



PACIFIC LEGAL FOUNDATION

June 19, 2017

SENT VIA CERTIFIED MAIL

Mr. Ryan Zinke
Secretary of the Interior
United States Department of the Interior
1849 C Street, N.W.
Washington, DC, 20240

Mr. Jim Kurth
Director, United States Fish & Wildlife Service
1849 C. Street, N.W.
Washington, DC, 20240

Ms. Robyn Thorson
Regional Director, Pacific Region
United States Fish & Wildlife Service
Pacific Region
911 NE 11th Ave.
Portland, OR 97232

Mr. Paul Souza
Regional Director, Pacific Southwest Region
United States Fish & Wildlife Service
2800 Cottage Way
Sacramento, CA 95825

Re: 60-Day Notice of Intent To Bring a Citizen Suit Under the Endangered Species Act To Compel a Final Determination on the Proposed Delisting of The Gray Wolf (*Canis lupus*)

Dear Mr. Zinke, Mr. Kurth, Ms. Robyn Thorson, & Mr. Souza:

For years, farmers and ranchers have endured profound negative effects from the Service's listing of the gray wolf (*Canis lupus*). Over three years ago, the Service acknowledged that the current listing of all gray wolves in the contiguous United States as endangered is invalid and proposed a delisting. But the illegal listing remains in effect today because the Service has never acted on its proposal—more than two years after the deadline imposed under the Endangered Species Act. The Service's failure to follow the law means that damaging restrictions remain in place that prevent people from protecting their livestock and livelihoods.

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Mr. Ryan Zinke
June 19, 2017
Page 2

Pursuant to Section 11(g) of the Endangered Species Act (ESA), 16 U.S.C. § 1540(g), this letter provides notice of intent to commence civil litigation for continued violation of Section 4(b)(6)(A) of the ESA, 16 U.S.C. § 1533(b)(6)(A). Section 4(b)(6)(A) requires the Service to reach a final determination on a species reclassification proposal within one year. The Service proposed to delist the gray wolf on February 10, 2014, but has yet to reach a final determination. The Oregon Cattlemen's Association (OCA), represented by attorneys with Pacific Legal Foundation, intend to file suit after 60 days if the Secretary and Service continue to violate the statutory requirement to issue a final determination on the proposed delisting of the gray wolf.

INTERESTS OF PARTY

The OCA is a non-profit trade association organized under the laws of Oregon, and that represents the interests of ranchers and beef producers in legislative and regulatory affairs. Members of this organization are directly impacted by the Service's continued delay in reaching a final status determination on the gray wolf. Gray wolves frequently attack and kill livestock, and the mere presence of wolves can stress cattle so much that it affects reproduction. This poses a constant threat to the livelihoods of farmers and ranchers. As long as the gray wolf remains listed under the ESA, state and local governments are deprived of any authority to develop local, tailored conservation approaches that appropriately balance protection of the gray wolf with the property rights of local citizens. Accordingly, the OCA has a very real interest in ensuring that a final determination regarding the gray wolf delisting—required to be made within one year of the Service's proposal to do so—is promptly reached.

LEGAL CHALLENGE

The gray wolf was first listed as an endangered species in 1974. The Service published its most recent proposal to delist the gray wolf on February 10, 2014. *See* 79 Fed. Reg. 7,627. The Service found that the best available scientific and commercial information indicates that *Canis lupus* as currently listed—all gray wolves in the contiguous states—does not correspond to a valid species or subspecies and is therefore not a listable entity under the ESA. *See* 78 Fed. Reg. 35,668. To date, and despite its clear recognition that the gray wolf should be removed from the list, the Service has not yet reached a final determination on this proposal.

The Service has followed through on its obligations under the ESA with regard to the Mexican gray wolf (*Canis lupus baileyi*), which was proposed for endangered status at the same time the gray wolf was proposed for delisting. *See* 79 Fed. Reg. 7,627. The Service issued a final rule on January 16, 2015, confirming the endangered status of the Mexican gray wolf. *See* 80 Fed. Reg. 2,488.

The Endangered Species Act not only provides for the protection of threatened or endangered species, but also for the delisting of those species if the current form of protection is no longer necessary. The Secretary's duty to issue a final determination after a proposed delisting within one

Mr. Ryan Zinke
June 19, 2017
Page 3

year is mandatory and nondiscretionary under 16 U.S.C. § 1533(b)(6)(A). The OCA intends to seek judicial relief if the Service continues to ignore the final determination requirement regarding the proposed delisting of the gray wolf.

The Secretary and Service have a duty to ensure that the species listed under the ESA are properly designated. This duty protects the interests of the species, as well as of citizens like the farmers and ranchers whose livelihoods are impacted by the status of gray wolves under the ESA. The continued listing of species that no longer require special status protection, like the gray wolf, imposes unnecessary economic burdens on landowners and also diverts conservation resources from those species that can actually benefit. Therefore, unless the Secretary publishes the required final determination of the gray wolf's status within 60 days, the party intends to file suit to compel the Service to perform its duties under Section 4(b)(6)(A) of the ESA.

Sincerely,



JOHANNA B. TALCOTT
Attorney