

**From:** [Marjorie Nelson](#)  
**To:** [Wendy Brown](#)  
**Cc:** [Maggie Dwire](#); [Maricela Constantino](#); [Sarah Quamme](#); [Seth Willey](#); [Sherry Barrett](#); [Susan Jacobsen](#); [Tracy Melbihess](#)  
**Subject:** Re: Fw: Revised talking points for RD on Mx wolf  
**Date:** 09/08/2011 10:57 AM

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Hi Wendy,

Maricela's in today and out tomorrow. She and I talked this morning and this looks pretty much like what we discussed. If we do not prevail, not all wolves may be endangered (WGL, NRM etc) but if we do not prevail we will still have a listed lupus in CO and UT (and probably most of the rest of the west).

I think Maricela can put is more eloquently.

hang in there!

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**Wendy  
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09/08/2011 12:48 PM

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Subject: Fw: Revised talking points for RD on Mx wolf

Marge --

I know Maricela is out today -- are you comfortable with the language as modified in the first talking point -- i.e., that delisting COL/Utah would be inconsistent with the national wolf strategy?

I am meeting with Michelle around 11 am and will bring these talking points with me -- we need to have something for Ben by the end of the

day.

I would recommend adding the very simple bottom line breakdown that Seth suggested yesterday:

From the state's perspective:

1. Subspecies designation: Pros -- scientifically most defensible. Legally most defensible. Listing does NOT determine where recovery will occur. Allows the states to participate early in the development of recovery planning and a 10(j) designation that provides them with management options

Cons: Listing will NOT predetermine where recovery will occur. However, Mexican wolves would be listed where found, including any in Utah and Colorado, so unless and until a special rule is developed, any Mexican wolf that might disperse there would be considered fully endangered.

2. DPS boundary that excludes Colorado and Utah. Pros: Mexican wolves would not be listed in their states.

Cons: If we propose to delist gray wolves in Colorado and Utah, we will be litigated. The suitable habitat for wolves in these states, the high potential for dispersal from both the south and the north, will make delisting all wolves in these states legally vulnerable. If we do not prevail, all wolves will remain listed and fully endangered.

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----- Forwarded by Wendy Brown/RO/R2/FWS/DOI on 09/08/2011 10:32 AM -----

**Sherry  
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To Wendy Brown/RO/R2/FWS/DOI@FWS

**From:** [Michelle Shaughnessy](#)  
**To:** [Benjamin Tuggle](#)  
**Cc:** [Sherry Barrett](#); [Donna Shoemaker](#); [Wendy Brown](#); [Susan Jacobsen](#); [Joy Nicholopoulos](#)  
**Subject:** talking points for RD on Mx wolf (reclassification and Texas mgt plan)  
**Date:** 09/08/2011 04:26 PM  
**Attachments:** [reclassification talking pts Sept 2011.docx](#)

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Benjamin - Here's a draft of the talking points that folks have put together for the AFWA meeting next week, as we discussed during the meeting with Dan et. al. last week. Sherry is going to be around tomorrow morning if you want have questions/comments on this.

Thanks!



reclassification talking pts Sept 2011.docx

### Talking Points for Reclassification of the Mexican Wolf

1. The states of Utah and Colorado have suitable habitat for wolves, as described in published literature.
2. Previous court rulings on delisting actions have instructed the Service to address all suitable habitat for wolves.
3. As part of the Service's plans to revise the 1978 listing for *Canis lupus*, the Service is focusing on conservation of four extant gray wolf populations (WGL, NRM, Pacific Northwest, and the Southwest population of Mexican wolves) and intends to propose to delist gray wolves in 1) areas where they are recovered, 2) areas that were not part of the historical range of the gray wolf (Northeastern and Southeastern United States), and 3) areas of the historical *C. lupus* range that do not support extant wolf populations and do not play a role in the recovery of any of the four gray wolf entities (i.e., areas that lack sufficient suitable habitat for wolf pack persistence), such as the Great Plains States and areas of the western States. The wolves in CO and UT do not meet any of the above criteria.
4. If Mexican wolves were able to disperse naturally (and not be captured and returned to the recovery area), they would eventually disperse into southern CO and UT and be able to persist there. Gray wolves from the northern Rocky Mountains are also likely to disperse into these states. A DPS boundary at state lines would thus exclude suitable habitat in CO and UT from recovery of the Mexican wolf and ignore dispersal of Mexican wolves from the existing population into these states.
5. Because of the existence of suitable habitat and the close proximity to extant wolf populations, we believe that removing protections for *C. lupus* in UT and CO would not withstand judicial scrutiny. By acknowledging that the range of the Mexican wolf includes these 5 states through a subspecies listing, the Service would be able to justify delisting the gray wolf in these states.
6. Listing the Mexican wolf as a subspecies is the most biologically and legally defensible action. Although the range of the subspecies would include AZ, NM, CO, UT, and TX, it does not predetermine where Mexican wolves would be actively recovered. The specific areas necessary for recovery of Mexican wolves would be generally determined by the recovery planning process, and implemented through revision of the experimental population under section 10(j) of the ESA.
7. Reclassifying the Mexican wolf as a DPS (with the northern line at the state boundary) in conjunction with delisting gray wolves in CO and UT is legally vulnerable. If we do not prevail in a lawsuit on this action, the states of CO and UT would retain the last areas of listed gray wolf habitat outside of other DPS units (WGL, NRM, Pacific Northwest). The Service may then be legally compelled to recover gray wolves in those areas.
8. We need to decrease our legal vulnerability. If we lose a lawsuit on the DPS, we will lose management flexibility in these states. In reclassifying as a subspecies we intend to work with states to develop the recovery plan and implement the recovery plan recommendations through a revision to the 10(j) rule. This 10(j) revision will address both the recovery boundaries and wolf management and be developed in conjunction with an active public NEPA process. This process (recovery planning, 10(j) rule revision, and NEPA) will take 5-6 years. Thus release of wolves into areas other than the existing recovery area will not occur for 6-10 years.
9. Our intent to revise the 10(j) rule would be described in the proposed reclassification rule. We would share this language with the states prior to publication. We would work closely with the states to address their management concerns in the 10(j) rule. By regulation, all 10(j) designations must provide management restrictions, protective measures, or other special management concerns of such populations.

**Talking points on Management Plan in Texas**

1. Mexico is planning to release wolves in Sonora, Mexico September 13, 2011. This site is south of Arizona and within about 12 miles of the U.S. Mexico border.
2. The second site where Mexico may release wolves in the future is in the state of Nuevo Leon. This site is south of Texas and within 150-400 miles of the U.S. Mexico Border.
3. Wolves that cross from Mexico into the U.S. are fully protected as endangered species under the ESA, if they are outside of the 10(j) boundaries.
4. We have developed a management plan for these wolves; the management actions will be authorized by a recovery permit and analyzed in a biological opinion.
5. We will also complete NEPA on the management plan and permit, and revise and reissue the permit if needed to address public comments.
6. The management plan, permit, and biological opinion currently only address management of wolves outside of 10(j) boundaries in the states of Arizona, New Mexico, and a small portion of Texas.
7. If Texas wants to have similar coverage for their entire state, we will need to address that geographic area in the NEPA document. The NEPA document will be initiated in September 2011.