough for a caliber determination. [redacted] also noted in the report that a ".22 caliber bullet was lodged in one of the muscles of the neck," though this injury lacked hemorrhaging and appeared to have occurred at least one (1) week prior to the wolf's death. This injury appeared to have "had little impact on the clinical health of the animal at the time of death."

The Criminalistics Examination Report, completed [redacted] noted that the bullet recovered from Mexican gray wolf #1288's neck was a .22 caliber full metal jacket rimfire bullet with some pieces of copper and lead (See attachment #6, Criminalistics Examination Report). [redacted] stated that the bullet was "similar to bullets loaded by CCI in .22 magnum rimfire (WMR) ammunition. [redacted] also provided a list of possible firearms which included, but was not limited to, "firearms manufactured for/by Arcadia

Machine and Tool (AMT), CDM, Freedom Arms, High Standard, Italy, Ithaca, Uberti, and U.S. Military Weapons."

The Genetics Examination Report, which was prepared [redacted] noted that the mitochondrial DNA was "identical and exclusive to Mexican wolves" and the nuclear DNA was "consistent with having originated from Mexican wolves" (See attachment #7, Genetics Examination Report).

The Multimedia Examination Report, which was prepared by [redacted] included a four (4) page contact sheet set of the images obtained by the NFWFL during the necropsy of Mexican gray wolf #1288 (See attachment #8, Multimedia Examination Report). [redacted] also included a CD containing digital copies of the photographs.

Evidence Returned to USFWS/OLE in New Mexico

On June 5, 2013, USFWS/OLE SA [redacted] received the returned evidence from the NFWFL. The evidence included the carcass of Mexican gray wolf #1288. The carcass had been submitted to the NFWFL for necropsy on February 25, 2013. The evidence was returned to the USFWS/OLE in Albuquerque, New Mexico, via FedEx (See attachment #9, Chain of Custody Record).

Receipt of Second Declination to Prosecute

On June 7, 2013, the USFWS/OLE was notified by the U.S. Attorney's Office/District of New Mexico, that it would not be seeking Federal prosecution against [redacted] The U.S. Attorney's Office/District of New Mexico stated that it had reached this decision after reviewing the facts and evidence of the investigation, and the issues of the shooting in which Mexican gray wolf #1288 was misidentified as a coyote. The misidentification issue fell within the U.S. Department of Justice's McKittrick Policy.

USDA/APHIS Requests Case Reports

On July 31, 2013, USDA/APHIS State [redacted] e-mailed a request to USFWS/OLE Special Agent [redacted] for investigative reports associated with this investigation (See attachment #10, e-mail message dated July 31, 2013). Specifically, State [redacted] requested reports "associated with the wolf shot by NM Wildlife Services [redacted] on 1/19/13." [redacted] advised State [redacted] that all reports associated with this investigation would be provided to [redacted] upon the completion of the entire investigation.

Disposition of Evidence/Property

On August 5, 2013, SA [redacted] disposed of all evidence/property associated with this investigation. All of the evidence/property was disposed of in accordance with the regulations of

the USFWS/OLE. Specifically, the one (1) female Mexican gray wolf carcass, identified in the MGWRP studbook as #1288, was transferred to the University of New Mexico/Museum of Southwest Biology in Albuquerque, New Mexico (See attachment #11, Transfer Order for Surplus Personal Property).

Case Reports Provided to USDA/APHIS

On August 14, 2013, [redacted] provided all investigative reports and their respective attachments from this investigation to USDA/APHIS State [redacted] for USDA/APHIS' internal use (See attachment 12, Transmittal Letter from [redacted] to State [redacted]

Case Recommended for Closure

This investigation is being recommended for closure due to the completion of the investigation as it pertains to the shooting death of Mexican gray wolf #1288. All investigative leads were pursued to their fullest, to which all facts and evidence were presented to the U.S. Attorney's Office/District of New Mexico for review. After having received notification from the U.S. Attorney's Office/District of New Mexico that Federal prosecution would not be pursued, the USFWS/OLE has determined that no further investigation is warranted.

DESCRIPTION OF SUBJECTS

No new information.

PRIOR VIOLATIONS

Prior violations previously identified in report number 001 dated 02/27/2013.

WITNESSES

Special Agent [redacted]
U.S. Fish and Wildlife Service
Office of Law Enforcement
San Andres National Wildlife Refuge
5686 Santa Gertrudis Drive
Las Cruces, New Mexico 88012
(575) [redacted]

REPORT OF INVESTIGATION
Title: MEXICAN GRAY WOLF #1288

(b)(6), (b)(7)(C)

INV #: 2013200634
Report #: 003

Special Agent [redacted]
Special Agent [redacted]
U.S. Fish and Wildlife Service
Office of Law Enforcement
500 Gold Avenue SW, [redacted]
Albuquerque, New Mexico 87102
(505) [redacted]

[redacted]
U.S. Fish and Wildlife Service
Office of Law Enforcement
Clark R. Bavin National Fish and Wildlife Forensics Laboratory
1490 East Main Street
Ashland, Oregon 97520
(541) [redacted]

LAWS VIOLATED

None documented during this reporting period.

EVIDENCE

(b)(7)(E)

[redacted]

Evidence Maintained by Another Agency:

None documented during this reporting period.

Disposition of Evidence:

The following evidence was collected on 01/19/2013 and was held at the USFWS/OLE at 4901 Paseo del Norte NE, [redacted] Albuquerque, New Mexico. As of 08/05/2013, the evidence was

transferred in accordance with USFWS/OLE regulations to the University of New Mexico/Museum of Southwest Biology:

1. Carcass of female Mexican gray wolf #1288 – Seizure tag #763437.

ATTACHMENTS

1. Copy of 2011 Biological Opinion for the Mexican Wolf (25 pages).
2. Copy of Evidence Submittal Form and Examination Request dated February 25, 2013 (2 pages).
3. Copy of Veterinary Pathology Examination Preliminary Report dated March 18, 2013 (4 pages).
4. Copy of declination letter from U.S. Attorney's Office/District of New Mexico, dated April 12, 2013 (1 page).
5. Copy of Veterinary Pathology Examination Final Report dated May 3, 2013 (4 pages).
6. Copy of Criminalistics Examination Report dated March 15, 2013 (1 page).
7. Copy of Genetics Examination Report dated May 2, 2013 (2 pages).
8. Copy of Multimedia Examination Report dated May 9, 2013, with attached contact sheets (6 pages).
9. Copy of Chain of Custody Record (2 pages).
10. Copy of e-mail request from USDA/APHIS [redacted] dated July 31, 2013 (1 page).
11. Copy of Transfer Order of Surplus Personal Property dated August 5, 2013 (1 page).
12. Copy of Transmittal Letter [redacted] to State Director [redacted] dated August 14, 2013 (1 page).

BIOLOGICAL OPINION

Mexican Wolf
(Canis lupus baileyi)

Consultation history

This Biological Opinion is part of the Wildlife Services WDM Program consultation, and is based on information provided in the May 2007 Biological Assessment and associated amendments. The U.S. Fish and Wildlife Service's Southwest Region (Region 2), headquartered in Albuquerque, New Mexico, is the lead region for the Mexican wolf.

Rules

The following information summarizes the rules associated with Mexican wolf, including listing information, special rules, and the current status.

A. Listing Information:

Topic: Determination That Two Species of Butterflies Are Threatened Species and Two Species of Mammals Are Endangered Species

Final Rule

Federal Register publication date: April 28, 1976

Effective date: May 4, 1976

Published in 41 FR 17736-17740, April 28, 1976

B. Special Rule:

Topic: Nonessential Experimental Population established in Arizona, New Mexico and Texas

Final Rule

Federal Register publication date: January 12, 1998

Effective date: January 24, 1998

Published in 63 FR 1752-1772, January 12, 1998

Determination

Based on the information provided in the WS 2007 Biological Assessment, WS has determined that the WDM Program activities conducted by WS personnel in the southwestern United States are likely to adversely affect the Mexican wolf.

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WS conducts WDM Program activities in the Mexican wolf recovery area, and WS has no history of incidental take of Mexican wolf between its 1976 listing as endangered under the Act and December 31, 2010 (February 2, 2011 Pers. Comm. WS [redacted] However, WS has been asked to capture Mexican wolves that have moved outside the Mexican Wolf Experimental Population Area boundaries, and to return them to the Blue Range Wolf Recovery Area or to captivity. The Blue Range Wolf Recovery Area is surrounded by the larger Mexican Wolf Experimental Population Area spanning parts of Arizona, New Mexico, and Texas. No critical habitat has been designated for the Mexican wolf.

I. Description of the Proposed Action

The proposed action for the WDM Program consultation comprises the methods implemented by WS personnel in conducting WDM Program activities. Predator damage management methods used by WS personnel in the southwestern United States include M-44 devices and livestock protection collars (LPCs); foot-hold traps; foot, leg, and neck snares; denning/ large gas cartridges; use of DRC-1339 to control raven depredation on livestock; and ground and aerial shooting. In addition, WS personnel may recommend or use other methodology to reduce livestock depredation including habitat management; changes in animal husbandry techniques; use of livestock guard animals; physical exclusion; use of frightening devices such as electronic guards, pyrotechnics, mylar tape, rubber bullets, paint balls, and bean bags; cage traps; net guns; dogs for tracking, trailing, and denning, or as decoys when ground shooting. WS also conducts other wildlife damage management in the Southwest including strychnine application for rodent control, beaver and muskrat trapping (live-traps, foot-hold traps, and snares), nuisance animal

control, aerial operations, feral hog control with corral traps, box traps, and foot snares, and bird damage management at dairies and feedlots using DRC-1339 and shooting.

II. Status of the Species/Critical Habitat

A. Species description and life history

Relatively little is known about this subspecies' life history such as social behavior, pack size, territory size, and dispersal, since wild populations were extirpated from the United States before extensive studies could be done. Current research on Mexican wolf as part of the 1998 reintroduction program initiated in the southwestern United States has developed some knowledge of the subspecies. The genetic makeup, or genotype, of all gray wolves is very similar (Wayne et al. 1992) with the exception of the Mexican wolf, which is considered the most highly differentiated North American gray wolf taxon (Wayne and Vila 2003). The Mexican wolf is the smallest of the North American gray wolves. Adults weigh 22.7 to 40.8 kg (50 to 90 lbs.), average 1.4 to 1.7 m (4.5 to 5.5 feet) in total length and reach 0.7 to 0.8 m (26 to 32 inches) at shoulder height and have a variable-colored pelt. Wolf territories in this area have averaged 603 sq. km (233 sq. mi). Natural prey consists of large ungulates such as white-tailed deer, mule deer and elk, and occasionally rabbits and rodents (AMOC and IFT 2005; USFWS 2006: Mexican Wolf Recovery Program: Progress Report #9, Reporting Period: January 1 – December 31, 2006).

Although data from captivity indicates that Mexican wolves generally produce four to six pups per litter, wolves in the wild have averaged 2.1 pups per litter based on visual observation after wolves leave the den (AMOC and IFT 2005). Further, observed Mexican wolf pack sizes average 4.8 wolves per pack. Low reproductive rates and small pack sizes may indicate a population that is being exposed to some constant form of mortality. Despite these concerns, the Mexican wolf has continued to increase from the initial releases in 1998 to an estimated present population of 50 in Arizona and New Mexico in 2010 (http://www.fws.gov/southwest/es/mexicanwolf/).

B. Population dynamics

In 1998, the Mexican wolf reintroduction was implemented in the Arizona/New Mexico area with the population increasing to an estimated 50 wolves in the wild by the end of 2010. In addition, approximately 300 captive Mexican wolves were managed in 49 facilities in the United States and Mexico by 2010. Despite this overall growth rate, the population has remained stable since 2002, fluctuating between 42 (2002 and 2009) and 59 wolves (2006) (http://www.fws.gov/southwest/es/mexicanwolf).

The greatest number of Mexican wolf mortalities has been caused by illegal shooting and vehicle collisions. Since 1998, 37 incidences of illegal shooting have occurred ranging from zero to seven per year, with two occurring in 2010 (http://www.fws.gov/southwest/es/mexicanwolf/). Twelve vehicle collisions have occurred since 1998 ranging from zero to four per year, with none occurring in 2010. Other causes of death have been categorized as natural, other, unknown, and awaiting necropsy totaling 31 wolves at the end of 2010 (http://www.fws.gov/southwest/es/mexicanwolf/).

In addition, Mexican wolves were removed 151 times (some of these animals were translocated following removal, and not all of the removals were permanent) for management purposes, including for livestock depredations (70), nuisance behavior (20), violations of the boundary (45), and other (16, e.g, removal of wolves for pairing purposes, wolf pup removal due to adult abandonment). No management related removals occurred in 2010. The 2010 year-end count documented 23 radio-collared (16 adults, 4 sub-adults, and 3 pups) and 27 uncollared Mexican wolves. Thirteen of the uncollared wolves, including 11 pups of the year, were associated with nine known packs, four located in Arizona and five in New Mexico. In addition, three single, collared Mexican wolves were documented (one in Arizona and two in New Mexico, and three uncollared groups (all in Arizona). In 2010, seven packs displayed denning behavior, with five packs confirmed to have produced wild-conceived, wild-born litters. A minimum of 18 pups were born, with a minimum of 14 surviving until year-end. At the end of 2009, wild born wolves had bred and raised pups in the wild for nine years. Two breeding pairs formed naturally

in the wild with one or both adults wild-born. However, the project had no management removals in 2010 (http://www.fws.gov/southwest/es/mexicanwolf/).

To increase genetic diversity and numbers of wolves in the wild in 2010, additional translocations of Mexican wolves continued with hard release translocation of an individual wolf (http://www.fws.gov/southwest/es/mexicanwolf/)).

C. Status and distribution

Gray wolf eradication efforts in the United States by poisoning, trapping, and shooting spurred by government bounties occurred from the early 1900s through the 1950s on behalf of the livestock industry and early game managers who believed that predator eradication was necessary for maintenance of ungulate populations (Brown 1983). Other factors contributing to decline of wolves were commercial and recreational hunting and trapping, killing of wolves by game managers on the theory that more game animals would be available for hunters, habitat alteration, and human safety concerns (63 FR 1752 – 1772, January 12, 1998). These eradication programs resulted in reduction to scattered gray wolf populations in northern Minnesota and the northern Rocky Mountains. The same widespread eradication program was also waged in the southwestern United States against the Mexican wolf. The Mexican wolf historically ranged in the Sierra Madre and outlying mountain ranges of Mexico and in mountain ranges throughout Arizona, New Mexico, and parts of Texas. Mexican wolves were considered extirpated from the southwestern United States by the 1970s (Brown 1983).

Aside from the experimental population established in 1998, the FWS considers the Mexican wolf to be extirpated from the United States' portion of its range (USFWS 1982). However, because McBride (1980) estimated that up to 50 pairs of wolves might exist in Mexico in 1980, the FWS has continued to consider the possibility that dispersing wolves could cross the border into extreme southern New Mexico and Arizona. Occasional sightings of "wolves" continue to be reported from U.S. locations, but none have been confirmed. The last record of Mexican wolves captured in the United States was in 1970, and the last verified sighting of a Mexican

wolf in the wild was in Chihuahua, Mexico in 1980. The Mexican wolf was listed in 1976 as endangered. All naturally-occurring Mexican wolves in the United States were captured and placed in breeding facilities in the 1970s.

The Mexican wolf experimental population has generally increased since the reintroduction began, but growth has stagnated between 42 and 59 animals since 2002. As the population increases, FWS anticipates an increase in the potential for Mexican wolf to disperse from the Blue Range Wolf Recovery Area. Dispersal increases the possibility of unknown, uncollared packs becoming established outside the Blue Range Recovery Area, a smaller area located within the Mexican Wolf Experimental Population Area in Arizona and New Mexico. Initially, all the Mexican wolves released into the Recovery Area were collared. However, as pups are born in future generations, fewer and fewer Mexican wolves will be collared, thus increasing the possibility of dispersing wolves being uncollared and more difficult to capture, monitor, and track. The 1998 10 (j) rule states: "(10) If Mexican wolves of the experimental population occur on public lands outside the designated wolf recovery area(s), but within the Mexican Wolf Experimental Population Area, the Service or an authorized agency will attempt to capture any radio-collared lone wolf and any lone wolf or member of an established pack causing livestock "depredations" [see definition in paragraph (k)(15) of this section]. The agencies will not routinely capture and return pack members that make occasional forays onto public land outside the designated wolf recovery area(s) and uncollared lone wolves on public land. However, the Service will capture and return to a recovery area or to captivity packs from the nonessential experimental population that establish territories on public land wholly outside the designated wolf recovery area(s).

(11) If any wolves move onto private land outside the designated recovery area(s), but within the Mexican Wolf Experimental Population Area, the Service or an authorized agency will develop management actions in cooperation with the landowner including capture and removal of the wolf or wolves if requested by the landowner."

Recovery Efforts

WS requested the following information summarized from the Recovery Plan be included in the Biological Opinion.

A. **Final Recovery Plan** completed September 15, 1982: Mexican Wolf Recovery Plan.

B. **Recovery Actions** Determine the present status of Mexican wolves through intensive survey work and attempts to capture wolves located during the survey.

(1) Minimize undesirable conditioning in wolves that the inevitable long-term holding and breeding in captivity is likely to produce;

(2) In preparation for releases to the wild, establishment of natural-area holding-breeding enclosures in areas ecologically suitable for releases of wolves, even though approval of releases in a particular area may not yet be obtained;

(3) If an area proposed for wolf releases does not have a natural or artificial barrier to wolf movement, the area should perhaps be surrounded by zones of decreasing legal protection;

(4) Areas to be considered for initial releases of wolves should be, first, those with little or no existing use for livestock grazing and, secondly, those whose livestock allotments could be most easily and economically bought out or otherwise eliminated; and

(5) Wolf releases should be considered only for large tracts of public lands.

C. Recovery Goal/Objective

At the time that the Mexican Wolf Recovery Plan was written (1982), the Mexican Wolf Recovery Team saw "no possibility for complete delisting of the Mexican Wolf." Thus, the prime objective was "To conserve and ensure the survival of *baileyi* by 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" (USFWS 1982: Final Recovery Plan: Mexican Wolf Recovery Plan).

Additional Recovery Planning Information

On April 1, 2003, the FWS established for the gray wolf the Western distinct population segment (DPS), the Eastern DPS, and the Southwest DPS (SWDPS), and revised the endangered listing status to threatened for the Western and Eastern DPSs across most of the coterminous United States (68 FR 15804-15875, April 1, 2003). Mexican wolves (SWDPS) retained their endangered or experimental population status, and became the listed entity on which to base recovery planning. The FWS's Southwest Region formed a SWDPS Recovery Team in July 2003 to develop a recovery plan for the SWDPS. The new recovery plan would supersede and replace the 1982 Mexican wolf recovery plan, since the 1982 plan does not contain recovery (downlisting or delisting) criteria. U.S. District Courts in Oregon and Vermont ruled that the FWS April 1, 2003, final rule violated the Endangered Species Act on January 31, 2005, and August 19, 2005, respectively, thus invalidating the revisions of the gray wolf listing, and three DPS designations and associated special regulations. As a result, the status of gray wolves outside of Minnesota and outside of areas designated as nonessential experimental populations reverted back to endangered, equivalent to the status prior to the 2003 reclassification. In response to these rulings, the Service placed the SWDPS Recovery Team on hold, along with development of an updated SWDPS recovery plan. The 2005 U.S. District Courts' decisions on the reclassification of the gray wolf were not appealed. However, the Mexican wolf recovery planning efforts have resumed with the first meeting of a new recovery team occurring in February of 2011.

D. Species likely to be affected

The Mexican wolf is likely to be affected by implementation of the WDM Program activities in the southwestern United States and will be considered further in the remaining sections of this Biological Opinion. The species was listed due to a significant decline in population numbers from eradication efforts and commercial and recreational hunting and trapping, habitat alteration, and human safety concerns (63 FR 1752-1772, January 12, 1998).

III. Environmental Baseline

The environmental baseline is an analysis of the effects of past and ongoing human and natural factors leading to the current status of the species, its habitat (including designated critical habitat), and ecosystem, within the action area (USFWS and National Marine Fisheries Service 1998): Endangered Species Consultation Handbook. March 1998).

A. Status of the species within the action area

This consultation pertains to the WDM Program implemented within the contiguous 48 States. Therefore, the action area for the Mexican wolf for this consultation includes the range of this species within the United States. For the most part, the Mexican wolf is represented in U.S. territory by a nonessential experimental population. In addition, there may be from time to time wolves dispersing from either a reintroduced population to be established or a relict population in Mexico.

The species is understood to have been extirpated in the wild from U.S. territory in the late 20th century. The wolf has since been reintroduced into the Blue Range Wolf Recovery Area located within the Arizona and New Mexico portions of the Mexican Wolf Experimental Population Area. The Mexican wolf is able to inhabit areas primarily on national forests and Native American reservations where there is sufficient prey base. Since the reintroduction, the population has increased to a minimum of 50 Mexican wolves in 10 packs by the end of 2010 (http://www.fws.gov/southwest/es/mexicanwolf/).

B. Factors affecting the species' environment within action area

The Mexican wolf historically occurred over much of New Mexico, Arizona, Texas, and northern Mexico, mostly in or near forested, mountainous terrain. The wolf population declined rapidly when its reputation as a livestock killer led to concerted eradication efforts. By 1970, the Mexican wolf was extirpated from the southwestern United States (63 FR 1752 – 1772, January 12, 1998).

Following the 1976 listing of the Mexican wolf, recovery efforts were begun through a captive breeding program. The Mexican wolf was first reintroduced in the Blue Range Wolf Recovery Area located in Arizona and New Mexico in March 1998. State and Federal agencies and Tribes are participating in the management and monitoring of the Mexican wolf (USFWS 2006: Mexican Wolf Recovery Program: Progress Report #9, Reporting Period: January 1 – December 31, 2006).

Causes of death for Mexican wolves in the wild from 1998-2010 were largely human-related. These included vehicle collision (12), illegal gunshot (37), legal shooting by members of the public (1), project capture complications (2), and public trap related mortality (2). Other causes of death included predation, starvation, interspecific strife, disease, asphyxiation, euthanasia due to brain tumor, toxemia, chronic bacterial pleuritis, and unknown (9). In addition, four deaths were awaiting necropsy results at the end of 2010. Fourteen of the preceding deaths were documented from uncollared wolves. One adult male was bitten by a rattlesnake. As a consequence of the bite, his neck became swollen, which likely led to asphyxiation from the radio collar. Canine bite marks on his head were likely caused by other pack members reacting to his aberrant behavior. In addition, five pups died (three parvovirus, two distemper) in a captive facility following capture and removal from the wild. An additional 11 wolves were lethally controlled due to livestock depredations and tallied in the removal section above rather than under mortalities. Of 31 radio collared wolves that died from 1998-2003, 26 deaths were human-caused, four were natural mortalities, and one died of unknown causes. The overall mortality rate for this period was 0.21, including rates of 0.18 and 0.03 for human-caused and natural mortalities, respectively (Interagency Field Team 2005).

There is one Safe Harbor Agreement for the Mexican wolf in New Mexico. However, there are no Habitat Conservation Plans for the Mexican wolf.

IV. Effects of the Action

Where the Mexican wolf is listed as endangered (this would include any released wolves dispersing into the United States from Mexico) the following activities conducted by WS personnel to reduce damage by wildlife have the potential to result in incidental take: use of M-44 devices and LPCs; strychnine application; use of foot-hold traps; use of foot, leg, and neck snares; beaver trapping; and ground and aerial shooting (WS BA 2007). Wolves that are part of the nonessential experimental population are subject to a special rule (50 CFR 17.84 (k)) that does not prohibit accidental, unintentional take outside occupied wolf range, or such take within occupied wolf range so long as due care was exercised to avoid taking a wolf.

No Mexican wolves have been incidentally taken by WS conducting the WDM Program activities of M-44 devices, LPCs, strychnine application, foot-hold traps, foot, leg, or neck snares, beaver trapping, or ground or aerial shooting (February 2, 2011, Pers. Comm. WS [redacted]

[redacted]

(b)(6), (b)(7)(C)

M-44 Devices and Livestock Protection Collars

The M-44 (sodium cyanide is the active ingredient) is a spring-activated ejector device developed specifically to reduce damage from coyotes (*Canis latrans*) and other wild canid predators. M-44 devices may only be used for control of coyotes, red (*Vulpes vulpes*) and gray (*Urocyon cinereoargenteus*) foxes, and feral dogs that are vectors of communicable diseases, and that depredate livestock, poultry, and federally listed threatened and endangered species. Fetid baits used with M-44s are highly selective for canids. M-44s must be used in accordance with the Environmental Protection Agency (EPA) label use restrictions (USDA 1997, Appendix Q), which prohibit use in areas where federally listed threatened and endangered animal species might be adversely affected (USDA, 2004a). These two websites address the EPA label and use restrictions, respectively:

http://www.aphis.usda.gov/wildlife_damage/nwrc/registration/content/M44%20coyote%20fox%20dog%2001-06.pdf, and

http://www.aphis.usda.gov/wildlife_damage/nwrc/registration/content/m44_use_restrictions.pdf.

The LPC is used to control problem coyotes. The LPC consists of two small rubber bladders containing 15 ml each of Compound 1080 (sodium fluoroacetate), placed under the throat of a sheep or goat, and held in place with Velcro™ straps. When a coyote attacks a collared animal and bites the throat where the LPC is positioned, the coyote receives a dose of Compound 1080 in the mouth. This is a very selective method for removing individual depredating predators and is restricted to small pastures where predators have been implicated in killing sheep or goats. Sodium fluoroacetate is a naturally occurring organic fluorine compound extracted from the West African plant "ratbane" *(Dichapetalum toxicarium)*. WS currently uses less than 4 tablespoons of the compound nationwide each year. No probable risk of secondary toxicity exists because the level of contamination in the target animal's tissue is so low that their tissue is not hazardous to scavengers (USDA 1997).

LPCs are licensed for use in New Mexico, but not in Arizona. The use of M-44s is prohibited on public lands in Arizona. EPA regulations and the rules for the nonessential experimental areas prohibit the use of M-44s and LPCs within occupied Mexican wolf range (59 FR 60252-60281 November 22, 1994; 63 FR 1752-1772, January 12, 1998). However, LPCs may be used outside of the area at the discretion of WS, if reasonable and due care is taken to avoid incidental take of Mexican wolf (e.g., surveying for wolf sign or contacting the FWS in regard to wolf locations).

Strychnine Application

WS and EPA label use restrictions prohibit the above ground use of strychnine for rodent control. In addition, the U.S. Forest Service and the Bureau of Land Management must approve strychnine application and use on their lands within the Mexican Wolf Experimental Population Area.

Foot-Hold Traps

WS personnel sometimes use foot-hold traps to control damage caused by beaver (*Castor canadensis*), fox, raccoon (*Procyon lotor)*, skunks (Mephitidae), bobcat (*Lynx rufus*), otter (*Lontra canadensis*) coyote, and cougar (*Felis concolor*) damage, and specific Mexican wolves.

Capture devices, such as these, used in restraining sets must incorporate pan-tension devices, if appropriate, to prevent or reduce the capture of nontarget animals, unless this use would preclude capture of the intended target animals (USDA 2004b).

When conducting wildlife damage management for species other than Mexican wolves, all foot-hold traps that have a jaw spread equivalent to #3 Soft-Catch or larger must be checked at least daily in areas identified as occupied Mexican wolf range.

Foot, Leg, and Neck Snares

Foot or leg snares can be used as either a tool for lethal control or live-capture for a wide variety of species, but are frequently used to capture larger predators such as coyotes (*Canis latrans*), grizzly bears (*Ursus arctos*) and black bears (*Ursus americanus*), cougar (*Puma concolor*), or specific Mexican wolves. They can be set as a "passive" snare to capture an animal when it moves forward into the noose formed by the cable when a snare is set, and as the noose tightens, the animal is held. Snares can also incorporate a break-away lock feature to release nontarget wildlife and livestock where the target animal is smaller than potential nontarget animals.

In addition, snares can be set using a spring-powered nonlethal device that incorporates a pan-tension device. The spring-powered device is activated when an animal places its foot on the trigger or pan and the snare is thrown around the animal's leg and tightened by the device. The trip weight of the pan-tension device can be adjusted to exclude many nontarget animals. The potential to snare nontarget animals is further reduced by setting the snare where the target animal normally frequents. For example, leg snares are most commonly used at livestock carcasses that have been confirmed as killed by bear or cougar. However, even with the use of pan-tension devices there is still a potential to capture a nontarget animal with these devices if used for a species of similar or smaller size.

Neck snares are set to control problem cougar, coyotes, and beaver and may not be used in occupied Mexican wolf range unless they are equipped with the appropriate break away devices or unless they are being used to target problem wolves.

Beaver Trapping

The trapping of beaver can be associated with beaver dam removal activities. Traditionally there has been a slight possibility that beaver traps could capture Mexican wolf, especially pups or subadults, resulting in their injury or death. However, no Mexican wolf has been incidentally taken by WS in Arizona or New Mexico during beaver trapping activities from January 1, 1992 through December 31, 2010. Three types of beaver traps are used routinely by WS personnel: snares, suitcase traps, foot-hold traps, and body-grip (e.g., Conibear) traps. Beaver traps are normally set in water and the likelihood of catching a Mexican wolf is remote.

Ground Shooting

WS uses trained and experienced specialists in areas where Mexican wolves are known or suspected of livestock depredations. Shooting is a target-specific methodology that could result in the unintentional removal of Mexican wolves. In addition, WS personnel utilize predator calls to shoot coyotes during daylight hours and night hunt coyotes via spotlights and night vision scopes. These methods are species selective, but there is a slight potential for misidentification (e.g., a small wolf could be mistaken for a coyote). WS uses experienced personnel to conduct these operations and limit the risk of misidentification.

Aerial Shooting

WS uses aerial shooting to remove coyote, fox, feral swine, bobcat, and other species to resolve damage problems. Aerial shooting (shooting from an aircraft) is commonly used to reduce coyote damage and can be especially effective and efficient in removing offending coyotes that have become bait shy to trap sets or unsusceptible to calling and shooting. Aerial shooting also can be used for immediate control to reduce livestock and natural resource losses if weather, terrain, and cover conditions are favorable. WS use of aerial operations to protect livestock and reduce natural resource losses is very selective, and no nontarget animals have been taken with this approach in more than 10 years. However, there is a slight potential for misidentification (e.g. small wolf for a coyote).

Summary

No Mexican wolves have been incidentally taken by WS conducting the WDM Program activities of M-44 devices, LPCs, strychnine application, foot-hold traps, foot, leg, or neck snares, beaver trapping, or ground or aerial shooting. WS has implemented the additional restriction of not conducting some WDM Program activities in the Mexican wolf recovery area.

While FWS anticipates the same effects on Mexican wolf in the future, there is a slight potential for effects to this species as the Mexican wolf population increases by WS conducting the following WDM Program activities: M-44 devices, LPCs, strychnine application, foot-hold traps, foot, leg, or neck snares, beaver trapping, or ground or aerial shooting.

V. Cumulative Effects

Cumulative effects are those effects of future State, Tribal, local or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action considered in this Biological Opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act.

The following future State, Tribal, local or private activities may affect the Mexican wolf and result in direct and indirect mortality, habitat loss, fragmented habitat, or reduction of habitat suitability: human induced mortality from vehicle strikes and poaching, reduction of habitat suitability and loss (e.g., removal of denning habitat or severe reduction of native ungulates) due to modification and fragmentation from urban and recreational development. The Mexican wolf project has documented 14 incidental captures of Mexican wolves in recreational traps (USFWS, upublished data). Seven of these animals did not have injuries, while six had moderate to severe injuries (5 animals lost all or part of a leg, as a result of treatment or wounds, with one of these dying). Therefore, as the Mexican wolf continues to disperse into new areas, the FWS anticipates an increased likelihood for recreational trappers to capture or kill wolves.

VI. Conclusion

After reviewing the current status of Mexican wolf, the environmental baseline for the range of this species within the contiguous 48 States, the effects of the proposed WS WDM Program activities, and the cumulative effects, it is the FWS's biological opinion that the WDM Program activities, as proposed, are not likely to jeopardize the continued existence of the Mexican wolf. No critical habitat has been designated for this species; therefore, none will be affected.

We base our finding on the following:

The Mexican wolf reintroduction program began in 1998 through their release into the Blue Range Wolf Recovery Area located within the surrounding Mexican Wolf Experimental Population Area. Since the reintroduction, the Mexican wolf population has been increasing, with the 2010 end of year population estimate as 50 and two breeding pairs in 10 known packs in Arizona and New Mexico (http://www.fws.gov/southwest/es/mexicanwolf/).

While WS does implement the WDM Program activities of M-44 devices, LPCs, strychnine application, foot-hold traps, foot, leg, or neck snares, beaver trapping, and ground or aerial shooting in the southwestern United States, WS has not incidentally taken any Mexican wolf during the implementation of the WDM Program activities between their 1976 listing as an endangered species and December 31, 2010. In addition, WS has implemented the additional restriction of not conducting some WDM Program activities in the Mexican wolf recovery area. WS is required to use M-44 devices in accordance with the EPA's label use restrictions which prohibit use in areas where federally-listed threatened and endangered animal species might be adversely affected or where prohibited by state law (USDA, 2004).

An increasing number of wolves are expected to disperse outside the boundaries of the Blue Range Wolf Recovery Area as the Mexican wolf population increases, and there are plans to release wolves in Mexico that may disperse into the United States. Thus there is a slight potential for WS to incidentally take a Mexican wolf while conducting WDM Program activities

in the southwestern United States, as summarized below.

WDM Program activities are not likely to directly or indirectly reduce appreciably the likelihood of either survival or recovery of Mexican wolf in the wild since WDM Program activities have not reduced the reproduction, numbers, or distribution of the species. The FWS anticipates this pattern to continue. Therefore, it is the FWS's biological opinion that the WDM Program activities, as proposed, are not likely to jeopardize the continued existence of the endangered or threatened Mexican wolf.

There is only a slight potential for the WS WDM Program activities to result in incidental take of Mexican wolf through the use of LPCs, sub-surface application of strychnine, capturing Mexican wolf instead of target species of similar weight, or through mistaken identification when using firearms. While FWS anticipates WS will not incidentally take any Mexican wolf, exempting the incidental take of one Mexican wolf rangewide in the contiguous 48 States in five years addresses the slight potential for WS to incidentally take one Mexican wolf at some future time.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation prohibit the take of endangered wildlife species without special exemption. A regulation adopted pursuant to section 4(d) of the Act (50 CFR 17.84 (k)) for the experimental population of the Mexican wolf does not prohibit accidental, unintentional take outside occupied wolf range, or such take within occupied wolf range so long as due care was exercised to avoid taking a wolf. WS has committed to not conducting some WDM Program activities in the Mexican wolf recovery area. Consequently, unintentional take by WS would be prohibited only with respect to wolves dispersing into the United States from Mexico. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by FWS to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

Harass is defined by FWS as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by WS so that they become binding conditions of any grant or permit issued to an applicant, as appropriate, for the exemption in section 7(o)(2) to apply. WS has a continuing duty to regulate the activity covered by this incidental take statement. If WS (1) fails to assume and implement the terms and conditions or (2) fails to require an applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, WS or applicant must report the progress of the action and its impact on the species to the FWS as specified in the incidental take statement. [50 CFR §402.14(i)(3)]

Amount or Extent of Take Anticipated

We based our assessment of one listed Mexican wolf per five years rangewide where the Mexican wolf is listed as endangered within the contiguous 48 States on the following summary.

As previously stated, the last record of Mexican wolves captured in the United States was in 1970. There has been no incidental take of Mexican wolves by WS conducting WDM Program activities between their 1976 listing under the Act and December 31, 2010.

However, there are plans to release wolves within Mexico. These wolves may disperse across the U.S. border. Consequently there is a slight potential for endangered Mexican wolves to encounter WS WDM Program activities.

The amount or extent of Mexican wolf take anticipated is based on WS's historical incidental take of Mexican wolf (i.e., zero), the potential for WS' WDM Program activities to incidentally take Mexican wolf, the dispersal behavior described above, and the increasing population of Mexican wolves.

Effect of the take

In the accompanying Biological Opinion, the FWS determined that this level of anticipated take is not likely to jeopardize the continued existence of the species.

Based on no WS historical incidental take of Mexican wolf, the potential for WS personnel implementing WDM Program activities to incidentally take Mexican wolf under existing use restrictions is minimal, and the FWS does not anticipate that WS personnel conducting WDM Program activities will likely incidentally take Mexican wolf listed as endangered.

Negotiations

WS and FWS negotiated and reached consensus on the following Implementation Procedures, Reasonable and Prudent Measures, and Terms and Conditions prior to WS initiating this formal consultation. These Implementation Procedures, Reasonable and Prudent Measures, and Terms and Conditions, while components of the Description of the Proposed Action, are listed below under these headings as a convenience in locating this information.

Implementation Procedures

For purposes of this Biological Opinion occupied Mexican wolf range is defined as--

an area of confirmed presence of resident breeding packs or pairs of wolves or area consistently used by at least one resident wolf over a period of at least one month. The Service must confirm or corroborate wolf presence. Exact delineation of the area will be described by:

(1) 5-mile (8 km) radius around all locations of wolves and wolf sign confirmed as described above (nonradio-monitored);

(2) 5-mile (8 km) radius around radio locations of resident wolves when fewer than 20 radio locations are available (for radio-monitored wolves only); or

(3) 3-mile (4.8 km) radius around the convex polygon developed from more than 20 radio locations of a pack, pair, or single wolf acquired over a period of at least 6 months (for radio-monitored wolves).

1. WS shall coordinate WDM Program activities to reduce the likelihood of impact to the species by contacting the FWS New Mexico Ecological Services Field Office (NMESFO), the FWS Mexican wolf Recovery Program Coordinator, the Mexican Wolf Interagency Committee(s), the Mexican Wolf Interagency Field Team, and other appropriate Federal, State, and Tribal agencies prior to conducting WDM Program activities in Mexican wolf range.

2. WS personnel who conduct WDM Program activities in occupied wolf range shall be knowledgeable at a professional level in identification of Mexican wolf, their habitat and use of habitat, and their sign.

3. WS shall release any Mexican wolf inadvertently captured alive, and report the incident to the Interagency Field Team located in Alpine, Arizona and NMESFO within 24 hours, unless: (A) the animal has sustained an injury which appears to be life threatening without veterinary attention; or (B) protocol has been established and agreed to with the NMESFO for handling, marking, radio-collaring, or maintaining such animals in captivity. If an animal sustained a serious injury, WS shall take immediate steps to report the incident to the NMESFO and proceed under their direction.

4. WS shall establish a 25-mile radius around the point of any incidental take of a naturally-occurring Mexican wolf. The area shall be treated as occupied Mexican wolf range or habitat until further investigation and surveys can be conducted. WS shall cease the activity resulting in the take, as well as all other activities with the potential to

incidentally take Mexican wolf in the occupied range, and shall immediately reinitiate consultation with the FWS.

5. When conducting predator damage management activities for species other than Mexican wolves in occupied Mexican wolf range, WS shall conduct a daily trap check while using padded jaw traps with a jaw spread equivalent to #3 soft catch or larger or foot or leg snares. Traps shall be equipped with a drag in those cases where there is some question that the stake might not hold a wolf (i.e., loose soil) and connections shall be welded or otherwise securely fastened. All traps have the potential to capture juvenile wolves, and therefore, shall not be used in proximity to occupied dens and rendezvous sites from June 1 to October 1 unless Mexican wolf is targeted for a control action.

6. WS shall not use M-44 devices, LPCs, and neck snares without break away devices in occupied Mexican wolf range unless approved on a case-by-case basis by the FWS or the FWS's designated agent. Neck snares shall not be used near den or rendezvous sites unless they are being used to specifically target Mexican wolf. For the Mexican wolf, M-44 devices, LPCs, and neck snares shall not be used within a 5-mile buffer around pack home ranges or individual tracks or locations (see definition of occupied habitat).

Reasonable and Prudent Measures

The FWS believes the following reasonable and prudent measures are necessary and appropriate to minimize impacts of incidental take of Mexican wolf by WS personnel conducting WDM Program activities outside the boundaries of the Mexican Wolf Experimental Population Area and also within the boundaries of the National Wildlife Refuge System lands and National Park System/National Monument lands located inside the Mexican Wolf Experimental Population Area boundaries.

1. WS will assist the FWS and appropriate Federal, State, and Tribal agencies by maintaining interagency coordination and information exchange; and by reporting occurrences, livestock depredations, and incidental take of Mexican wolf.

2. WS will implement measures and adjust its normal WDM Program activities in occupied Mexican wolf range to minimize incidental take of Mexican wolf in accordance with the terms and conditions below. WS' measures and adjustments of WDM Program activities in the southwestern United States will minimize the potential for WDM Program activities to adversely impact the species.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, WS must comply with the following terms and conditions, which implement the reasonable and prudent measures described above and outline required reporting/monitoring requirements. These terms and conditions are non-discretionary.

The following terms and conditions implement Reasonable and Prudent Measure #1.

1. WS shall maintain regular (annual or more frequent) contact and coordination with the FWS Mexican Wolf Recovery Program Coordinator, Interagency Committee(s), the Mexican Wolf Interagency Field Team, the NMESFO, and other appropriate Federal, State, and Tribal agencies to keep apprised of locations and information on the presence of Mexican wolf.

2. WS shall report the incidental take of Mexican wolf to the NMESFO, State, and Tribal wildlife agencies within 24 hours. Additional time shall be allowed for remote areas with limited access. Cause of death or injury shall be reported, if known.

3. WS shall notify the NMESFO and appropriate State and Tribal agencies of any Mexican wolf occurrence.

4. WS shall notify the appropriate officials, including but not limited to the FWS Mexican Wolf Recovery Program Coordinator, Interagency Committee(s), the Mexican Wolf Interagency Field Team, and the NMESFO when WS has evidence suspecting Mexican wolf predation on livestock or threat to public health and safety.

5. WS shall provide FWS with an annual monitoring report of incidental take of Mexican wolf.

The following condition implements Reasonable and Prudent Measure #2.

1. WS shall ensure that personnel implementing WS WDM Program activities follow the Implementing Procedures above.

The reasonable and prudent measures, with their implementing terms and conditions, are designed to minimize the impact of the incidental take that might otherwise result from the proposed action. If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring reinitiation of consultation and review of the reasonable and prudent measures provided. WS must immediately provide an explanation of the causes of the taking and review with the FWS the need for possible modification of the reasonable and prudent measures.

Reinitiation

This concludes formal consultation on the actions outlined in the reinitiation request. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this Opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this Opinion; or (4)

a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

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Wayne, R.K., N. Lehman, M.W. Allard, and R.L. Honeycutt. 1992. Mitochondrial DNA variability of the gray wolf: genetic consequences of population decline and habitat fragmentation. Conservation Biology 6(4):165-175.

Wayne, R.K., and C. Vilá. 2003. Molecular genetic studies of wolves. Pages 218-238 *in* Mech, L.D., and L. Boitani, editors. Wolves: behavior, ecology, and conservation. The University of Chicago Press, Chicago, Illinois, USA.

Department of the Interior
U.S. Fish & Wildlife Service
Office of Law Enforcement

COPY

EVIDENCE SUBMITTAL FORM AND EXAMINATION REQUEST

Mail To: National Fish & Wildlife Forensic Lab
1490 East Main Street
Ashland, OR 97520
[redacted]
e-mail: fw9ash_evidence@fws.gov

CALL THE EVIDENCE UNIT AT THE LAB IF YOU HAVE ANY QUESTIONS ABOUT COMPLETING THIS FORM.

Agency Case #: 2013200634

Lab Case #: 13-000077

Case Officer: (Name & Badge #) [redacted] (b)(6), (b)(7)(C)

Agency: LENM
[X] FWS/LE [ ] State
[ ] Federal [ ] CITES

Evidence Submitted by: (Name & Badge #) [redacted]

Date: 02/25/2013

Rec'd in Lab: (Date/By) 2-26-13 [redacted]

Logged In: (Date/By) 2-26-13 [redacted]

Agency Name, Address:
U.S. Fish and Wildlife Service
Office of Law Enforcement
5686 Santa Gertrudis Drive
Las Cruces, New Mexico 88012

ALL CORRESPONDENCE, INCLUDING REPORTS, WILL BE MADE TO THE CASE OFFICER AT THIS ADDRESS UNLESS OTHERWISE STATED.

Suspect Name(s): [redacted]

Case Title: Mexican Gray Wolf #1288

Case Assignment:
TO: [redacted]
AREA: PATH

Submission Number:

Item # and Seizure Tag #	Item Description: Use entire block to describe 1 tagged item or the contents of 1 tagged package.	Lab #:
Item #: 1 ST #: 763437	One (1) female Mexican gray wolf carcass	1
Item #: ST #:		
Item #: ST #:		
Item #: ST #:		
Item #: ST #:		
Item #: ST #:		

Additional Items Listed on back?
[ ] yes [✓] no

For additional information, contact:
[✓] Case Officer [ ] Submitting Officer
Phone:

Return Evidence To:
[ ] Agency Address listed above
[✓] Other: see special instructions

Additional Instructions on back?
[✓] yes [ ] no

Examination or Shipping Instructions:

History of wolf: Mexican gray wolf #1288 is an un-collared wolf said to be approximately one (1) year in age. The wolf was said to have been shot once with a 6mm rifle when mistakenly identified as a coyote. Carcass was immediately retrieved and placed in a freezer. The shooting occurred on January 19, 2013.

Attachment: 2

COPY

(b)(6), (b)(7)(C)

ADDITIONAL SUBMITTED EVIDENCE

Agency Case #: 2013200634		Lab Case #: 13-000077
Evidence Submitted by: (Name & Badge #) [redacted]	**Date:** 02/25/2013	**Page:** 2 **of:** 2

Item # and Seizure Tag #	Item Description: Use entire block to describe 1 tagged item or the contents of 1 tagged package.	LAB #:
Item #:_____ ST #:_____		
Item #:_____ ST #:_____		
Item #:_____ ST #:_____		
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Item #:_____ ST #:_____		
Item #:_____ ST #:_____		
Item #:_____ ST #:_____		
Item #:_____ ST #:_____		
Item #:_____ ST #:_____		

Additional Examination or Shipping Instructions:

Request: Examine wolf to determine cause of death. Also, Mexican Gray Wolf Recovery Program has requested that genetic testing being completed to determine pack designation.

Return evidence to USFWS/OLE, 4901 Paseo del Norte NE, [redacted] Albuquerque, New Mexico 87113.

Attachment: 2

Page: 2 of 2

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Office of Law Enforcement
Clark R. Bavin
National Fish and Wildlife Forensics Laboratory
1490 East Main Street
Ashland, Oregon 97520

IN REPLY REFER TO:

(b)(6), (b)(7)(C)

FWS/LE LAB CASE #13-000077

18 March 2013

[redacted] SA/LE
U.S. Fish and Wildlife Service
Office of Law Enforcement
5686 Santa Gertrudis Dr.
Las Cruces, NM 88012

Dear Agent [redacted]

Enclosed is the preliminary report regarding the evidence submitted to the Laboratory under Agency Case No. 2013200634. Further tests or analysis may be pending on other items or sub-items in this case. A final report will be delivered when examination of all evidence is complete.

The Laboratory policy states that we provide reports only to the investigating agent/officer. Please distribute copies of this report to the appropriate persons.

If I can be of further assistance, please give me a call [redacted]

Sincerely,

[redacted]

[redacted]*ws.gov*

This test is accredited under the Laboratory's ISO/IEC 1 accreditation (Certificate Number [redacted] issued by the AN National Accreditation Board/FQS.

Attachment: 3
Page: 1 of 4

United States Department of the Interior
FISH AND WILDLIFE SERVICE
Office of Law Enforcement
Clark R. Bavin
National Fish and Wildlife Forensics Laboratory
1490 East Main Street
Ashland, Oregon 97520

IN REPLY REFER TO

(b)(6), (b)(7)(C)

March 18, 2013

VETERINARY PATHOLOGY EXAMINATION
PRELIMINARY REPORT

Note: This report outlines the preliminary findings of gross necropsy on the submitted animal evidence. Further evaluation of the case evidence is pending and a final report will be produced when examination of all evidence is complete.

Lab Case #: 13-000077
Agency Case #: 2013200634
Pathologist: [redacted]

Case Title: Mexican Gray Wolf #1288

Submitting Agency:
USFWS/LE, Las Cruces
5686 Santa Gertrudis Dr.
Las Cruces, NM 88012
Investigator: [redacted]
Suspect(s): [redacted]

EVIDENCE RECEIVED

The following evidence was received in the Evidence Unit of the Laboratory on February 26, 2013, and was transferred to the undersigned examiner on March 12, 2013:
LAB-1: "One (1) female Mexican Gray wolf carcass" [ST#763437; Item#1]

HISTORY

"...said to be approximately one (1) year in age. The wolf was said to have been shot once with a 6mm rifle when mistakenly identified as a coyote." --per evidence submittal form

EXAMINATION/S CONDUCTED

LAB- 1: The carcass was radiographed (x-rayed), dissected, and examined visually (necropsy examination) for gross pathological lesions. Photographs were taken to document any significant gross pathological findings.

LAB- 1 was itemized and the following sub-items were generated:
LAB- 1A Metal projectile and particulates from LAB-1
LAB- 1B Muscle from LAB-1

EVIDENCE DETAILS – LAB- 1:

Common name:	Mexican gray wolf	**Weight:**	18.5 kg
Scientific name:	*Canis lupus baileyi*	**Carcass composition:**	Intact carcass
Sex:	Female	**Nutritional condition:**	Good

(b)(6), (b)(7)(C)

Lifestage: Sub-adult **Post mortem preservation:** Good
Date(s) examined: 14 March 2013

POST MORTEM FINDINGS

RADIOGRAPHIC EXAMINATION: Caudal to the larynx, on the left and at the level of C2-3, there is a 13 x 6 mm, bullet shaped, metal density object. Throughout the chest cavity but largely concentrated at the 6th through the 8th ribs, there is a "lead snowstorm" effect with metal density particles that are up to 6 x 4 mm. The distal ribs are detached from the sternum. The lung fields are hazy. Intestinal loops are visible but other abdominal organs are indistinct.

EXTERNAL EXAMINATION: The pelage is examined with an alternate light source while wearing red goggles. Few fibers that are photoluminescent at 570 nm are present over the head, trunk, and legs.

EVIDENCE OF INJURY: There is blood in the hair on the right side of the body surrounding a 12 mm diameter hole in the skin and intercostal musculature between the 6th and 7th ribs, ventral to the costochondral joint. Surrounding this hole is a 10 cm diameter area of subcutaneous and muscular hemorrhage which is contiguous with a 6 cm wide band of hemorrhage that begins at the xiphoid process and extends towards the left 4th rib at a level 8 cm from ventral midline. Hemorrhage expands to a 12 x 25 cm area underneath the superficial musculature over the right side of the rib cage, extending from the first to last ribs, and from the sternum dorsally. The inner intercostal muscles are lacerated and shredded between the right 4th and 9th ribs extending from near the costochondral junction to the sternum. The costal cartilage of the left sixth rib is absent and the fractured end is rough and irregular. The intercostal muscles between the 5th and 7th ribs are lacerated and hemorrhagic around the missing cartilage.

The xiphoid process has been removed from the last sternebra and at the level of the last sternebra is a 3.5 x 1.5 cm hole in the chest musculature just to the right of midline. There is no negative pressure in the chest cavity. The last three right ribs are detached from their sternebrae.

There is a 7 x 5 cm hole in the diaphragm dorsal to the ventral attachment. The stomach and the right lobe of the liver protrude through the hole and into the chest cavity. The pericardium is ripped open and the myocardium is lacerated at the apex with individual lacerations extending into the right atrium and to the left atrioventricular junction. Apical portions of both free walls and the interventricular septum are absent. Atrioventricular valves within both the right and left ventricles are visible through the defect. The ventral edges of the middle and caudal right lung lobes, and caudal portion of the left cranial lung lobe are multifocally lacerated and hemorrhagic. There is approximately 1.5 L of free and clotted blood in the thoracic cavity. The right lateral lobe of the liver is extensively and multifocally lacerated. The right medial lobe of the liver, around the gallbladder, is multifocally lacerated and the gallbladder is empty.

The cranial 4 cm of the left sternohyoideus is discolored pale and is swollen. The muscle is expanded by firm, fibrous connective tissue surrounding a pocket that is filled with green, viscous, purulent material and a copper-colored projectile with the tip directed craniodorsally.

INTERNAL EXAMINATION: Subcutaneous and body cavity fat stores are present in adequate amounts, and the musculature is well-developed. The uterus and ovaries are quiescent. Approximately 1 mL of dark green mucus is present within the larynx. The stomach contains 89 g of thick, green ingesta. The proximal small intestinal tract contains moderate amounts of thick, green, particulate digesta. The distal small intestine contains small amounts of pasty, tan digesta, and pasty, dark green feces are in the colon and cecum. The urinary bladder is empty. The following tissues are within normal limits: kidneys, adrenal glands, spleen, thyroid gland, tongue, esophagus, trachea, pancreas, and brain.

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SUMMARY OF GROSS FINDINGS

Penetrating wound through right side of chest associated with metal fragments, severe lacerations of the heart, and massive internal hemorrhage
Chronically embedded bullet with surrounding purulent inflammation in neck musculature

[redacted]

18Mar2013
Date


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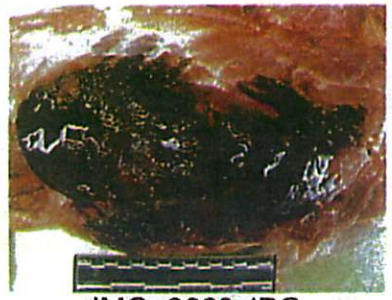
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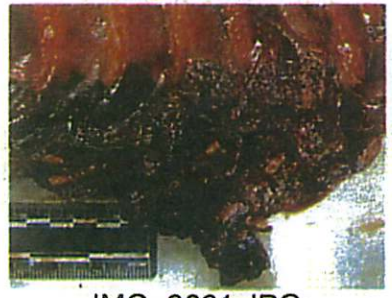
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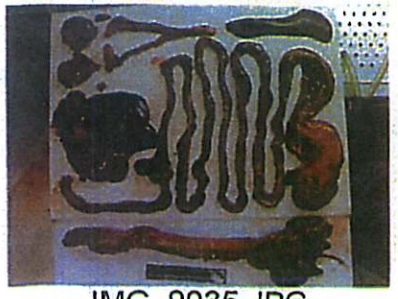
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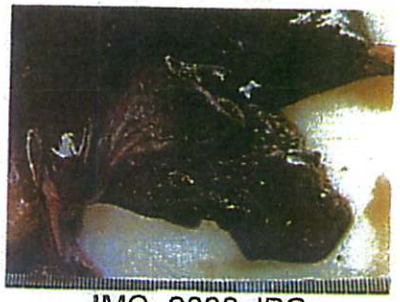
(b)(6), (b)(7)(C)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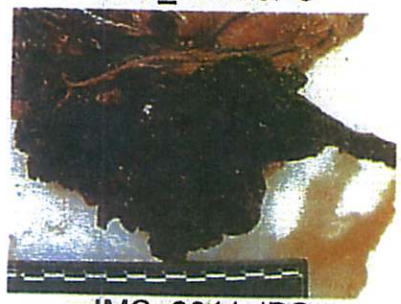
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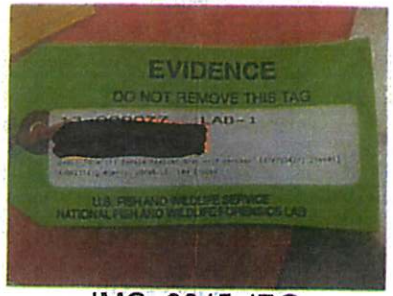

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(b)(6), (b)(7)(C)

DEPARTMENT OF THE INTERIOR
U. S. FISH AND WILDLIFE SERVICE
DIVISION OF LAW ENFORCEMENT

CHAIN OF CUSTODY RECORD

FILE NO.
INV- 20132200634

DATE AND TIME OF SEIZURE:	DISTRICT:	EVIDENCE/PROPERTY SEIZED BY:
1-30-13 3:30p	AQ-2	SA [redacted] / MGWRP

SOURCE OF EVIDENCE/PROPERTY (person and/or location):
☐ TAKEN FROM:
☒ RECEIVED FROM: Mexican Gray Wolf Recovery Program
☐ FOUND AT: Alpine, AZ

CASE TITLE AND REMARKS:
Mexican Gray Wolf #1288

ITEM NO.	DESCRIPTION OF EVIDENCE/PROPERTY (include Seizure Tag Numbers and any serial numbers):
1	ST# 763437 One (1) Mexican Gray wolf carcass

ITEM NO.	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE	DELIVERED VIA:
1	[redacted] AGFD 0177	[redacted]	1-30-13	☐ U.S. MAIL ☒ IN PERSON ☐ OTHER:
	TO: (PRINT NAME, AGENCY)	**RECEIPT SIGNATURE:**	**RECEIPT DATE**	
	[redacted] USFWS-OLE	[redacted]	1/30/13	
ITEM NO.	**FROM: (PRINT NAME, AGENCY)**	**RELEASE SIGNATURE:**	**RELEASE DATE**	**DELIVERED VIA:**
1	[redacted] USFWS OLE	[redacted]	1/31/13	☐ U.S. MAIL ☒ IN PERSON ☐ OTHER:
	TO: (PRINT NAME, AGENCY)	**RECEIPT SIGNATURE:**	**RECEIPT DATE**	
	[redacted] USFWS OLE	[redacted]	1/31/13	
ITEM NO.	**FROM: (PRINT NAME, AGENCY)**	**RELEASE SIGNATURE:**	**RELEASE DATE**	**DELIVERED VIA:**
1	[redacted] USFWS OLE	[redacted]	2/25/13	☐ U.S. MAIL ☒ IN PERSON
	TO: (PRINT NAME, AGENCY)	**RECEIPT SIGNATURE:**	**RECEIPT DATE**	
	[redacted] USFWS/OLE	[redacted]	2/25/13	

☒ ADDITIONAL TRANSFERS ON REVERSE SIDE

Attachment: 9
Page: 1 of 2

(b)(6), (b)(7)(C)

FILE NO.
INV. 2013200634

CHAIN OF CUSTODY RECORD (continued)

ITEM NO.	FROM / TO: (PRINT NAME, AGENCY)	SIGNATURE	DATE	DELIVERED VIA:
#1	FROM: [redacted] USFWS/OLE	RELEASE SIGNATURE: [redacted]	RELEASE DATE 2/25/2013	☐ U.S. MAIL ☐ IN PERSON ☒ OTHER: FEDEX
	TO: [redacted] #13-000077 Ashland, OR National Fish + Wildlife Forensics Lab	RECEIPT SIGNATURE: [redacted]	RECEIPT DATE 2-26-13	
1	FROM: [redacted] NFWFL Ashland, OR	RELEASE SIGNATURE: [redacted]	RELEASE DATE 6-4-13	☐ U.S. MAIL ☐ IN PERSON ☒ OTHER: Fed EX
	TO: SA [redacted] USFWS-OLE Albuquerque, NM	RECEIPT SIGNATURE: [redacted]	RECEIPT DATE 6-513	
ITEM NO.	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE	☐ U.S. MAIL ☐ IN PERSON ☐ OTHER:
	TO: (PRINT NAME, AGENCY)	RECEIPT SIGNATURE:	RECEIPT DATE	
ITEM NO.	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE	☐ U.S. MAIL ☐ IN PERSON ☐ OTHER:
	TO: (PRINT NAME, AGENCY)	RECEIPT SIGNATURE:	RECEIPT DATE	
ITEM NO.	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE	☐ U.S. MAIL ☐ IN PERSON ☐ OTHER:
	TO: (PRINT NAME, AGENCY)	RECEIPT SIGNATURE:	RECEIPT DATE	
ITEM NO.	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE	☐ U.S. MAIL ☐ IN PERSON ☐ OTHER:
	TO: (PRINT NAME, AGENCY)	RECEIPT SIGNATURE:	RECEIPT DATE	
ITEM NO.	FROM: (PRINT NAME, AGENCY)	RELEASE SIGNATURE:	RELEASE DATE	☐ U.S. MAIL ☐ IN PERSON
	TO: (PRINT NAME, AGENCY)	RECEIPT SIGNATURE:	RECEIPT DATE	

Attachment: 9
Page: 2 of 2

(b)(6), (b)(7)(C)

Investigative Report

[redacted] - APHIS [redacted]
To: [redacted]fws.gov>

Wed, Jul 31, 2013 at 2:51 PM

[redacted]

Now that the dust has settled, could I get a copy of the investigative report associated with the wolf shot by NM Wildlife Services employee [redacted] on 1/19/13?

Thank you,

[redacted]
[redacted]
USDA/APHIS/Wildlife Services
8441 Washington St. NE
Albuquerque, NM 87113
505-[redacted]
[redacted]

[redacted]

(b)(6), (b)(7)(C)

TRANSFER ORDER SURPLUS PERSONAL PROPERTY

1. ORDER NUMBER(S)
a. INV#2013200634
b.

FORM APPROVED OMB NUMBER 3090-0014

2. TYPE OF ORDER
☐ STATE AGENCY ☐ DOD(SEA) ☐ FAA

3. SURPLUS RELEASE DATE

4. SET ASIDE DATE

5. ☒ NON-REPORTABLE ☐ REPORTABLE

6. TOTAL ACQUISITION COST: N/A

7. TO: GENERAL SERVICES ADMINISTRATION*

Office of Law Enforcement

8. LOCATION OF PROPERTY
USFWS/OLE
4901 Paseo Del Norte NE, [redacted]
Albuquerque, New Mexico 87113

9. HOLDING AGENCY (Name and address)*
USFWS/OLE
4901 Paseo Del Norte NE, [redacted]
Albuquerque, New Mexico 87113

10. FOR GSA USE ONLY
SOURCE CODE ☐
STATE ☐☐ CITY ☐☐☐☐
TYPE OF DONATION ☐☐
ADJUSTED ALLOCATION CODE ☐☐

11. PICKUP OR SHIPPING INSTRUCTIONS*
Delivered via GOV Purpose: Donated for educational and/or scientific purposes in accordance with Title 50, Code of Federal Regulations, Part 12, Section 12.35.

12. SURPLUS PROPERTY LIST

L/I NO. (a)	IDENTIFICATION NUMBER(S) (b)	DESCRIPTION (c)	DEMIL. CODE (d)	COND. CODE (e)	QUANTITY AND UNIT (f)	ACQUISITION COST UNIT (g)	ACQUISITION COST TOTAL (h)
N/A	ST# 763437	One (1) female Mexican gray wolf carcass #1288	N/A	N/A	1	N/A	N/A
====	==========	======NOTHING ELSE FOLLOWS==========	=====	====	========	========	==========

13. TRANSFEREE ACTION

Transferee certifies and agrees that transfers and donations are made in accordance with 41 CFR 101-44, and to the terms, conditions, and assurances as specified on this document.

a. TRANSFEREE (Name and address of State Agency, SEA, or public airport)*
Museum of Southwest Biology
Department of Biology
University of New Mexico
Albuquerque, New Mexico

b. SIGNATURE AND TITLE OF STATE AGENCY OR DONEE REPRESENTATIVE
[redacted]

c. DATE: 5 Aug 2013

b. SIGNATURE OF HEAD OF THE SEA (School or National Headquarters)

c. DATE

14. ADMINISTRATIVE ACTION

I certify that the administrative actions pertinent to this order are in accordance with 41 CFR 101-44 and as specified on this document have been and are being taken.

a. DETERMINING OFFICER (DOD or FAA)*
SA [redacted]

b. [redacted] OF DETERMINING OFFICER
[redacted]

e. DATE: 8/5/2013

d. GSA APPROVING OFFICER

f. DATE

*Please include "ZIP codes" in all address blocks.
NSN 7540-00-965-2415
Previous Editions not usable

WHITE

STANDARD FO
Prescribed by GSA F

Attachment: 11

Page: 1 of 1

(b)(6), (b)(7)(C)

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Office of Law Enforcement
500 Gold Avenue, Room 9021
Albuquerque, NM 87102

August 14, 2013

[redacted]
USDA/APHIS/Wildlife Services
8441 Washington St. NE
Albuquerque, NM 87113

Dear [redacted]

U.S. Fish and Wildlife Service, Office of Law Enforcement special agents have completed their investigation into the death of Mexican wolf 1288, and have presented their findings to the District of New Mexico, U.S. Attorney's Office for prosecutorial review. The case was declined for prosecution by the U.S. Attorney.

With regard to your request on July 31, 2013, via electronic mail, for all investigative reports regarding this investigation, enclosed are hard copies of three Reports of Investigation (ROIs) and their corresponding attachments for your review and assessment.

The ROIs are property of the Office of Law Enforcement, U.S. Fish and Wildlife Service and are being loaned to you for official use only and should be returned once you no longer have use for the information contained within the ROIs. The ROIs, and its contents, are not to be further distributed without permission by me, [redacted] the Office of Law Enforcement [redacted] or Assistant Director for the Office of Law Enforcement William Woody.

If you need further assistance, I can be reached at the above address or telephone number.

Sincerely,

[redacted]

Special Agent [redacted]

Attachment: 12

Page: 1 of 1