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*Working to protect and restore Western Watersheds and Wildlife*

January 18, 2023

Vic Certified Mail and Electronic Mail

Debra Haaland, Secretary of the Interior  
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Dear Secretary Haaland and Director Williams:

This letter serves as a sixty-day notice from Western Watersheds Project, International Wildlife Coexistence Network, Predator Defense, Protect the Wolves, Trap Free Montana, WildEarth Guardians, and Wyoming Wildlife Advocates (“Petitioners”) of our intent to sue the U.S. Fish and Wildlife Service (FWS), 16 U.S.C. § 1540(g)(2)(C), pursuant to the Endangered Species Act (ESA), 16 U.S.C. § 1533(b)(6), for the agency’s failure to publish a final listing determination for the Northern Rockies or Western North American population of gray wolves (*Canis lupus*).

The Fish and Wildlife Service has failed to comply with its mandatory duty under 16 U.S.C. § 1533(b)(6)(A) to publish a 12-month finding for the relisting of the of the gray wolf (*Canis lupus*) in the Northern Rocky Mountains, or, in the alternative, in the western United States including the Northern Rocky Mountains, as a Distinct Population Segment.

In 2009, the FWS delisted the Northern Rocky Mountains population of the gray wolf from Endangered Species Act protection. Final Rule to Identify the Northern Rocky Mountain Population of Gray Wolf as a Distinct Population Segment and To Revise the List of Endangered and Threatened Wildlife, 74 Fed. Reg. 15,123 (Apr. 2, 2009). Since then, the States of Idaho and Montana have drastically altered their wolf management laws and regulations to push populations below viable levels. Idaho, for instance, allows for essentially unregulated and unlimited wolf-killing.

In its 2009 rule delisting the Northern Rocky Mountain Distinct Population Segment, the Service made the following commitment: “if a State changed their regulatory framework to authorize the unlimited and unregulated taking of wolves, a condition we have previously determined threatened a wolf population, emergency listing would be immediately pursued.” Final Delisting Rule, 74 Fed. Reg. at 15,148.

Given the regulatory changes in Idaho and Montana, and continued inadequacy of state management in Wyoming, on July 29, 2021, a group of organizations including Petitioners submitted to the U.S. Department of the Interior and the FWS a petition for the emergency relisting of the of the gray wolf in the Northern Rocky Mountains or, in the alternative, in the western United States including the Northern Rocky Mountains, as a Distinct Population Segment.

FWS issued a positive 90-day finding on FWS issued a 90-day finding on that and another similar petition on September 17, 2021. The 90-day finding concluded that “the petitioners present credible and substantial information that human caused mortality . . . may be a potential threat to the species in Idaho and Montana” and that “new regulations in these two States may be inadequate to address this potential threat.” 86 Fed. Reg. at 51,857, 51,859 (Sept. 17, 2022).

The July 29, 2021 Petition and September 17, 2022 90-day finding triggered the ESA’s mandatory obligation of 16 U.S.C. § 1533(b)(3)(B) for FWS to make a decision on the proposed listing within one year.

Section 4 of the ESA, 16 U.S.C. § 1533(b)(3) plainly provides:

(B) Within 12 months after receiving a petition that is found under subparagraph (A) to present substantial information indicating that the petitioned action may be warranted, the Secretary shall make one of the following findings:

(i) The petitioned action is not warranted, in which case the Secretary shall promptly publish such finding in the Federal Register.

(ii) The petitioned action is warranted, in which case the Secretary shall promptly publish in the Federal Register a general notice and the complete text of a proposed regulation to implement such action in accordance with paragraph (5).

(iii) The petitioned action is warranted, but that—

(I) the immediate proposal and timely promulgation of a final regulation implementing the petitioned action in accordance with paragraphs (5) and (6) is precluded by pending proposals to determine whether any species is an endangered species or a threatened species, and

(II) expeditious progress is being made to add qualified species to either of the lists published under subsection (c) and to remove from such lists species for which the protections of this chapter are no longer necessary,

in which case the Secretary shall promptly publish such finding in the Federal Register, together with a description and evaluation of the reasons and data on which the finding is based.

Thus, the Service's 12-month determination was due July 29, 2022. As of the date of this letter, the Service has not complied with Section 4 of the ESA, and has missed the statutory deadline for responding.

If the Secretary does not make the required determination regarding the Northern Rocky Mountain (or, in the alternative, Western North American) population of the gray wolf, Petitioners intend to file suit under the ESA, 16 U.S.C. § 1540.

Sincerely,

**/s/ Michael A. Saul**

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*Signing on behalf of*

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