

**Blue Range Mexican Wolf Reintroduction Project
Adaptive Management Oversight Committee
Standard Operating Procedure 13.0 - Clarification Memo**

Title: Control of Mexican Wolves

Number: 13.0

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Purpose: The purpose of this memo is to clarify how SOP 13.0 shall be implemented henceforth, in an ongoing adaptive management approach that gives due consideration to providing intended wolf management flexibility while adequately and appropriately resolving conflicts with other interests. These clarifications are based on experience to date in the Project and have been discussed and agreed to by AMOC and the Lead Agency Directors.

Clarifications consist of the following:

- 1) On receiving a completed Jurisdictional IFTL Checklist for Assigning Depredation Incidents (pursuant to SOP 11.0: Depredation on Domestic Livestock and Pets), the FPC and IFTLs shall coordinate to take or request authorization to take appropriate management action under SOP 13.0.
- 2) Immediately upon being notified of a confirmed third or higher depredation incident, the IFT (acting through the FPC) shall contact the AMOC Chair (and Surrogate), so they can inform AMOC and the Lead Agency Directors of the likely imminent need for management action, including consideration to issue a Removal Order.
- 3) Within 36 hours of being notified of a confirmed third or higher depredation incident, the IFT must submit its final written Removal Order recommendation to the AMOC Chair (and Surrogate). The IFT recommendation must include or reference all three determinations that are requisite to issuing a final Removal Order: (1) confirmed wolf kill (i.e. IFT Investigator determination); (2) lawful presence¹ of depredated livestock (e.g. BLM or USFS determination); and (3) sufficient information to reasonably assign the depredation incident to a specific wolf or wolves (i.e. IFT determination).
- 4) Within 12 hours of receiving an IFT recommendation for a Removal Order, AMOC (in collaboration with Signatory Cooperators) will develop a Removal Order recommendation identifying the relevant range of alternatives and approaches (e.g. hazing, capture and translocation, permanent removal, methods of removal, and time-frame for field actions) for the Lead Agency Directors to consider. During this process, the following shall occur:
 - a. The AMOC Chair (or Surrogate) shall work with the FPC and/or jurisdictional IFTL to correct any deficiencies in the IFT recommendation.
 - b. The AMOC Chair (or Surrogate) shall disseminate the IFT's final written recommendation to AMOC members and Signatory Cooperator representatives for deliberative review and discussion.
 - c. AMOC members shall provide any preliminary briefings required by their Director.

¹Lawful presence: BLM and USFS consider livestock that are authorized and permitted to be on public land under their jurisdiction to be lawfully present.

- d. The AMOC Chair (or Surrogate) shall convene a conference call among available AMOC members and Signatory Cooperator representatives to discuss the IFT recommendation and any Director guidance resulting from initial briefings. The intent is to strive for, but not require, consensus among all AMOC members on the recommended action(s).
 - e. AMOC shall develop a written removal recommendation for the Directors to consider, and guidance to the IFT for any other management action that does not require consideration by the Lead Agency Directors.
 - f. The Recovery Coordinator (or Designee), with assistance as necessary from the AMOC Chair (or Surrogate), shall draft a Removal Order that accurately reflects the AMOC removal recommendation.
 - g. The AMOC Chair (or Surrogate) shall then immediately disseminate the written removal recommendation and draft Removal Order to all AMOC members (and Surrogates) and Signatory Cooperator representatives for deliberative discussion.
 - h. Each Lead Agency AMOC member (or Surrogate) shall then brief their Director as necessary on the AMOC removal recommendation and draft Removal Order. The AMOC Chair (or Surrogate) shall also contact all Directors to ensure that they have been, or are, briefed. During these briefings, the AMOC Chair and members (or Surrogates) shall discuss with each Director any known substantive disagreements among the Lead Agencies on the AMOC recommendation and draft Removal Order.
- 5) Within 36 hours of receiving AMOC's written recommendation and draft Removal Order, the Lead Agency Directors, acting through the USFWS Regional Director and the jurisdictional Lead Agency Director, shall discuss the relevant issues, including any substantive feedback from AMOC members and Signatory Cooperators, and instruct the Recovery Coordinator (or Designee) and AMOC Chair (or Surrogate) on content and issuance of a final Removal Order or direction for other management actions. The Recovery Coordinator (or Designee) shall then issue the authorized final Removal Order or direct other management action as approved by the Lead Agency Directors. The intent is to strive for, but not require, consensus among all Lead Agency Directors on the recommended action(s). Note: The USFWS Regional Director must authorize each final Removal Order.
- 6) The Recovery Coordinator (or Designee) shall then immediately convey the final (approved) Removal Order to the appropriate USDA-APHIS Wildlife Services State Director (or Acting Director) for implementation and to the AMOC Chair (or Surrogate) for dissemination to Lead Agency Directors, AMOC, and Signatory Cooperators.
- 7) Henceforth, AMOC and the IFT shall use the term "depredation incident" rather than "strike" in reference to wolf depredations.
- 8) The Lead Agency Directors hereby reaffirm that AMOC is both authorized and expected to be flexible in applying SOP 13.0. However, it is also noted that all control actions must comply with the 1998 10(j) Final Rule for Mexican wolf reintroduction and be consistent with the guidance provided in the 1996 Mexican Wolf FEIS and the 2003 Mexican Wolf MOU among agencies cooperating in the Reintroduction Project. The interplay between and among these three documents is at the heart of concerns about wolf control.

9. After considering experience in this Project to date, the controlling interest of the 1998 Final Rule and the informing nature of the 1996 FEIS and the 2003 MOU, the Lead Agency Directors have affirmed that henceforth SOP 13.0 shall be applied as follows:
 - a. The overarching intent of SOP 13.0 is to control Mexican wolves by aggressively using less-than-permanent removal techniques until a threshold for permanent removal has been reached. When a third depredation incident has been confirmed and assigned to a specific wolf or wolves, the intent is to apply, in timely fashion, a judicious decision consistent with “applicable circumstances”² and SOP 13.0 that can include permanent removal. The reasons for the final decision(s) on any recommendations regarding a Removal Order shall be documented in writing and retained in the appropriate Project file(s).
 - b. Assignment of depredation incidents (and any consequent Removal Orders) shall be focused on individual wolves, not on entire packs (unless the evidence affirms that all individuals in that pack were involved). However, it is also noted that when a pack is definitely involved in repeated depredation incidents but the incidents cannot be assigned to a specific wolf or wolves in that pack, the staged approach to removal that is set forth in SOP 13.0 is appropriate.
 - c. The IFT shall not initiate live trapping or other removal tools in response to a third depredation incident until the Directors have acted on an AMOC recommendation on removal or other management of that wolf or wolves. However, if trapping is already underway in response to a second confirmed depredation incident (e.g. for collaring, translocation) when notification of a confirmed third (or higher) incident is received, the trapping shall be continued per SOP 13.0. If a wolf is (or wolves are) captured as a result of trapping initiated in response to a second confirmed depredation incident, USFWS shall retain the captured animal(s) in captivity in the most appropriate manner (e.g. on site, at an interim holding facility, or at a USFWS wolf management facility), as appropriate to wolf safety and logistical considerations while the SOP 13.0 process is underway to render a Directors’ decision on disposition.
 - d. Per the Clarification Memo for SOP 11.0, if the USFWS determines (and notifies the AMOC Chair, FPC, and jurisdictional IFTL) that (1) a livestock owner/operator has denied access to the IFT Incident Investigator or the USFWS Co-investigator or (2) intentional attraction or repeated knowing attraction of wolves contributed or likely contributed to causing a confirmed wolf depredation, the IFT, AMOC, and ultimately the Directors shall take that into consideration in deciding whether to assign a depredation incident (first, second, or otherwise).
 - e. With regard to nuisance problems, such wolves shall be dealt with by use of non-lethal techniques, including on-site techniques and temporary removal for aversive conditioning and/or relocation (the latter perhaps in tandem with another wolf or wolves), but they

²Review of “applicable circumstances” shall include consideration of the following information in reaching a Project decision regarding management response for the wolf or wolves under review: (a) depredation and nuisance history; (b) response to previous management actions; (c) past, current, and likely future alpha status (including age and breeding potential); (d) certainty of existence of dependent pup(s); (e) effects of removal on pack continuity through the current and next breeding season; (f) genetic lineage and inbreeding coefficient; (g) external factors contributing to most recent depredation incident(s); (h) total number of permanent removals and unlawful killings within the Project area during the past 12 months; and (i) any other relevant factors or information (e.g. information germane to 9d).

shall not be subject to permanent removal unless the Directors have authorized such action via a Removal Order.

- f. The requirements above (9a through 9e) apply equally to public, state, and private lands, but do not apply to tribal lands (the latter including both WMAT and SCAT lands) unless the appropriate tribal authority voluntarily adopts them within the framework of their USFWS-approved wolf management plan.

10. The White Mountain Apache Tribe (WMAT), in accordance with the pre-existing Cooperative Agreement with the USFWS, will follow procedures for management of Mexican wolves, including control measures, as set forth under the approved WMAT-Mexican Wolf Management Plan.

Rationale: Clarifications 1 through 6 are intended to help ensure: (a) an appropriate balance between timely response to wolf depredations and providing certainty (documentation) that higher levels of response (e.g. Removal Orders) are warranted and defensible; and (b) Lead Agency Directors are appropriately involved in making Removal Order decisions based on recommendations from AMOC that are based on initial recommendations from the IFT.

Clarification 7 is intended to help facilitate public understanding that a depredation incident might involve more than a single depredated domestic animal (i.e. livestock).

Clarification 8 is intended to affirm that the Lead Agencies' intent is to use SOP 13.0 as a framework for adaptive management that enables progress toward wolf recovery while appropriately controlling wolves, and to remind the public that this framework is itself constrained by "higher," legally-binding documents and commitments, including but not limited to the following:

- A. The Final Rule (USFWS 1998): Wolf control prescribed in the Final Rule includes (a) wolves involved in depredation on livestock (on public, tribal, or private lands) or on pets or domestic animals other than livestock (on private or tribal lands, but not on public lands); (b) wolves involved in wolf-human conflicts (regardless of land ownership status); and (c) wolves establishing themselves wholly outside the BRWRA on public, tribal, or private land (unless the tribe or private landowner agrees). However, not all "problem" or "nuisance" wolves warrant removal, or even translocation. Moreover, depending on case-specific circumstances, control may be appropriate at any one of several levels, but not necessarily rising to permanent removal. Thus, thresholds and guidelines for responses to specific circumstances are clearly advisable, so interested and affected parties will know when action will be taken, and when it will not. Managers want management flexibility, but affected parties want certainty, consistency, and immediacy of response.

The Final Rule specifically authorizes control (take) of Mexican wolves in the following circumstances: harassment, under Section (3)(ii); killing or injuring wolves actually engaged in the attack of livestock, under Sections (3)(v), (3)(vi), and (3)(vii); and in

defense of human life, under Section (3)(xii). The Final Rule also authorizes use of methods of take that might otherwise be precluded under Section (3)(ix):

“Authorized personnel may use leg-hold traps and any other effective device or method for capturing or controlling wolves to carry out any measure that is part of [this] Service-approved management plan, notwithstanding any conflicts in State or local law.”

Further, under Section (3)(xiii) the Final Rule states that “The Service encourages those authorized to take wolves to use non-lethal means when practical and appropriate.”

Wolf control actions by Service-permitted persons, such as the IFT, are authorized under the Final Rule as “take,” which means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532(19)).

B. The FEIS (1996): The FEIS for Mexican wolf reintroduction in Arizona and New Mexico affirms that control of wolves is essential to successful reintroduction and ultimately to recovery. The FEIS includes, under “Mitigation Measures. Control of Problem Wolves” on page 2-16, the following passages as the opening sentence of the second paragraph and part of the third paragraph:

“The FWS will permanently remove from the wild or, as a last resort, euthanize any wolves exhibiting a consistent pattern of livestock depredation (three or more confirmed kills within one year in primary wolf recovery zones and two or more in other areas).”

“On private property, after two confirmed incidents within one year of nuisance behavior or the killing or injuring of pets or other domestic animals by wolves, efforts will be taken to deter this behavior. The FWS will move captured offending animals to a distant location. The FWS will permanently remove from the wild or euthanize any wolves exhibiting a consistent pattern of nuisance behavior (three or more incidents per year). This model of active, professional, management of depredation has proven feasible in Minnesota and in the northern Rockies; it has demonstrably served in both areas to expeditiously resolve wolf/livestock conflicts (Niemeyer et al. 1994; Paul 1995). Active management in conjunction with public education and information improves local tolerance of wolves.

C. The 2003 MOU: The October 2003 MOU under which the Reintroduction Project operates provides that AGFD, NMDGF, and WMAT agree to be responsible for implementing the Project on lands under their jurisdiction. Project SOP 13.0, developed and approved under the MOU, provides a flexible framework and guidelines for management responses to nuisance and problem wolf situations. It also provides specific pre-approved exceptions and latitude for additional exceptions (with concurrence from the Lead Agency Directors).

Clarification 9a is intended to affirm that permanent removal is an appropriate tool for responding to repeated depredation incidents, but the Lead agencies have an obligation to ensure that all conditions requisite to such removal have been met. Clarification 9b is intended to affirm that, to make more progress toward Project objectives, it is essential to control wolves that merit such action. Clarification 9c is intended to affirm that that capture of wolves inevitably entails risk of injury to wolves and sometimes contributes to making future re-capture more difficult (i.e. wolves sometimes become “trap shy”). Retention of captured wolves while necessary management decisions are made can also be logistically problematic, and stressful to the wolves. Conversely, releasing a captured depredating wolf only to immediately need to re-capture it is similarly problematic, wasteful in time and energy, and might contribute to further depredation. To avoid these problems, trapping shall not be initiated until the appropriate disposition decisions have been made. Clarification 9d is intended to affirm that the Final Rule under which the Project operates allows for mitigating wolf control actions in response to a situation that was intentionally created or knowingly allowed to persist in order to induce wolf depredation to the point at which wolf removal would be implemented. Clarification 9e is intended to affirm that the impacts caused by nuisance behavior are substantially less than those caused by depredation, and thus warrant more permissive management response. Clarification 9f and 10 are intended to affirm that neither SOP 13.0 nor any other Project SOP applies to Tribal lands unless the appropriate Tribal authority and USFWS have agreed to implement it as a component of their agreed-upon cooperative wolf management framework for specified Tribal lands.

Approvals:

The USFWS Southwest Regional Director, with concurrence from the Directors of the other five Lead Agencies cooperating in the Mexican Wolf Blue Range Reintroduction Project, approved this Clarification Memo on May 28, 2009.