

Testimony
on behalf of the

Public Lands Council



with regard to:

“Understanding the Consequences of Experimental Populations Under the Endangered Species Act”

submitted to the House of Representatives Natural Resources Committee
Subcommittee on Oversight and Investigations

Chairman Paul Gosar
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submitted by:

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House Natural Resources Subcommittee on Oversight and Investigations

Chairman Gosar, Ranking Member Dexter, and Members of the Subcommittee, thank you for the opportunity to provide testimony on "*Understanding the Consequences of Experimental Populations Under the Endangered Species Act (ESA)*". My name is Robbie LeValley, and I serve as Secretary of the Public Lands Council (PLC). Since 1968, PLC has been the only organization in Washington, D.C., dedicated solely to representing the unique perspectives of cattle and sheep producers who hold the 22,000 federal grazing permits. On behalf of those thousands of permittees and landowners across the West, I appreciate the opportunity to provide testimony to this Subcommittee.

I am a fourth-generation rancher from Hotchkiss, Colorado, where my family and I run a cow-calf operation. LeValley Ranch is located in West Central Colorado and is a multi-generational business that manages private and federal land. We hold federal grazing permits on Bureau of Land Management (BLM) and U.S. Forest Service (USFS) lands. We have a strong partnership culture and have worked cooperatively with the U.S. Fish and Wildlife Service (USFWS) for decades as our private and public lands provide the habitat for one of the satellite populations of the Threatened Gunnison Sage Grouse. LeValley Ranch and countless other permittees across the West provide key habitat for grouse and other species, and when necessary, have modified grazing management plans to supplement agency actions for the benefit of the grouse.

Through our family operation and in our leadership roles across the industry, my family has been involved for decades in conversations about a host of species, including predators like wolves. In November 2020, the state of Colorado passed Proposition 114, which became state statute 33-2-105.8. Despite robust concern from ranchers and rural communities alike. The initiative directed the Colorado Parks and Wildlife Commission (CPW) to develop a plan to introduce and manage gray wolves in Colorado west of the Continental Divide no later than December 31, 2023. In December 2023, CPW experts captured 10 gray wolves in Oregon. They released them onto public land in Summit and Grand counties with the goal of creating a permanent, self-sustaining wolf population in Colorado.

As part of this reintroduction process, CPW requested that the USFWS designate the population that would be reintroduced as an experimental nonessential population under section 10(j) of the ESA. The ESA prohibits the "take" of any listed species except as specifically allowed by the statute and accompanying regulations. By designating wolves in Colorado as a NEP with the 10(j), take of the species is authorized in a broader range of circumstances than otherwise allowed for an endangered species, including lethal take for depredating wolves. While the ballot initiative and subsequent introduction was not my preferred outcome, I appreciate the Colorado USFWS employees who diligently worked on the entire NEPA process to authorize the 10(j) designation.

Gray wolves in much of the United States are listed under the federal ESA as endangered and in most places, there are very limited tools for ranchers like me, and our state agencies, to take action when conflict arises between these apex predators and everything else in the ecosystem.

As a listed species under the ESA, primary management authority over gray wolves' rests with the FWS. FWS has delegated some of this authority to CPW to take the lead in carrying out the reintroduction in Colorado. This delegation, however, does not strip FWS of any of its authority to manage the species that it would otherwise have. Accordingly, under the current regulatory regime, it is *possible*, from a legal perspective, for FWS to assert its primary authority and impact wolf management. However, there is significant uncertainty regarding whether FWS would take meaningful action on wolf management. Although the agency has the legal authority to do so, even over the state's objections, FWS may not be willing or able to have that fight. There is also no telling how long such helpful intervention would last.

While this list is not exhaustive, it compiles some of the direct hardships that producers like me and many others face due to the federal wolf policy.

- 1) *Livestock Depredation* – Wolves kill or severely injure cattle and sheep, leading to direct economic losses. Even if ranchers are compensated for confirmed kills, verifying wolf predation can be difficult. Carcasses are often scavenged before documentation, and stress-induced injuries or weight loss—both of which negatively impact herd health—are not compensated. Ranchers bear the financial burden of these losses, often with little recourse. At the end of the year, two counties submitted a \$582,000 depredation compensation claim to CPW. If all claims are approved, this would deplete the state's compensation fund – and the state is preparing for a second round of introductions later this year. Costs and depredations will continue to grow exponentially.
- 2) *Stress and Herd Disruption* – The mere presence of wolves alters livestock behavior. Increased stress makes cattle skittish, leading to reduced weight gain, lower calving success, and, in severe cases, stress-induced abortion in pregnant cows. These biological responses directly impact the economic sustainability of ranching operations and highlight the unseen costs of predator management. A 2014 study in Montana found that for ranches that had experienced depredations by wolves, there was a statistically significant decrease in rate of gain: calves were approximately 22 pounds lighter¹ than calves from similar operations that did not experience depredation. This non-death loss can be the difference between a producer operating on a gain or a loss. Additional studies suggest that the financial impacts of indirect effects from wolves likely exceed direct losses², while producers are only compensated for direct losses of protected species.
- 3) *Impact on Rural Communities* – Ranching is the economic backbone of many rural communities. As wolf populations expand, ranchers face mounting losses that threaten the viability of family-run operations. The long-term sustainability of these rural economies depends on the ability of ranchers to operate without the constant risk of predation losses that federal regulations fail to address adequately. Additionally, managing NEPs imposes significant financial burdens on states, requiring resources for monitoring, mitigation, and

¹ Ramler, Joseph P., Mark Hebblewhite, Derek Kellenberg, and Carolyn Sime. 2014. "Crying Wolf? A Spatial Analysis of Wolf Location and Depredations on Calf Weight." *American Journal of Agricultural Economics* 96(3): 631–656. Available at: <https://doi.org/10.1093/ajae/aat100>.

² Steele, Jordan R., Benjamin S. Rashford, Thomas K. Foulke, John A. Tanaka, and David T. Taylor. 2013. "Wolf (*Canis lupis*) Predation Impacts on Livestock Production: Direct Effects, Indirect Effects, and Implications for Compensation Ratios." *Rangeland Ecology and Management* 66: 539–544. Available at: <https://bit.ly/46Afz7a>.

compensation programs. For example, Colorado's wolf reintroduction program has already led to millions in taxpayer-funded expenditures, like surveillance, management planning, and conflict resolution. While the voters who supported reintroduction of the species live primarily in eastern Colorado, those of us in the West bear the costs of introduction. These financial burdens extend beyond direct state funding—rural economies reliant on agriculture, outfitting, and tourism face increased losses and higher operational costs due to restrictions and predation impacts.

- 4) *Uncertainty in Future Management* – For too long, ranchers and many other industries have faced the pendulum swing of executive agency regulation. Federal wildlife policy has become unpredictable, where regulatory certainty is nonexistent. Under Section 10(j) of the ESA, the USFWS designated Colorado's reintroduced wolves as a nonessential experimental population, providing some management flexibility. However, this status is subject to change based on political shifts or legal challenges. Ranchers need regulatory certainty—not a revolving door of changing policies that disrupt our ability to plan for the future.

The presence of nonessential populations causes land and resource management to change. By introducing a new species, USFWS places regulatory burdens on the area that previously did not exist, changing the expectation for the landscape and multiple use. This often occurs with little regulatory certainty for longstanding economic and social uses of the landscape, including grazing, hunting, fishing, and wildlife tourism. Large predators introduced under 10(j) designations can reduce game populations or change their movement patterns, leading to lower hunting success and reduced revenue from hunting licenses—an essential funding source for state conservation programs. Additionally, federal land agencies must shift management priorities to accommodate predator populations, which can disrupt grazing allotments, restrict public access, and increase regulatory burdens on land users. These shifts often come without adequate stakeholder input, putting rural communities at a disadvantage when balancing conservation with economic stability.

Without a doubt, there are substantial unintended consequences and increased regulatory burdens as part of any ESA designation. Designations made under Section 10(j) are not immune from that regulatory burden, because of the transitory nature of the designation. In the best-case scenario, a successful 10(j) population will be expanded, and tools could be taken away to allow for the full weight of the ESA to be applied to “ramp up” the intensity of recovery efforts. In truth, this could happen whether a 10(j) shows promising improvement, or if the species struggles to take a foothold. In either case, the 10(j) is the foot in the door that allows the Service to introduce a new federal nexus and the accompanying regulatory burdens. While this approach makes sense on paper, this Committee is aware that ESA has a long, ineffective history that makes clear that a more stringent ESA classification does not make it more likely that the species will recover.

As a federal lands grazing permittee, navigating compliance with federal regulations and looking for opportunities to improve the landscape is part of my baseline mentality. The introduction of the gray wolf in Colorado presents a direct threat to operations already navigating complex regulatory regimes. While the tools provided under the 10(j) have provided some flexibility, many tools to protect our cattle, children, and families comes too little, too late. Despite all of this, we're still here. We're here because we take pride in our work on the landscape and the active management to ensure it stays healthy and resilient. We are always adapting to a changing

landscape, including a dynamic regulatory landscape. While we do what we can to continue to feed our nation, I offer some suggestions to members of this subcommittee regarding the Endangered Species Act.

Congress must take meaningful steps to modernize the ESA to ensure that conservation efforts do not come at the direct expense of those who work the land. The following policy solutions would help address the ongoing challenges ranchers face:

- 1) *Regulatory Certainty – Stop Moving the Goalpost:* The ESA was never intended to serve as a permanent regulatory tool—it was designed to recover species and then remove protections once recovery goals are met. While the 10(j) population in Colorado is a new population for the state, it will not be the tipping point for the lower 48's species' viability, yet populations across the country continue to be treated as though they will be the lynchpin that finally secures delisting. Congress must ensure that once a species has met recovery criteria, the Service takes action to delist the species in a timely and final manner.
- 2) *Support Science, not Litigation, in Decision-making:* The ESA must rely on transparent, peer-reviewed, and objective science in both listing and delisting decisions, and in decisions about critical habitat and recovery plans. Too often, species' recovery goals and listing status are based on outdated science, politically driven data selection, and poorly crafted court edicts that do not reflect the scientific reality. Congress should bolster provisions in the ESA to support USFWS's position in defending their listing, recovery, and delisting decisions from frivolous litigation.
- 3) *Local and State-Led Management:* States are best positioned to manage wildlife populations within their borders. States have robust state wildlife management plans, are responsible for managing all non-listed species within their borders and are best attuned to local dynamics. Federal oversight is simply unable to accurately account for regional ecological conditions, economic realities, and the direct needs of rural communities. Congress should bolster the requirements for USFWS to consult and work with states through the ESA process. This would move away from the Service's tendency to promote single-species management that compromises all other entities on the landscape and would make recovery and post-delisting processes more durable.
- 4) *Consider Economic Impacts in ESA Listings:* The ESA currently prohibits economic impacts from being considered in listing decisions. This is an outdated and impractical approach. Wildlife policy should not be formulated in a vacuum—it must account for the people and industries it affects. Or, as I would say, wildlife doesn't stop where the gate closes. The economic impact analysis should be considered before listing decisions are finalized. Rural communities should not bear the costs of species protection without a seat at the table.

- 5) *Incorporate Improved Management Tools for Ranchers and Rural Communities*: Many of the more controversial species this Committee considers are large predators that evoke widespread public engagement. When species pose a physical risk to their operations and families, the Service should ensure ranchers and landowners must have access to the full range of predator management tools, including:
- The ability to immediately remove wolves attacking livestock without excessive permitting hurdles.
 - Greater flexibility in deploying non-lethal deterrents such as guard animals, fencing, and the ability to repair infrastructure damaged by predators —without burdensome federal restrictions.
 - Address compensation programs so the impacts aside from depredation are considered and producers don't continue to carry the weight of these decisions.

The ESA must be reformed to reflect scientific integrity, regulatory certainty, and economic realities. Section 10(j) is a starting point and an area where we can begin to listen and learn from those on the ground who interact with these species routinely. Wolves have met recovery goals, yet their management remains dictated by political interests rather than biological science. Ranchers, who steward millions of acres of grazing land and contribute to conservation through active land management, are being sidelined in favor of a regulatory agenda that ignores the on-the-ground realities of predator coexistence.

Chairman Gosar, Ranking Member Dexter, and Members of the Subcommittee, I appreciate the opportunity to provide a review of the last several years and offer suggestions about how to build a stronger future for the coexistence of our operations and the wildlife on these lands. As a fourth-generation rancher, the institutional knowledge of the lands we manage will continue to be invaluable to these Western landscapes, but we will only be successful if we can maintain a business model that supports our families and communities.

Thank you for the opportunity to testify.

