


# Restoration and Management Planning for Gray Wolves – Legal Issues



COLORADO PARKS AND WILDLIFE COMMISSION  
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- i. FEDERAL LISTING STATUS
  - ii. STATE LISTING STATUS
  - iii. LEGAL DUTIES IMPOSED ON THE COMMISSION BY PROP 114
  - iv. OTHER STEPS

# I. Federal Listing Status

- ▶ Background
- ▶ Jan 4 2021 Delisting
- ▶ Litigation – 2 notices of intent
- ▶ Possibility of re-listing
- ▶ Timing
- ▶ Consequences for Colorado if delisting is vacated

## II. State listing status

- ▶ State status independent of federal status
  - ▶ Article 2, Title 33: Nongame and Endangered Species Conservation Act
- ▶ Gray wolf is still endangered under state statute
  - ▶ Definition of endangered 33-1-102(12)
  - ▶ “prospects for survival or recruitment within this state are in jeopardy”

# State listing status, cont'd

- ▶ Take of listed species in Colorado is prohibited except
  - ▶ Commission may permit take for scientific and other special purposes
  - ▶ Division may permit take to protect human health or alleviate property damage
  - ▶ But only if Commission adopts regulations governing issuance of permits

# III. Legal Duties Under Prop 114

- ▶ Hold statewide hearings to acquire info to use in developing plan
- ▶ Develop plan to (1) restore and (2) manage wolves
  - ▶ Restoration must be designed to resolve conflicts with ranching/farming interests
- ▶ Comply with C.R.S. 33-2-105.7 reporting requirements
  - ▶ *Before* introduction submit report to General Assembly
  - ▶ Including whether introduction will impair existing uses of private land
- ▶ Take steps necessary to begin reintroductions of wolves by 12/31/23
- ▶ Oversee wolf restoration and management
  - ▶ Including distribution of state funds made available to address wolf-livestock conflicts
- ▶ Periodically obtain public input to update the plan

# Legal duties cont'd: The plan

## ▶ Must include

### ▶ Details for restoration including

- ▶ Selection of donor populations of wolves
- ▶ Place, manner, and schedule of reintroductions
- ▶ Actions necessary or beneficial for maintaining a self-sustaining population

### ▶ Details for management including distribution of state funds to compensate for livestock losses

## ▶ Must NOT

- ▶ Impose any restrictions on use of land, water or resources on private landowners

## IV. Other steps: Pre-listing 10(j)

- ▶ 10(j) is a population-specific federal rule under the federal ESA
  - ▶ 10(j) rules used for almost all wolf reintroductions in US
- ▶ “Pre-listing 10(j)” rule provides prospective flexibility to a currently unlisted population if species is later listed
- ▶ Limits imposition of land and resource use restrictions on private landowners
  - ▶ Consistent with requirement in 114
- ▶ Protects CPW management flexibility
  - ▶ Based on state’s management plan and drafted in partnership between CPW and US FWS
- ▶ Requires formal (federal) rulemaking and NEPA analysis
- ▶ Subject to litigation