

CHAPTER 1: PROJECT OVERVIEW AND SUMMARY

Introduction

Gray wolves (*Canis lupus*) are thriving and expanding in number and distribution in Montana. This is because of natural emigration from Canada and a successful federal effort that reintroduced wolves into Yellowstone National Park (YNP) and the wilderness areas of central Idaho. There are probably more wild wolves in Montana now than at any time in the past 70 years. Since 1974, the U.S. Fish and Wildlife Service (USFWS) has managed wolves in Montana, under the authority of the Endangered Species Act (ESA). The biological recovery goal for the northern Rockies wolf population is a total of 30 or more breeding pairs for three years in the states of Montana, Idaho, and Wyoming, with breeding pair being defined as a male and a female that raised at least two pups to December 31. The biological requirements for recovery were met at the end of 2002.

But before USFWS will propose to delist, federal managers must be confident that a secure, viable population of gray wolves will persist if the protections of the ESA are removed. To provide that assurance, Montana, Idaho, and Wyoming must develop conservation and management plans and adopt other regulatory mechanisms in state law. Upon review and approval of the state plans, USFWS will propose to delist the gray wolf. Upon delisting, management authority for wolves will return to the state governments where wolves reside.

Purpose and Need for the Proposed Action

USFWS has managed wolves in Montana as either “endangered” or as “experimental, nonessential” under the authority of ESA. In March 2003 USFWS downlisted wolves in the Northwest Montana Recovery Area as “threatened.” Montana Fish, Wildlife & Parks (FWP) proposes to prepare and adopt a wolf conservation and management plan so that management authority can be transferred to the State of Montana because the biological recovery goal has been met. If Idaho, Wyoming and Montana do not develop and adopt conservation and management plans, which in combination must assure the long-term security of wolves in the northern Rockies, USFWS will not delist the gray wolf. In that case, wolves in Montana will continue to be managed by the federal government.

USFWS anticipates the delisting process could begin in 2003 or 2004, if wolf management plans are completed by the three states and pass independent scientific peer review. The State of Montana would adopt a wolf conservation and management plan prior to USFWS’s proposal to delist wolves, but the plan would not be implemented until USFWS officially transfers legal authority to the state. Under Montana statute, FWP is the agency charged with conservation and management of resident wildlife.

FWP recognizes the gray wolf as a native species and is committed to recovery of the species within Montana. The purpose of the plan is to manage wolves consistent with Montana’s own state laws, policies, rules, and regulations. FWP intends to implement positive conservation and management strategies to make sure that all federal requirements are met, recovery is complete, and that wolves are integrated as a valuable part of Montana’s wildlife heritage.

FWP also recognizes that the long-term future of wolves in Montana depends on carefully balancing the complex biological, social, economic, and political aspects of wolf management. FWP will consider the wide spectrum of interests in designing and implementing a flexible program that is responsive and addresses the challenges faced by people directly affected by wolves.

Benefits of the Proposed Action

Managing gray wolves as a resident native species according to state guidelines will allow the program to meet the goal of positively conserving and managing wolves while adapting to the needs and interests of Montana's citizens and visitors. Montana would meet its legal requirement to maintain a secure population of wolves in the northern Rockies, in conjunction with Idaho and Wyoming, by developing and adopting a program to conserve and manage the species. Managing gray wolves will not be easy, but wolf restoration is fundamentally consistent with Montana's history of wildlife conservation. FWP believes that it is in Montana's best interest to recognize and take on the challenges, responsibilities, and benefits of a restored wolf population.

Decisions to be Made

FWP is using the Montana Environmental Policy Act (MEPA) as a tool to decide if the state will adopt and implement a wolf conservation and management plan and therefore assume management responsibility. The process of preparing an Environmental Impact Statement (EIS) requires FWP to decide how wolves will be managed if it assumes responsibility. One alternative suggests that FWP neither prepares nor adopts a plan. Other alternatives suggest that FWP develops a plan and go on to describe conservation and management activities that would be implemented under each alternative. The alternatives describe a spectrum of philosophies, strategies, and tools from which FWP will ultimately determine a course of action.

If FWP selects an alternative in which FWP would adopt and implement a plan thereby assuming responsibility upon delisting, that alternative will then become FWP's management plan. That plan will address wolf conservation and management anywhere wolves occur in Montana, except where management authority is otherwise explicitly reserved to other jurisdictions, such as Montana's Indian tribes. Ultimately, the outcome of this EIS process will result in a management and conservation plan which would be implemented through the combined decisions and actions of the FWP Commission, the seven FWP administrative regional offices, FWP's headquarters in Helena, the Montana Department of Livestock (MDOL), USDA Wildlife Services (WS), local law enforcement or county authorities, and other cooperators.

Other Agencies that have Jurisdiction or Responsibility

At present, USFWS and WS are responsible for wolf recovery and management activities. Federal laws, rules and regulations provide guidance. When wolves are delisted and management authority is transferred to the State of Montana, state laws become the primary regulatory and legal mechanisms guiding management. Two titles within Montana statutes describe the legal status and management framework for wolves. Title 87 pertains to fish and wildlife species and oversight by FWP. Title 81 pertains to the MDOL and its responsibilities related to predator control. Montana statutes assign joint responsibility to FWP and MDOL for managing wildlife that causes property damage to livestock. Through a cooperative agreement with MDOL, WS conducts field investigations and management activities in cases of property damage caused by wildlife such as mountain lions, bears, coyotes, and now potentially gray wolves.

Outfitters in Montana are under the jurisdiction of the Montana Board of Outfitters and the Montana Department of Labor and Industry, which is responsible for issuing outfitting licenses and the enforcement of laws regulating the outfitting industry. Outfitters using federal lands are also overseen by the respective federal land management agencies.

The U.S. Forest Service (USFS), the National Park Service (NPS), the Bureau of Land Management, USFWS, or other federal jurisdictions administer federally owned lands. These agencies manage these lands according to their enabling legislation, agency mission, and relevant federal laws, rules, and regulations. FWP coordinates with federal agencies on wildlife and habitat issues of mutual interest, but has no legal jurisdiction over how those lands are managed. Both the USFWS and state agencies have authorities and responsibilities for wildlife management on national wildlife refuges. NPS has jurisdiction for wildlife within national parks.

Montana's Indian tribes have jurisdictional authority for wildlife conservation and management programs within reservation boundaries. FWP coordinates with tribal authorities on issues of mutual interest.

Public Involvement Process

Although wolves have been documented and may have bred in Montana intermittently, recovery in the sense of a sustained breeding population in Montana actually began about 17 years ago when a pair of Rocky Mountain gray wolves denned in Glacier National Park. Then, in 1995 and 1996, a total of 66 wolves from southwestern Canada were reintroduced to Yellowstone National Park and central Idaho.

Montana's effort to take over this endangered species upon its recovery began in 1994 when FWP solicited public comments on the agency taking a more active role during the recovery phase. That effort resulted in the 1995 draft Wolf Recovery and Management Plan. That plan was not implemented, primarily because of uncertainties about funding and agency responsibilities. Then, five years later, the effort hit full stride when Gov. Marc Racicot convened Montana's Wolf Management Advisory Council.

The 12-member Wolf Management Advisory Council—a mix of livestock producers, hunters, educators, outfitters, conservationists, and other citizens—worked for seven months to develop 26 "Guiding Principles" organized in four broad subject areas that address the public interest, public safety, maintaining wildlife populations and protecting the livestock industry. An Interagency Technical Committee advised the council, providing scientifically based information about biological, technical, legal, or financial aspects of wolf conservation and management. The Technical Committee also helped the council identify and assess challenges associated with implementing overall management strategies or specific management actions. It was comprised of wolf experts and resource managers from NPS, USFWS, USFS, WS, and FWP.

The council delivered its report and recommendations to Gov. Racicot, and then governor-elect Judy Martz, in early 2001. Based on its public deliberations, the council reported that the State of Montana could contribute to wolf recovery in the northern Rockies. Furthermore, the council reported that, once recovered, wolves can coexist within Montana's complex biological, social, economic, and political landscape and that it is appropriate for FWP to develop a management program.

More specifically, the advisory council recommended that Montana:

- maintain wolf populations at levels that will prevent reclassification as “threatened” or “endangered” under federal law.
- encourage wolves to inhabit large, contiguous public-land areas where the potential for conflict is lowest.
- integrate wolf and wildlife management to maintain traditional hunting heritage and wildlife viewing opportunities.
- incorporate public outreach and encourage Native American cooperation.
- share funding among state, federal, and private entities.

- act upon threatening wolf-human encounters consistent with black bear and mountain lion management guidelines.
- enhance deer and elk populations to support wolf populations, maintain recreational and viewing opportunities, and reduce the potential for livestock depredation.
- use hunting and trapping to manage increasing wolf numbers in a manner that will sustain wolf populations and preclude reclassification under federal law.
- recognize that tolerance for wolves on private property is fundamental to wolf population recovery and range expansion.
- compensate livestock owners for losses at fair market value but do not use FWP funds to compensate depredation losses.
- provide incentives to livestock producers who use best management practices to decrease wolf/livestock conflicts.
- allow livestock owners to address wolf depredation problems on private lands as wolf numbers increase.
- use wolf numbers to address the management of wolf depredations on livestock. When wolf numbers are low, more conservative methods should be applied; more aggressive control methods should be applied as wolf numbers increase.

At the end of 2000, FWP officials characterized the advisory council's report as the first step toward acquiring wolf management responsibilities from the federal government. The group's work was aimed directly at helping to determine how to balance wolf numbers with the deer and elk they prey upon, address conflicts with livestock operations, ensure human safety, and how Montana's wolf management responsibilities should be funded.

With the advisory council's report in hand, Gov. Judy Martz directed FWP to use it to frame a wolf management plan. In response, FWP released the "Montana Wolf Conservation and Management Planning Document" in January 2002 (Appendix 1). While the 117-page planning document reflected what a state wolf management plan could resemble if it were based on the council's work and recommendations, FWP still needed to hear from others and explore various alternatives before adopting a management plan in full compliance with the legal requirements of MEPA.

In January 2002, FWP mailed about 1,000 post cards announcing: (1) the completion of the Montana Wolf Conservation and Management Planning Document; and (2) that an environmental review process was set to begin. Many more announcements were sent via E-mail, while other citizens were alerted through FWP news releases and by visiting FWP's website www.fwp.state.mt.us.

Using this document as a basis for discussion, FWP opened the "scoping" comment period for its wolf management EIS on Feb. 25, 2002 by asking the public to identify issues and concerns about a state-sponsored wolf management program. The public was invited to provide oral comments to FWP directly at a series of community work sessions held throughout the state in March-April 2002. In addition, FWP invited the public to submit comments in writing or electronically.

Media coverage of the community work sessions, and the public's other opportunities to comment, was extensive. More than 800 people participated by attending a work session, and thousands wrote comments or sent emails, representing nearly every Montana county. In addition, comments came from 49 states, including the District of Columbia and Puerto Rico; and eight foreign countries, including Australia, Canada, Denmark, Germany, Israel, Mexico and the United Kingdom. Although MEPA requires at least 30 days for an EIS "scoping" period, FWP designed a 60-day process to ensure that the public had adequate time to consider this important issue. The first public comment phase of Montana's process to

develop and adopt a wolf management plan closed April 30, 2002. In all, FWP collected nearly 4,000 comments and written correspondences. Because many of the written letters and E-mails identified more than one issue or concern, FWP recorded nearly 6,700 individual statements.

Because wolf recovery and the potential for the state to regain management authority are issues of such great significance to Montana, Governor Martz reappointed the original Wolf Management Advisory Council in January 2003. Its charge is to assist FWP through the final stages of state planning efforts and completion of this EIS. The Council and the FWP Commission reviewed a summary of the public comments gathered during the 2002 scoping effort and the subsequent Draft EIS prepared by FWP in response. In it, FWP analyzed five alternatives that reflected the spectrum of comments. One of the alternatives was largely based on the work of the Wolf Management Advisory Council, and FWP identified it as the preferred alternative. Postcards were again mailed to announce the availability of the Draft EIS. FWP released the Draft EIS to the public and also made it available on the FWP website in mid-March 2003.

FWP designed another 60-day comment period to accept comments on the Draft EIS, running from March 12 through May 12, 2003. FWP hosted 14 Community Work Sessions across Montana to accept oral comments (same locations as 2002 plus two new locations), the last of which was May 1. FWP also provided opportunities for the public to comment electronically via the FWP website, in addition to written letters via postal mail or fax. During this comment period, FWP asked the public to provide more specific feedback by identifying which alternative/s best addressed their concerns about the future of wolf conservation and management in Montana and why. FWP also asked the public to identify what, if anything, they would modify about the alternative so that it better addressed their concerns. FWP prepared these questions on pre-printed post cards and had them available at all the community work sessions, in addition to all FWP Regional Headquarters offices. The FWP website also offered an identical format with the same two questions. The public was not required to answer the questions literally, but could provide any comment as desired.

About 500 people attended the community work sessions in 2003. Work session participants were able to learn more about the issues and alternatives during an open house immediately prior to the comment session and during opening remarks by FWP in which the alternatives were described and attendees could follow along and take notes on a handout. A total of 1,595 comments were recorded during the 2003 work sessions. Because of the high volume of emails received during the 2002 scoping comment period, FWP contracted with an independent provider for the receipt and data storage of all emails received through the FWP website. The raw data file was transferred to FWP for all processing at the close of the comment period. FWP received about 5,500 comments on the Draft EIS.

No significant new issues or omissions were identified during the second public comment period. Therefore, no new alternatives were created and analyzed in the final EIS. FWP presents the Updated Council Alternative as its preferred alternative in the final EIS. The final EIS (FEIS) includes a summary of the major conclusions and supporting information from the draft EIS and the agency's responses to substantive public comments received on the draft. The final EIS also discloses the agency's recommendation, or proposed decision, with an explanation of the reasons. FWP will also prepare a Record of Decision (ROD), sometimes called a decision document, which is a concise public notice that announces the decision, explains the reasons for the decision, and explains any special conditions surrounding the decision or its implementation. The ROD could be a separate document from the final EIS. Ultimately, the ROD and the final EIS will comprise Montana's official plan to manage a fully recovered endangered species – a plan that was largely crafted by the public.

Issues and Alternatives Identified through Public Involvement and Evaluated in the Draft and Final EIS

The Montana Wolf Management Advisory Council identified roughly 30 issues during its deliberations in 2000. During the 2002 scoping process, FWP asked Montanans to identify issues in a similar manner. Comments received during the public scoping period (community work sessions, written letters and postcards, and E-mail correspondence) were entered into a computer database for systematic analysis. There was a significant degree of overlap between the council's list and the list of issues generated by the public. In fact, many public comments supported the work of the council and agreed with its recommendations.

Through the analysis, broad themes emerged. They encompassed issues, questions, and concerns about wolf management, wolf numbers, wolf distribution, state and federal administration, predator and prey relationships, program funding and various considerations for human health and safety, livestock, wildlife habitat, land management, and more. With a full spectrum of comments associated with each issue, FWP often received conflicting public comments. For instance, some comments directly opposed one another and are thus irreconcilable. Nonetheless, opposing points of view are incorporated into the alternatives analyzed. The fundamental issues of wolf conservation and management, associated social factors, state and federal administrative responsibilities, prey populations and their management, and concerns about livestock and compensation for wolf-caused losses were significant enough to drive the creation of specific alternatives. The lack of strongly conflicting public comments on issues like human safety, the need for information outreach and education, or wolf population monitoring for example, allowed FWP to address several issues in different ways within the spectrum of alternatives created based on the major issues.

The intent of a scoping period is for the agency to gather information from the public. Thus, the community work sessions were not designed to answer questions or to provide specific information on what would be in Montana's plan. Nonetheless, many questions emerged which can also be a measure of public concerns and issues. A separate summary, which FWP will use to address specific needs and target future public outreach efforts, captures the questions raised during the scoping period. While some questions can be answered directly, others are rhetorical, beyond the scope of the EIS, or beyond the jurisdiction of FWP. Many questions, however, can only be answered through the development of this EIS and the final decision.

Similar themes emerged during the 2003 comment period on the Draft EIS as during the 2002 scoping comment period. Because FWP asked for feedback specifically about the alternatives, comments were more complicated and detailed. In addition, comments often referenced more than one alternative and many different issues. However, many comments were general and did not specifically mention any alternative. Therefore, FWP analyzed the 2003 comments in the same general issue categories as the 2002 comments. FWP also analyzed the 2003 comments specifically mentioning an alternative within their own respective categories.

The following is a comprehensive list of alternatives and issues addressed in the draft and final EIS. See Table 1.

Alternative 1, No Action. This alternative is the most conservative and "protectionist" of the alternatives. Most comments indicate that it is premature to delist wolves and that there still aren't enough wolves in enough places – or that USFWS isn't done recovering wolves. Many reference an unfavorable political climate in Montana. Furthermore, many comments indicate a lack of trust in FWP management or confidence in FWP's experience or ability to manage wolves. A smaller number of

comments support this alternative because it “saddles” the USFWS with the “burden” of managing wolves over the long term. There are also comments that indicate a lack of support for this alternative. These comments do not want USFWS involved with wolf recovery and management in Montana any longer and would prefer FWP authority. Some indicate that wolves are recovered and that it is time delist the species.

Alternative 2, Updated Council. This alternative, which is largely based on the work of the Advisory Council, is FWP’s preferred alternative. It generated the greatest number of comments of all the alternatives. Overall this alternative is supported across a diversity of interests and geography in Montana. Many perceive it as balanced and fair. Many comments indicate a preference for a different alternative, but do express a willingness to accept this alternative. Many comments state that this alternative should be modified. Increasing the number of breeding pairs, establishing a “zone”, or securing 100% federal funding are mentioned most frequently. Other comments suggesting modification address specific management tools within the alternative. Some comments oppose this alternative and mention support for one of the others either because of the difference in management program or because they do not support FWP assuming management responsibility.

Alternative 3, Additional Wolf. This alternative is similar to the Alternative 2, the Updated Council Alternative except the breeding pair trigger increases from 15 to 20, and no compensation program would be created through FWP’s leadership. Some comments support the higher number of breeding pairs while other comments oppose the higher number. Closely related comments would support implementation of Alternative 2 but with an increased number of breeding pairs. Some comments also encourage modification to include a compensation program. Other comments suggest changing specific management tools.

Alternative 4, Minimum Wolf. This alternative would “cap” wolf numbers and “zone” wolf distribution through aggressive management to prevent wolf colonization east of the Rocky Mountain Front. Some comments support this alternative while others opposed it. Many comments support the significant federal funding component. Suggested modifications include increasing the number of wolves, incorporating an adaptive framework, and adding a compensation program.

Alternative 5, Contingency. This alternative calls for FWP to begin managing wolves through an agreement with USFWS prior to USFWS completing the delisting process. FWP developed and analyzed the impacts of this alternative because it received many comments expressing concerns about delays. Many comments specific to this alternative support some type of FWP involvement prior to delisting, although they are relatively few in number compared to the other alternatives. Many comments mentioning Alternative 2 also mentioned this alternative. Some comments specifically state an opposition to FWP involvement under this alternative because of a lack of trust in state elected, appointed, or agency officials. These comments overlap with comments on Alternative 1 (No Action). Still other comments oppose this alternative because it may inadvertently decrease the incentive for USFWS to achieve full delisting and transfer authority to Montana or because FWP would still be constrained by federal rules. Potential modifications to Alternative 5 are similar to suggested changes for Alternative 2.

NONE of the Alternatives. Some comments indicate a lack of support for any of the alternatives. Such comments are generally followed by a preference for a management approach that is outside the sideboards of the federal recovery criteria (declaring wolf as predator, starting a bounty system, or “no wolf”). Some comments indicate support for the “Wyoming” approach of dual legal classification. Other comments state a preference for USFWS to take a more conservative approach to the existing federal program. A few comments suggest a customized collection of management tools or approaches that combine elements of several alternatives.

Wolf Management, Numbers, Distribution, and Conservation Strategies. These public comments describe many different philosophies, tools, and strategies for how wolves could be managed; comments also address how many wolves would be in the Montana population and where they will be distributed. Wolves were managed as a bounty animal up until about 70 years ago when they were thought to be extinct in Montana. Wolves in Montana became protected as an endangered species in the early 1970s.

Social Factors: These comments reflect the differing philosophical, value-based opinions, and the human dimensions surrounding wolves, wolf management, prey populations, etc. The social, cultural, and aesthetic values people assign to the gray wolf today grow out of a long, colorful history of interactions between wolves and people. Public opinions about wolves vary greatly. A successful conservation and management program for wolves ultimately depends on people and their attitudes. The social factors that shape public interest in or tolerance for wolf presence and how conflicts are resolved are equally important components of any wolf management program.

Administration and Delisting. These comments address state and federal responsibilities, the current legal status of wolves, their recovery, the federal and state delisting processes and the progress of planning efforts in Idaho and Wyoming. While the restoration of wolves in Montana occurred through the combination of natural wolf recolonization and reintroduction, the population in the tri-state area has attained the biological benchmarks of species recovery. The question at hand is how a recovered wolf population will be managed and by what agency or jurisdiction. Many comments also identified concerns about potential delays in delisting due the lack of adequate regulatory mechanisms and/or management plans in Idaho or Wyoming or litigation, which would delay or block transfer of management authority to Montana.

Prey Populations. These comments address wolf-prey interactions, potential impacts of wolf predation on Montana big game populations, how wolves and ungulates will be managed, how other predators and other wildlife will be managed, and Montana's hunting heritage. Because of their long-term financial investments and willingness to restrict themselves when necessary, Montanans enjoy relatively liberal hunting seasons for more ungulate species than other western states. The financial investments and sacrifices made by the hunting public to restore ungulate populations are significant.

Funding. These comments address wolf management costs, sources of funding, and the reliability of funding in the future. FWP has actively restored, perpetuated, and managed the fish and wildlife resources of the state using the fees generated through the sale of hunting and fishing licenses and matching federal monies. As there was disagreement about the recovery of the gray wolf, a long-absent native species, there are also different opinions about how future wolf conservation and management activities should be funded.

Livestock. These comments address Montana's livestock industry, its importance and responsibilities, and what actions government officials and private citizens would take when wolves kill livestock. Wolves can cause problems for some livestock producers. Financial losses may result directly from wolf depredation. Indirect costs may accumulate because of increased management activities, changes in husbandry practices, or unconfirmed losses. These financial hardships accrue to individual farmers and ranchers and may be significant to them.

Wolf Habitat, Habitat Connectivity, and Land Management. These comments address the need for wolves to move freely through Montana, within the tri-state area, and across the international border and question how and where this will be accomplished. During the recovery phase, connectivity of the wolf population in the northern Rockies with the Canadian population was assured through federal legal protections, adequate prey populations, and the network of public lands--all of which facilitate dispersal and maintenance of genetic viability, an important underpinning of recovery and long-term security of a

recovered population. Montana is an important link between Yellowstone, Idaho, and Canadian sub-populations. Interagency coordination and monitoring programs must assure that regional connectivity is maintained through adequate dispersal. Comments also address whether or not there is a need for motorized travel restrictions or localized area closures where wolf packs establish den or rendezvous sites.

Compensation. These comments address payments to livestock producers and others who experience wolf depredation losses; comments also address the source and reliability of the funding and how a compensation program would be administered. Wolf population recovery has and will continue to result in the loss of personal property or income to some individuals due to wolf activity and depredation.

Economics/Livelihoods. These comments address the economic costs and benefits of having wolves in Montana, livelihoods, ecotourism, and fiscal impacts to FWP.

Information, Education, and Public Outreach. These comments address the need for FWP to develop information and education techniques and programs to keep Montanans informed about wolf conservation, wolf management, and human safety. Comments also address the need for technical assistance for landowners and other rural residents. The long-term status of gray wolf populations will be determined by human attitudes toward wolves.

Human Safety. These comments identify Montanans' concerns about the safety of their children, pets, and their livestock in the presence of a recovered wolf population. Generally, wolves fear people and do not pose a significant threat to human safety. However, individual wolves may gradually lose their fear of people and begin associating or interacting with people and/or loitering near buildings, livestock, or domestic dogs. While this behavior is unusual for a wild wolf, it is more typical of a released captive wolf or wolf-dog hybrid. Habituation of wild wolves has been identified as a contributing factor in aggressive wolf-human encounters (McNay 2002b).

Monitoring. These comments address how and at what intensity wildlife managers will monitor wolf populations, pack sizes, pack locations, locations of individual wolves, and the status of prey populations. During the first five years after delisting, FWP must document that the Montana sub-population of wolves is secure and that the combined total of wolves in Montana, Idaho, and Wyoming exceeds the delisting threshold.

Other Wildlife. These comments address wolf interactions with other, non-ungulate wildlife species (e.g. ESA-listed species, other carnivores). Wolves could function as "keystone species" which exist at relatively low abundance, whose effect on the ecosystem is relatively large and involves multiple trophic levels (Power et al. 1996, Estes 1996). A wide variety of scavengers and other carnivores benefit from the year-round availability of carrion. Wolves may directly or indirectly compete for food with other carnivores by selecting similar prey or by usurping kills (Kunkel et al. 1999). Some non-ungulate species, such as the beaver, are also prey items for the gray wolf in Montana.

Private Property. These comments address "private property rights", referring to wolf presence on private property, protection of private property, etc. Some comments assert a landowner's "right" to allow wolves on his or her property, while others assert a landowner's "right" to control or manage wolves on his or her property. While wildlife are publicly owned resources and managed in trust for this and future generations of Montanans, perpetuation of Montana's wildlife also depends on the habitats found on private lands.

Hybrids. These comments identify a concern about whether captive wolves or wolf-dog hybrids jeopardize human safety if they are released or escape from their owners, erode public tolerance for wild

wolves if someone has an encounter with an escapee, whether hybrids or captive wolves pose a risk to a recovered wolf population, and whether stricter laws need to be passed to further regulate or ban ownership. Wolf-dog hybrids have been responsible for human attacks, maulings, dismemberments, and deaths.

Wildlife Management Areas. These comments address wolf presence on FWP Wildlife Management Areas (WMAs). FWP manages a network of WMAs across the state to benefit wildlife, particularly wintering ungulates in western Montana. These purchases were made with revenues generated through sales of hunting and fishing licenses and matching federal funds. They are also used for outdoor recreational pursuits other than hunting, such as bird watching, wildlife viewing, fishing, or camping.

Table 1. The main issues identified through two public comment opportunities (scoping in 2002 and the Draft EIS in 2003) and their frequency.

Main Issues	Number of Comments 2002	Number of Comments 2003
Alternative 1 (No Action)		103
Alternative 2 (Updated Council)		408
Alternative 3 (Additional Wolf)		171
Alternative 4 (Minimum Wolf)		227
Alternative 5 (Contingency)		82
None of the Alternatives		112
Wolf Management, Numbers, and Distribution	1203, 611, & 193 respectively; 2,011 total	864, 512, & 178 respectively; 1,554 total
Social Factors	803	431
Administration and Delisting	623	456
Prey Populations	501	307
Funding	447	431
Livestock	414	308
Wolf Habitat, Connectivity, and Land Management	388	60
Questions	368	
Compensation	287	345
Economics / Livelihoods	227	167
Information / Education and Public Outreach	208	57
Human Safety	162	43
Monitoring	151	122
Other Wildlife Species	80	22
Private Property	77	14
Hybrids	22	6
Wildlife Management Areas	13	2

Issues not Evaluated in the Final EIS

FWP received a number of comments both in 2002 and 2003 identifying issues or concerns that are beyond the sideboards of the federal wolf recovery program, beyond the statutory authority of the State of Montana, not relevant to the decisions being made, or otherwise outside the scope of the proposed action. These issues, and the rationale for their exclusion, are described below.

1. *Comments about the federal effort to reintroduce wolves into Yellowstone National Park and central Idaho.*

Some comments questioned the wisdom, legality, or methods by which wolves were reintroduced to these areas. This was a federal effort directed and funded by the U.S. Congress to hasten the overall pace of wolf recovery in the northern Rockies under the Northern Rocky Mountain Wolf Recovery Plan. Federal actions were ultimately carried out and found to be legal and in compliance with the authority and scope of USFWS and ESA provisions. All legal challenges have been exhausted. Because wolves will remain in the Greater Yellowstone and central Idaho recovery areas, these comments were not analyzed further.

2. *Comments calling for the removal of all wolves from the State of Montana, Yellowstone National Park, and central Idaho. Related comments suggested that wolves should not be permitted to enter Montana from Yellowstone National Park.*

These issues were not considered further because they are outside the sideboards established by the Northern Rocky Mountain Wolf Recovery Plan, which calls for a viable, secure wolf population in the northern Rockies, encompassing the states of Montana, Idaho, and Wyoming. This EIS addresses future conservation management of a recovered population, not whether wolf recovery and/or wolf presence should be allowed in Montana or not. Wolves have been reported intermittently in Montana for a long time and have been continuously present in northwestern Montana since the early 1980s.

3. *Comments suggesting that the gray wolf should be classified as a “predator” under Montana law and managed as a bounty-animal.*

This issue was not analyzed further because the “predator” classification under Montana law does not meet the standard of an adequate regulatory mechanism that ensures a viable, secure wolf population in the future. Wolves would not be delisted if assigned this legal classification under Montana statute. Furthermore, the 2001 Montana Legislature determined that upon removal from federal and state endangered species lists, wolves would be classified as a species “in need of management” in Montana statute. The FWP Commission could reclassify the gray wolf as a game animal or furbearer in the future when legal harvest, as a management tool, is determined to be biologically sustainable.

4. *Comments suggesting changes in state or federal highway design and construction, changes to federal land management practices, grazing management, travel management strategies, road densities, area closures, use of motorized vehicles, creation of more wilderness areas, etc.*

These issues were not analyzed in significant detail because FWP does not have statutory authority over federal land management practices, decisions, or policies. However, FWP already does engage federal land managers during informal consultations to meet shared management objectives and assure habitat integrity for wildlife. Biologists with the Montana Department of Transportation are involved with minimizing impacts to the environment through the design, permitting, and wetland mitigation efforts for highways in Montana. Because habitat fragmentation, particularly for wide-

ranging carnivores, is an important issue across a bigger geographic scale, the USFS appointed a national coordinator for wildlife/transportation issues who is located at the USFS Regional Office in Missoula. FWP personnel participate at the technical level, but FWP is not the lead agency for these efforts.

5. *Comments suggesting that delisting the gray wolf in the northern Rockies is premature because the population had not reached the biological recovery criteria. Related comments indicated that the wolf population would continue to warrant the protections of ESA even after reaching the biological recovery goals because of concerns about how western states would manage the population.*

The decision to delist the gray wolf in the northern Rockies rests with USFWS, under the authority granted by the U.S. Congress. USFWS will also determine the adequacy of the regulatory mechanisms and the conservation plans of Montana, Idaho, and Wyoming to assure that the gray wolf would not need to be relisted in the future. These decisions are not within the statutory authority of the State of Montana. Nonetheless, this EIS will outline the philosophies, management strategies and tools by which Montana proposes to manage a delisted wolf population and maintain its contribution to the northern Rockies population. Upon completion of state planning efforts, USFWS will seek independent scientific peer review to determine the adequacy of the state plans to maintain the recovered population.

6. *Comments addressing the USFWS proposal to reclassify the gray wolf and adopt new regulations, as published in the Federal Register July 2000 or the 2003 final decision by USFWS to create a Western Distinct Population Segment, downlist the Northwestern Montana Recovery Area from endangered to threatened, and adopt new regulations for wolf management in northwest Montana.*

USFWS is the agency responsible for determining the classification of species protected by the federal ESA. The reclassification proposal published in the Federal Register in July 2000 and the April 2003 decision pertain to the classification of the gray wolf while the species is still listed and recovery efforts are ongoing. The proposal and final decision are not directly relevant to the future conservation and management of a recovered, delisted wolf population in Montana.

7. *Comments addressing ESA, the need to modify it, or the scope of federal authority to recover species; other comments questioned why there was not a public "vote" about recovering wolves in Montana.*

USFWS is responsible for planning and implementing recovery of rare and imperiled species, with cooperative participation by the state wildlife agencies. Actual species recovery proceeds according to provisions of ESA as they are implemented by USFWS and by species recovery plans, not by popular vote. USFWS is legally required to provide opportunities for public comment on its proposed actions and welcomes that public participation. Amending ESA is beyond the scope of this EIS.

8. *Comments suggesting that the real issue was "people management." Wolves should be allowed to increase in number and distribution and that human presence or uses of the landscape should be subordinated to wolf use.*

This issue was not considered in further detail because FWP recognizes people as an important part of the wolf conservation equation. FWP seeks to integrate a wolf conservation and management program within an existing complex environment of people, other wildlife, landownership patterns, land uses, etc. -- thereby balancing the needs of wolves and people.

9. *Comments concerning commercial outfitting on federal public lands and the difficulty in changing “use days” or the areas where an outfitter is allowed to go, as wolves become established in new areas.*

The regulation of commercial uses of federal public lands is carried out by the respective federal land management agency. FWP does not have any statutory authority in these matters. FWP provides opportunities and welcomes input from outfitters, federal land managers, and the general public on hunting season regulations and other programs related to big game management and ungulate population abundance.

10. *Comments expressing concern about the potential for legal challenges to either state or federal actions related to the delisting of the gray wolf in the northern Rockies or the implementation of Montana’s program.*

Interstate coordination is ongoing among Montana, Idaho, and Wyoming officials, with the common goal of a timely, efficient, and successful delisting of the gray wolf in the northern Rockies. In an advisory capacity, USFWS works closely with the states to ensure that each state meets the legal and scientific standards to ensure a smooth and timely transition. FWP is aware of the potential for legal challenges to either the federal proposal to delist, the preparation or adequacy of this EIS under Montana law, implementation of Montana’s program or even specific elements of the program. The risk of potential litigation does not outweigh the benefits and responsibility of preparing to assume management authority upon delisting. This EIS is a necessary step to regain management authority, regardless of the potential for litigation in the future.

FWP’s Recommendation, Summary of Major Conclusions, and Supporting Information

Even though MEPA provides state agencies the latitude to adopt a draft EIS as the final EIS, FWP decided against it. Because of the complexity, scope and degree of controversy surrounding wolf restoration and management, FWP wanted to take the time for one last thorough evaluation of the preferred alternative, a final review of all the public comments, and to reconsider the substantive issues. In preparing this Final EIS, FWP still adopts by reference the Draft EIS and all the supporting information contained in the Draft EIS. However, FWP is also updating the Final EIS with new information obtained since circulation of the draft and explaining why it recommends the preferred alternative.

FWP’s Recommendation

Through the work of the Montana Wolf Management Advisory Council, and subsequent public comment opportunities, many issues were identified, including: wolf management, wolf numbers, wolf distribution, social factors, administration and delisting, prey populations, funding, livestock wolf habitat, compensation for livestock losses, economics and livelihood considerations, public outreach, human safety, wolf monitoring, and others. FWP prepared and analyzed the potential impacts of five different alternatives, including the preferred alternative. Based on the work of the council, the public comments, and the impacts analysis, FWP concludes that the preferred alternative is the best option to meet Montana’s legal requirement to maintain a recovered wolf population, assure that the ecological needs of wolves are met, to resolve conflicts swiftly and effectively, and to address public concerns. This alternative is the best overall approach to balance the benefits of wolf restoration with the costs and to minimize the impacts on those most directly affected by wolves.

FWP has made slight modifications to the preferred alternative in the Final EIS. These changes either correct an error in the Draft EIS, clarify a point of confusion, or provide additional detail and discussion in response to public comment on the Draft EIS. One exception is that FWP has updated the budget for the preferred alternative presented in Chapter 4 of the Final EIS. While some new information has become available and is discussed below, FWP did not make any substantive changes in the preferred alternative in the Final EIS.

Summary of the Major Conclusions and Supporting Information from the Draft EIS

In selecting the preferred alternative, FWP concluded that it should accept management responsibility for wolves upon delisting and conserve and manage wolves in such a way as to maintain a recovered population that will not require subsequent emergency relisting under ESA. A wide spectrum of the public appears to agree with that conclusion and supports the Updated Council Alternative. FWP concludes that an adaptive management approach based on 15 breeding pairs will provide a spectrum of management tools -- from simple harassment techniques to chase wolves away to lethal control measures such as offering kill permits to landowners to remove problem wolves and regulated hunting or trapping -- will sustain the wolf population and allow wolves to find their place on the landscape. Additionally, the adaptive framework will provide FWP with the flexibility to adjust management to wolf numbers, wolf distribution, public acceptance, prevailing landownership patterns, land uses, prey populations, and other considerations. The public outreach effort will be a critical aspect of the program. FWP will need to coordinate management and monitoring activities with other jurisdictions (e.g. states, government agencies, universities, Indian tribes, etc.) Also, FWP will need to acquire supplemental funding to implement the program.

FWP's conclusions are supported by announcements from the USFWS that the wolf population has achieved biological recovery and is ready to be delisted. The population in the northern Rockies, and Montana specifically, has increased in number and distribution since the reintroduction efforts. In preparing the preferred alternative, FWP consulted with wolf experts and those currently managing wolves in the northern Rockies, reviewed the management programs developed by other states and the published literature, and sought guidance from the Wolf Management Advisory Council and the general public.

New Information Obtained since Circulation of the Draft EIS

Since FWP released the Draft EIS, USFWS reclassified the gray wolf from "endangered" to "threatened" in the Northwest Montana Recovery Area. The "experimental, non-essential" designation in the rest of Montana did not change. The downlisting was accompanied by a new set of rules and guidelines for USFWS to use in resolving conflicts. It provides greater management flexibility for agencies and private landowners to resolve conflicts on private land and offers agencies additional tools to help address wolf-livestock conflicts on public lands. This change in legal classification under ESA does not have any relevance to the preferred alternative that outlines state management of a completely delisted population. The change, however, does have relevance to the Contingency Alternative which would have FWP manage wolves as "threatened" in the Northwest Montana Federal Recovery Area and "experimental, non-essential" throughout the rest of Montana under these newly adopted federal rules. At the same time as the reclassification final rule, USFWS established the Western Distinct Population Segment which encompasses the states of California, Idaho, Montana, Nevada, Oregon, Washington, Wyoming, a portion

of Utah, and a portion of Colorado. The reclassification to threatened applies to wolves found throughout the Western Distinct Population Segment that are not encompassed already in the experimental areas of the Greater Yellowstone and central Idaho experimental recovery areas. Lastly, USFWS also announced its intention to conduct rulemaking to remove the entire Western Distinct Population Segment from protection of ESA. This notice also included the experimental, non-essential populations in the Greater Yellowstone and central Idaho recovery areas which would delist at the same time as the entire Western Distinct Population Segment. This is the first administrative step in the delisting process, signaling USFWS's intent to move forward with delisting as soon as state plans and regulatory mechanisms are finalized by Montana, Idaho, and Wyoming. The reader is referred to USFWS (2003a and 2003b) for additional information on these federal actions.

The 2003 Montana Legislature passed several new statutes that have potential relevance to wolf conservation and management in Montana leading up to and upon delisting.

- House Bill 283 directs the Montana attorney general to analyze the state's options related to delisting and, in cooperation with FWP, to prepare a proactive legal opinion for possible litigation scenarios regarding recovery of damages and costs incurred by the State of Montana that are associated with wolf reintroduction. The Attorney General's Office and FWP have discussed the legislation.
- House Bill 306 is an act submitting to the electors of Montana, at the November 2004 election, an amendment to the Montana Constitution recognizing and preserving the heritage of Montana citizen's opportunity to harvest wild fish and wild game animals. FWP does not foresee any conflict if the electorate passes this proposed Constitutional amendment. In fact, if it does pass, and if Montana's wolf population increased to the point where population regulation through hunting and trapping became appropriate, these activities would be incorporated into that heritage as well.
- Senate Bill 209 requires FWP to publish an annual game count, estimating to the department's best ability the numbers of each species of game animal in the hunting districts and administrative regions of the state. Under the preferred alternative, FWP proposes to have an active public outreach component in the overall management program, including annual reports, making information available through FWP's website, giving presentations to interested groups, and providing information in a variety of other ways.
- House Bill 262 describes legislative intent concerning FWP management of large predators. FWP and the FWP Commission must interpret HB262 within the context of other specific legal obligations and statutes that FWP must comply with, including the conservation and management of wildlife in such a manner that prevents the need for listing (MCA 87-1-201, MCA 87-5-107). State law also guides the FWP Commission (MCA 87-1-301). FWP believes that once it has met its legal requirements to maintain the recovered population and the population is secure, then it and the FWP Commission will be able to exercise some discretion while implementing wolf management through the adaptive framework of the preferred alternative. FWP does not believe the preferred alternative conflicts with HB262 because the preferred alternative describes a proactive approach to integrating the management of predator and prey populations to maintain traditional hunting heritage and wildlife viewing in Montana. The preferred alternative also contains specific provisions for agency personnel and private citizens to protect themselves if threatened and their domestic dogs if attacked and for citizens to protect their private property if a wolf is attacking, killing, or threatening to kill livestock, according to legislation (SB163) already passed by the 2001 Montana Legislature. These three primary goals identified in HB262 are also

guiding principles underlying the preferred alternative which can be traced back to the work of the Montana Wolf Management Advisory Council and their *Report to the Governor* submitted in December 2000.

- House Joint Resolution 32 is a non-binding joint resolution requesting that the Governor, the Montana Congressional Delegation, and the US Secretary of the Interior seek the immediate delisting of the gray wolf. USFWS, the Governor, and FWP all agree that the gray wolf population in the northern Rockies has recovered and can be delisted. HJ32 urges the Governor and FWP to seek federal funding for wolf management. The federal government has provided funding through the State Wildlife Grants program and through USFWS to help Montana prepare for wolf management. The Governor and FWP continue to work with officials in Idaho and Wyoming and the tri-state Congressional delegation to secure adequate, long-term funding. HJ32 also urged FWP to adopt a certain definition of “breeding pair” that, in part, would have FWP determine whether or not a pack counts as a breeding pair when pups are six months of age. The definition suggested by HJ32 in one respect is more conservative than the federal recovery definition, which when implemented, has allowed for the replacement of alpha animals if one of the biological parents of the litter is killed and another adult (male or female, respectively) is present or joins the pack and the pack is capable of breeding the following year. USFWS has documented this and counted the pack as a successful breeding pair. In addition, it is difficult to count and classify wolves without adequate snow cover using either aerial or ground tracking methods. FWP’s preferred alternative outlines a definition that is consistent with the federal recovery definition. ESA requires USFWS to oversee state management for at least five years to assure that the wolf population does not decrease to the point of requiring ESA protection once again. FWP and the Wolf Council believe that monitoring and counting breeding pairs according to the federal definition will be useful for data comparisons and important to document. HJ32 also called for the federal government to abandon authority over wolves in Montana upon delisting. Indeed, upon delisting the authority and responsibility for wolf management falls upon the State of Montana and FWP. USFWS will maintain some oversight, primarily through interagency administrative coordination, as required by ESA, for at least five years. Even during that oversight period, state laws guide state officials. Lastly HJ32 urges the Montana Attorney General to join into any lawsuit filed in opposition to federal delisting. While this direction pertains to the Attorney General’s Office more directly than FWP, FWP is already working with other western state fish and wildlife agencies and other states’ legal councils in anticipation of litigation.

FWP believes the preferred alternative provides the context to properly address these recent legislative actions and all other state laws and administrative rules. The direction established by the preferred alternative is the most consistent of all the alternatives. In it, FWP will meet its legal requirements to maintain a secure, recovered population, comply with state laws and Commission policy, integrate the wolf within Montana’s wildlife heritage, while at the same addressing the potential negative impacts to those most directly affected by wolves.