

115TH CONGRESS
1ST SESSION

S. 368

To require the Director of the United States Fish and Wildlife Service to issue a scientifically valid and State-supported recovery plan for the Mexican gray wolf.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2017

Mr. FLAKE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To require the Director of the United States Fish and Wildlife Service to issue a scientifically valid and State-supported recovery plan for the Mexican gray wolf.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mexican Gray Wolf
5 Recovery Plan Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) DIRECTOR.—The term “Director” means
2 the Director of the United States Fish and Wildlife
3 Service.

4 (2) MEXICAN GRAY WOLF.—The term “Mexican
5 gray wolf” means the subspecies classified as the
6 Mexican gray wolf (*Canis lupus baileyi*) of the spe-
7 cies gray wolf (*Canis lupus*) (as of the date of enact-
8 ment of this Act).

9 (3) PREY.—The term “prey” means wild
10 ungulates and other wild animals.

11 **SEC. 3. RECOVERY PLAN FOR MEXICAN GRAY WOLVES.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of enactment of this Act, the Director shall publish
14 a revised recovery plan for the Mexican gray wolf popu-
15 lations in the States of Arizona and New Mexico.

16 (b) CONTENTS.—The recovery plan described in sub-
17 section (a) shall include—

18 (1) the requirements described in section
19 4(f)(1)(B) of the Endangered Species Act (16
20 U.S.C. 1533(f)(1)(B)), unless otherwise provided in
21 this subsection;

22 (2) an assertion that State and individual inter-
23 ests and cooperation are crucial components to the
24 recovery of the Mexican gray wolf;

1 (3) the input of State entities and individuals,
2 including—

3 (A) State wildlife authorities;

4 (B) livestock producers;

5 (C) ranchers;

6 (D) managers or owners of—

7 (i) natural resources; or

8 (ii) private land;

9 (E) recreation interests;

10 (F) affected county governments; and

11 (G) other interested State parties;

12 (4) recovery goals for the Mexican gray wolf in
13 the States of Arizona and New Mexico, as deter-
14 mined by the agreements between the Director, the
15 States of Arizona and New Mexico, and State inter-
16 ests, that—

17 (A) comply with section 4(f)(1)(B)(ii) of
18 the Endangered Species Act (16 U.S.C.
19 1533(f)(1)(B)(ii)); and

20 (B) include an enforceable maximum popu-
21 lation of the Mexican gray wolf that—

22 (i) ensures that—

23 (I) the population of Mexican
24 gray wolves in the States of Arizona

1 and New Mexico does not reach an
 2 unsustainable level; and

3 (II) the range of Mexican gray
 4 wolves in the States of Arizona and
 5 New Mexico is acceptable to a major-
 6 ity of the State entities and individ-
 7 uals described in paragraph (3); and

8 (ii) is not more than a number of
 9 Mexican gray wolves that is agreed on by,
 10 and acceptable to, the State entities and
 11 individuals described in paragraph (3) in
 12 accordance with paragraphs (5) and (6);

13 (5) the decrease of wild ungulate species in the
 14 States of Arizona and New Mexico due to the Mexi-
 15 can gray wolf, as determined to be acceptable to the
 16 State entities and individuals described in paragraph
 17 (3);

18 (6) a description of the acceptable and unac-
 19 ceptable impacts on—

20 (A) wild game;

21 (B) livestock; and

22 (C) recreation in the States of Arizona and
 23 New Mexico due to—

24 (i) the Mexican gray wolf population;

25 and

1 (ii) the management of the Mexican
 2 gray wolf;

3 (7) a range for the Mexican gray wolf during
 4 and after recovery that—

5 (A) ensures a suitable habitat and prey
 6 base;

7 (B) does not allow the Mexican gray wolf
 8 to disperse north of Interstate 40 in the States
 9 of Arizona and New Mexico; and

10 (C) focuses on areas that can support a ro-
 11 bust wild ungulate population;

12 (8) a description of the efforts that the Director
 13 will make to share with Mexico all Federal and State
 14 knowledge, history, and expertise relating to Mexi-
 15 can gray wolf recovery efforts to ensure that any re-
 16 covery effort by Mexico is successful; and

17 (9) a statement by the Director that, if the Di-
 18 rector does not comply with subsection (a), as deter-
 19 mined by the State wildlife authority of the State of
 20 Arizona or New Mexico, the Director will allow the
 21 State wildlife authority to submit a proposal to as-
 22 sume or supplement the management of the Mexican
 23 gray wolf in the relevant State.

24 (c) MANAGEMENT BY THE STATE.—

25 (1) NONCOMPLIANCE BY THE DIRECTOR.—

1 (A) IN GENERAL.—If the Director does not
2 comply with subsection (a), the State wildlife
3 authority of the State of Arizona or New Mex-
4 ico may make a determination of noncompli-
5 ance.

6 (B) PROPOSAL.—Not later than 90 days
7 after the date on which the State wildlife au-
8 thority of the State of Arizona or New Mexico
9 makes a determination under subparagraph
10 (A), the State wildlife authority of each State
11 in which the Mexican gray wolf is present may
12 submit to the Director a proposal to assume or
13 supplement the management of the Mexican
14 gray wolf.

15 (C) APPROVAL OF PROPOSAL.—On the
16 date on which the Director receives from a
17 State wildlife authority a proposal referred to in
18 subparagraph (B), the Director shall approve
19 the proposal.

20 (2) MANAGEMENT BY STATE WILDLIFE AU-
21 THORITY.—Not later than 90 days after the date on
22 which the Director approves a proposal under para-
23 graph (1)(C), the Director shall allow the State wild-
24 life authority to assume or supplement the manage-
25 ment of the Mexican gray wolf in the relevant State.

1 (3) AGREEMENTS.—If a State wildlife authority
2 assumes or supplements the management of the
3 Mexican gray wolf under paragraph (2), the State
4 wildlife authority shall manage the Mexican gray
5 wolf in accordance with the agreement between the
6 State and the Director that—

7 (A) was made in the development of the
8 recovery plan described in subsection (a); and

9 (B) included in the recovery plan under
10 subsection (b).

11 (4) ELIGIBILITY FOR FUNDING.—In the case of
12 the management of the Mexican gray wolf by a
13 State wildlife authority under paragraph (2), the
14 State wildlife authority shall be eligible to apply for
15 funding from—

16 (A) the cooperative endangered species
17 conservation fund established under section 6 of
18 the Endangered Species Act of 1973 (16 U.S.C.
19 1535);

20 (B) the State and tribal wildlife conserva-
21 tion grant program established under title I of
22 division A of Public Law 111–88 (123 Stat.
23 2909); and

24 (C) the Federal aid to wildlife restoration
25 fund established under section 3(a)(1) of the

1 Pittman-Robertson Wildlife Restoration Act (16
2 U.S.C. 669b(a)(1)).

3 **SEC. 4. EXCEEDANCE OF POPULATION.**

4 (a) IN GENERAL.—In the case of an exceedance of
5 the acceptable and enforceable maximum population of
6 Mexican gray wolves referred to in section 3(b)(4)(B), the
7 Director shall use a scientifically sound method to reduce
8 the population of the Mexican gray wolf, including the re-
9 moval of the appropriate number of Mexican gray wolves
10 from the State of Arizona or New Mexico and relocation
11 of those Mexican gray wolves within the range referred
12 to in section 3(b)(7).

13 (b) WILD UNGULATE HERDS.—In the case of a de-
14 cline of a wild ungulate herd by more than the decrease
15 referred to in section 3(b)(5), the Director shall carry out
16 a management action for the Mexican gray wolf, including
17 the removal of an appropriate number of Mexican gray
18 wolves from the area in which the wild ungulate herd is
19 located for relocation within the range referred to in sec-
20 tion 3(b)(7).

21 **SEC. 5. DELISTING OF MEXICAN GRAY WOLVES.**

22 (a) IN GENERAL.—Effective beginning on the date
23 on which the Director determines that the population goal
24 for the Mexican gray wolf referred to in section 3(b)(4)
25 has been reached—

1 (1) the Mexican gray wolf shall no longer be in-
2 cluded on any list of endangered species, threatened
3 species, or experimental populations under the En-
4 dangered Species Act of 1973 (16 U.S.C. 1531 et
5 seq.); and

6 (2) management of the Mexican gray wolf shall
7 be assumed by each State in which the Mexican gray
8 wolf is present.

9 (b) NO JUDICIAL REVIEW.—The determination by
10 the Director to remove the Mexican gray wolf from any
11 list of endangered species, threatened species, or experi-
12 mental populations under the Endangered Species Act of
13 1973 (16 U.S.C. 1531 et seq.), shall not be subject to judi-
14 cial review.

15 (c) STATE DETERMINATION.—Before the date on
16 which the Director delists the Mexican gray wolf under
17 subsection (a), subject to sections 3 and 4, each State in
18 which the Mexican gray wolf is present shall determine
19 a number of Mexican gray wolves below which, or other
20 specific criteria by which, the Director may make a deter-
21 mination to include the Mexican gray wolf on a list of en-
22 dangered species, threatened species, or experimental pop-
23 ulations under section 4 of the Endangered Species Act
24 of 1973 (16 U.S.C. 1533).

1 (d) MONITORING.—The Director shall carry out mon-
2 itoring activities under section 4(g) of the Endangered
3 Species Act of 1973 (16 U.S.C. 1533(g)) to determine the
4 number of Mexican gray wolves in the States of Arizona
5 and New Mexico.

6 (e) NO FURTHER LISTING.—

7 (1) IN GENERAL.—Subject to subsection (c)
8 and paragraph (2), after the date on which the Di-
9 rector has delisted the Mexican gray wolf under sub-
10 section (a), the Director shall not make any deter-
11 mination that results in the inclusion of the Mexican
12 gray wolf on any list of endangered species, threat-
13 ened species, or experimental populations under the
14 Endangered Species Act of 1973 (16 U.S.C. 1531 et
15 seq.).

16 (2) EXCEPTION.—Notwithstanding paragraph
17 (1) and subject to subsection (c), the Director may
18 include the Mexican gray wolf on a list of endan-
19 gered species, threatened species, or experimental
20 populations under the Endangered Species Act of
21 1973 (16 U.S.C. 1531 et seq.), if the population
22 numbers, impacts, and range described in the recov-
23 ery plan described in section 3(a) are not main-
24 tained.

1 (f) NO FURTHER RECOVERY PLANS.—After the date
2 on which the Director publishes the recovery plan de-
3 scribed in section 3(a), the Director shall not publish any
4 recovery plan for the Mexican gray wolf, unless the Direc-
5 tor makes a determination described in subsection (c) or
6 (e)(2).

7 **SEC. 6. RECLASSIFICATION OF MEXICAN GRAY WOLF.**

8 This Act shall apply to the Mexican gray wolf not-
9 withstanding any reclassification of the Mexican gray wolf
10 as a subspecies, a distinct population segment, or a species
11 other than the subspecies classified as the Mexican gray
12 wolf (*Canis lupus baileyi*) of the species gray wolf (*Canis*
13 *lupus*) (as of the date of enactment of this Act).

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