



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



In Reply Refer To:  
FWS/R2/AES/034633

FEB 22 2008

Michael J. Robinson  
Center for Biological Diversity  
P.O. Box 53116  
Pinos Alto, New Mexico 88053

Dear Mr. Robinson:

Thank you for your letter of January 3, 2008, to Secretary of the Interior Dirk Kempthorne, regarding the *High Country News* article about the protected Mexican gray wolf in New Mexico and Arizona and alleged baiting. The rule that established the Mexican wolf program prohibits purposefully attracting a wolf. Secretary Kempthorne has asked the U.S. Fish and Wildlife Service (Service) to respond directly to you.

The Service is very concerned about these serious allegations and is committed to establishing the facts. Your letter requested that we undertake several actions and also asked for answers to several questions. Permit me to address the specific questions and then concentrate on the three requests.

*On what date was the Fish and Wildlife Service first made aware that Mr. Miller may have branded vulnerable cattle in close proximity to a wolf den with the intention of attracting wolves and inducing them to kill the cattle?*

Law enforcement (LE) agents were aware that cattle were being branded in a corral located a half mile from the Durango pack's den on June 22, 2007, but there were no rumors associated with the branding activity to suggest that alleged baiting might occur. The corral is located on private land and use of it for working cattle in this manner is consistent with annual ranch operations. Section (k)(6) of the Mexican gray wolf final rule (63FR1764) states, "No land use restrictions will be imposed on private lands for Mexican wolf recovery without the concurrence of the landowner." In the case of public lands, Section (k)(8) states, in part, "On public lands, the Service and cooperating agencies may temporarily restrict human access and 'disturbance-causing land use activities' within a 1-mile radius around release pens when wolves are in them, around active dens between March 1 and June 30, and around active wolf rendezvous sites between June 1 and September 30, as necessary." "Disturbance-causing land use activity" is defined under the rule (63FR1771) as "any land use activity that the Service determines could adversely affect reproductive success, natural behavior, or survival of Mexican wolves."



Specifically excluded from this definition is legally permitted livestock grazing and use of water sources by livestock; and any authorized, specific land use that was active and ongoing at the time wolves chose to locate a den or rendezvous site nearby.

*Did the government remove wolves from the wild on the basis of depredations on livestock owned by the Adobe/Slash Ranch subsequent to the Fish and Wildlife Service learning of the apparent June 2007 baiting incident?*

Yes. The Service first heard of the alleged baiting at the Adobe/Slash Ranch from John Dougherty, the *High Country News* reporter, during his first interview with the Mexican Wolf Recovery Coordinator on or about the evening of October 17, 2007. The reporter told the Recovery Coordinator that Mr. Miller from the Adobe/Slash Ranch had told him (or words to that effect) that the ranch had branded cows near the Durango Pack den site and had left a vulnerable cow and young calf in an area frequented by the Durango Pack in June 2007 for the purpose of provoking a third depredation incident on member(s) of the pack. The Recovery Coordinator passed this information on to a US Fish and Wildlife Service law enforcement agent per protocol.

The removal order for two members of the Aspen Pack (AM863, F1046) was issued on October 26, 2007, on the basis of two confirmed depredations on October 15 and 22, 2007. The depredated cattle were owned by the Adobe/Slash Ranch. These depredations brought the total number of confirmed depredations to four for both AM863 and F1046. AM863 was captured and removed to captivity on November 1, 2007. On November 28, 2007, a removal order for Aspen Pack AF667, and F1046 was issued. By this date, both AF667 and F1046 had eight confirmed depredation incidents. The last four incidents occurred on livestock owned by the Adobe/Slash Ranch and took place after the October 26, 2007, removal order was issued. AF667 and F1046 were captured and removed to captivity on December 4, 2007, along with three young-of-the-year Aspen pups (f1105, f1106, and f1108). The three pups are eligible for re-release.

*What steps if any did Fish and Wildlife Service take, and on what dates, to ensure that government telemetry equipment and codes are no longer made available to private citizens who may use them to illegally take wolves?*

A pre-programmed telemetry receiver is temporarily loaned to ranchers and residents experiencing demonstrated nuisance issues and/or depredations, per program policy. The telemetry is programmed to a particular wolf or wolves; the individual can not 'surf' channels to find out where other wolves are located. Individual collar frequencies are not intentionally shared with private citizens under any circumstances. Issuance of receivers/channels to private citizens is tightly controlled by project cooperators. No receivers have been taken away from a private individual(s) at this time based on allegations of misuse.

*Are government actions to remove wolves significantly suppressing the numbers of Mexican wolves in the wild?*

The wolf population numbers serve as a barometer. Important factors to consider are how packs are faring; if they are reproducing; if the young are surviving their first year; and what percentage of the population is wild-born. Population growth in Mexican wolves in the wild is affected by removals from the wild as a consequence of livestock depredations, moving outside the boundaries of the Blue Range Wolf Recovery Area, vehicle accidents, and illegal shootings.

*Is Standard Operating Procedure 13, which requires the removal of a Mexican wolf that has killed three or more head of livestock in a one-year period, encouraging the baiting of wolves in order to precipitate depredations and subsequent wolf removals?*

The Service is investigating the allegations brought forward in the *High Country News* article but has not completed the investigation so has no facts at this time which we may share with you in response to this question. Baiting for the described purpose is illegal under the Endangered Species Act and the 10(j) Final Rule governing this project. If an investigation were to produce supporting evidence, the Service LE would refer the matter to the U.S. Attorney's Office for prosecution.

Your request that the Department ask for an independent investigation by the Inspector General has been taken under advisement. As previously mentioned, a separate Service law enforcement investigation is underway.

Your third request asked for two actions:

1) *The Fish and Wildlife Service should retrieve all telemetry receivers from any and all persons affiliated with the livestock industry, county governments that have passed ordinances authorizing illegal take of wolves, and any other citizens not working affirmatively for the recovery of Mexican gray wolves. Furthermore, the wolves' radio collar frequencies should be assumed to be compromised and should either be changed or the collars removed to ensure that non-governmental equipment cannot be used to enable taking of the wolves.*

As explained above, private individuals with a loaner telemetry receiver are only given the channel of the radiocollared wolf or wolves in their immediate area that may be an issue. The individual does not know the collar frequencies because they are pre-programmed into the receivers and assigned a numbered channel. With these precautions, the Service doesn't believe that collar frequencies have been compromised. Absent any evidence to the contrary, the Service has no plans to recall telemetry receivers loaned to private citizens.

2) *All surviving members of the Saddle and Aspen packs whose genetic composition would enhance the wild population should be expeditiously released back into the wild, and any animals with unfavorable genetics should be replaced in the wild with genetically suitable surrogates.*

The Saddle and Aspen packs pups born this year remain eligible for release back into the wild so their genetics are available for the wild population. Timing and circumstances under which these animals will be released back into the wild is a function of the availability of suitable release sites and availability of genetically suitable animals with which to pair them.

Again, thank you for your interest and ongoing attention to endangered species recovery activities. The Service is committed to reintroducing the Mexican wolf back into its historic range. If you should have any questions, please contact Benjamin N. Tuggle, the Service's Southwest Regional Director at 505-248-6282 or Elizabeth Slown, the public affairs liaison for the wolf program, at 505-248-6909.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Stansell". The signature is written in a cursive, flowing style.

Deputy  
DIRECTOR