

## **ADDENDUM**

to the June 30, 2010 Memorandum of Understanding  
by and among the

Arizona Game and Fish Department, Eastern Arizona Counties Organization, Graham County (AZ), Greenlee County (AZ), Navajo County (AZ), U.S.D.A. Animal and Plant Health Inspection Service/Wildlife Services, U.S.D.A Forest Service, U.S. D. I. Fish and Wildlife Service, and White Mountain Apache Tribe,

The signatories to the June 30, 2010 Memorandum of Understanding (2010 MOU) have approved this Addendum in accordance with provisions of the 2010 MOU and agree that this Addendum is intended solely to clarify the roles of, and provide guidance to, agencies cooperating in carrying out the purpose for which this Addendum is intended (see **Purpose**, below). Authorities, roles, and responsibilities of signatories to the June 30, 2010 MOU are further clarified in the document *Mexican Wolf Blue Range Reintroduction Project Roles and Responsibilities for Mexican Wolf Memorandum of Understanding Cooperators* dated November 2012. Those descriptions of Authorities are incorporated here by reference. Agencies that have agreed to participate in carrying out this Addendum have indicated such agreement by signature below. Collectively, all signatories to this Addendum are hereinafter referred to as Parties.

**Purpose:** The purpose of this Addendum is for the signatory Federal, State, County, and Tribal entities to cooperatively prepare an Environmental Impact Statement (EIS), pursuant to the National Environmental Policy Act (NEPA). The proposed rule to revise the 1998 Mexican wolf nonessential experimental population rule (63 FR 1752) (1998 Final Rule) will be the proposed action of our EIS. We will analyze the effects to the human environment, including the socioeconomic consequences, from implementation of the proposed action and alternatives. The EIS will analyze proposed revisions to the Mexican Wolf Experimental Population Area (MWEPA) and Blue Range Wolf Recovery Area (BRWRA), and to some aspects of currently authorized regulations for management of the experimental population of Mexican wolves in Arizona and New Mexico. The new rule may replace and supersede the 1998 Final Rule, pursuant to section 10(j) of the Endangered Species Act (Act). The EIS will also analyze alternatives that include implementing a management plan to authorize take of endangered Mexican wolves in areas of Arizona and New Mexico external to the MWEPA. The management plan would be implemented through a U.S. Fish and Wildlife Service (Service) permit.

Furthermore, for the purposes of collaborative planning and the production of an EIS that will analyze a range of alternatives, this MOU:

A. Confirms the formal designation of the Service as the Lead Federal Agency with responsibility for completion of the EIS and Record of Decision (ROD). The Lead Federal Agency shall:

- (1) Request the participation of each Cooperating Agency in the NEPA process at the earliest possible time.

- (2) Use the environmental, including socioeconomic, analysis and proposals of Parties with jurisdiction by law and/or special expertise, to the maximum extent possible consistent with its responsibility as Lead Federal Agency.
- (3) Meet, either in person or teleconferencing, with a Cooperating Agency at the latter's request.

B. Acknowledges the trust responsibility and treaty obligations of the United States toward Indian tribes and tribal members and its government-to-government relationship with tribes in order to achieve the common goal of promoting and protecting the health of ecosystems, as defined by Secretarial Order 3206 *American Indian Tribal Rights, Federal-Tribal Trust Responsibilities* (June 5, 1997).

C. Formally designates the Parties as Cooperating Agencies. It is recognized that Cooperating Agencies have legal authority and/or special expertise applicable to the planning process. Each Cooperating Agency shall:

- (1) Participate in the NEPA process at the earliest possible time.
- (2) Provide information, data, and comments to the lead agency for developing and preparing environmental including socioeconomic, analyses including portions of the EIS in which the Cooperating Party has special expertise.
- (3) Make available staff support at the Lead Federal Agency's request to enhance the latter's interdisciplinary capability.

D. Formalizes and provides a framework for cooperation and coordination among the Parties that will be necessary in order to successfully complete the EIS in a timely, efficient, and thorough manner.

E. Describes the respective roles, responsibilities, jurisdictional authority, and expertise of each of the Parties in the planning process.

F. Ensures the working relationship between the Parties meets the purposes and intent of NEPA.

G. Provides a structural framework for coordination of the rule-making and NEPA processes.

Project Description – The Service proposes to revise the 1998 Final Rule and to implement a management plan for areas outside of the MWEPA. The EIS will analyze proposed revisions to: (1) the MWEPA and BRWRA, (2) some aspects of currently authorized regulations for management of the experimental population of Mexican wolves in Arizona and New Mexico, and (3) implement a management plan for Mexican wolves that are not part of the experimental

population. The Service and Cooperating agencies conducted 12 public scoping meetings in November and December of 2007. An EIS will analyze options for revising the 1998 Rule (including no action), and includes various geographic and management scenarios. The proposed 10(j) rule was published on June 13, 2013 (78 FR 357193, June 13, 2013). A Notice of Intent to Prepare an EIS was published on August 5, 2013 (78 FR 47268, August 5, 2013). A draft EIS will be published followed by a final EIS, ROD, and final 10(j) Rule (provided that the ROD does not select the No Action Alternative).

**Recitals:**

WHEREAS, the Service, on June 13, 2013, proposed in the Federal Register to revise the nonessential experimental population designation of Mexican wolves in order to correctly associate this designation with the properly listed entity and to improve implementation and conservation of the population through additional revisions and modifications. Additionally the Service proposes to implement a management plan for Mexican wolves that are outside of the nonessential experimental population area; and,

WHEREAS, Federal Regulations at 40 CFR part 1501 provide for full engagement in the interdisciplinary NEPA process by federal, state, local, and tribal authorities having jurisdiction by law or special expertise; and,

WHEREAS, Pursuant to Secretarial Order 3206, the Service recognizes, respects, and shall consider the value that tribal traditional knowledge provides to federal land management decision making processes;

NOW THEREFORE, the Parties hereto agree to cooperatively develop appropriate documentation in order to satisfy the requirements of NEPA, and further agree that;

I. The Service will:

- (a) serve as the Lead Federal Agency in coordinating the development of an EIS analyzing the environmental, including socioeconomic, impacts of a proposed new designation of a MWEPA and of implementation of a management plan external to the MWEPA, and alternatives thereto; and
- (b) provide guidance as to proper process, document format, and information required to satisfy NEPA requirements; and
- (c) determine the purpose and need of the project, the conclusions of the environmental, including socioeconomic, analysis, which alternatives are selected for analysis, and make final determinations on content relative to applicable statutory and regulatory requirements; and

(d) develop the EIS under the consistency requirements of Federal law and will incorporate, to the maximum extent possible consistent with its responsibility as Lead Federal Agency, the comments, recommendations, and/or data submitted by Parties in the EIS planning process; and

(e) provide available information and resources for development of the EIS; and

(f) provide timely review of the EIS in order to ensure compliance with Service guidelines for NEPA implementation; and

(g) give, to the maximum extent possible, a reasonable time frame for review and return of consolidated and comprehensive comments; and

II. The USFS is recognized to have jurisdiction by law and special expertise and will:

(a) facilitate the available information, data (and supporting analyses), comments, and resources for development of proper NEPA documentation and the EIS; and

(b) cooperate in timely review of the EIS in order to ensure compliance with Service guidelines for NEPA implementation; and

(c) help collect data to the maximum extent possible, participate in discussions about data assessment and technical reports, assist and provide input on preparation of selected sections, and provide technical expertise in order to assist in evaluating the effectiveness of all alternatives and the EIS; and

(d) review working drafts of the EIS and its alternatives and analyses for review and comment in relation to areas of jurisdictional responsibility and/or special expertise; and

(e) participate in the review of working drafts and return consolidated and comprehensive comments on working drafts to the Service in an agreed upon time frame consistent with the planning schedule; and

(f) help maintain an information repository at each of the supervisors offices; and

III. WS is recognized to have special expertise and will:

(a) provide available information, data (and supporting analyses), comments, and resources for development of proper NEPA documentation and the EIS; and

(b) provide timely review of the EIS in order to ensure compliance with Service guidelines for NEPA implementation; and

(c) help collect data to the maximum extent possible, participate in discussions about data assessment and technical reports, prepare selected sections, and provide technical expertise in order to assist in evaluating the effectiveness of all alternatives and the EIS; and

(d) receive working drafts of the EIS and its alternatives and analyses for review and comment in relation to areas of jurisdictional responsibility and/or special expertise; and

(e) return consolidated and comprehensive comments on working drafts to the Service in an agreed upon time frame consistent with the planning schedule; and

IV. The Arizona Game and Fish Commission is recognized to have jurisdiction by state law for management related to fish and wildlife within the state of Arizona; and the Arizona Game and Fish Department (AGFD) acts under the authority of the Commission, implements a co-management role by virtue of its authorities under Section 6 of the Endangered Species Act, and has special expertise. The Arizona Game and Fish Department will:

(a) participate in scoping and provide available information, data (and supporting analyses), and resources for development of proper NEPA documentation and the EIS; and

(b) provide timely review of the EIS in order to ensure compliance with Service guidelines for NEPA implementation; and

(c) help collect data, participate in discussions about data assessment and technical reports, prepare selected sections, and provide technical expertise in order to assist in developing and evaluating the effectiveness of all alternatives and the EIS; and

(d) receive working drafts of the EIS and its alternatives and analyses for review and comment in relation to areas of jurisdictional responsibility and/or special expertise; and

(e) return consolidated and comprehensive comments on working drafts to the Service in an agreed upon time frame consistent with the planning schedule; and

(f) may meet with affected stakeholders and provide comments to the Service at any point in the development of the EIS, provided that internal draft documents are not disseminated (see VI.(e)).

V. The White Mountain Apache Tribe is recognized to have jurisdiction by law and special expertise and will have the opportunity to:

(a) participate in scoping and provide available information, data (and supporting analyses), and resources for development of proper NEPA documentation and the EIS; and

(b) provide timely review of the EIS in order to ensure compliance with Service guidelines for NEPA implementation; and

(c) help collect data, participate in discussions about data assessment and technical reports, prepare selected sections, and provide technical expertise in order to assist in developing and evaluating the effectiveness of all alternatives and the EIS; and

(d) receive working drafts of the EIS and its alternatives and analyses for review and comment in relation to areas of jurisdictional responsibility and/or special expertise; and

(e) return consolidated and comprehensive comments on working drafts to the Service in an agreed upon time frame consistent with the planning schedule; and

(f) may meet with affected stakeholders and provide comments to the Service at any point in the development of the EIS, provided that internal draft documents are not disseminated (see VI.(e)).

VI. The Eastern Arizona Counties Organization, Graham County (AZ), Greenlee County (AZ), and Navajo County (AZ) are recognized to have jurisdiction by law and special expertise, and jointly and individually will:

(a) participate in scoping and provide available information, data (and supporting analyses), and resources for development of proper NEPA documentation and the EIS; and

(b) provide timely review of the EIS in order to ensure compliance with Service guidelines for NEPA implementation; and

- (c) help collect data, participate in discussions about data assessment and technical reports, prepare selected sections, and provide technical expertise in order to assist in developing and evaluating the effectiveness of all alternatives and the EIS; and
- (d) receive working drafts of the EIS and its alternatives and analyses for review and comment in relation to areas of jurisdictional responsibility and/or special expertise; and
- (e) return consolidated and comprehensive comments on working drafts to the Service in an agreed upon time frame consistent with the planning schedule; and
- (f) may meet with affected stakeholders and provide comments to the Service at any point in the development of the EIS, provided that internal draft documents are not disseminated (see VI.(e)).

VII. It is also understood that:

- (a) This Addendum is subject to all covenants and stipulations of the June 30, 2010 MOU to which it is an Addendum, and does not replace or invalidate anything within the 2010 MOU, except to the extent to which the Addendum addresses developing an EIS. In the event of any conflict between the two documents, the Addendum shall be considered to supersede the relevant material within the 2010 MOU; and
- (b) This Addendum shall become effective upon written concurrence by the referenced Parties below, in accordance with the afore-referenced June 30, 2010 MOU; and
- (c) All Parties agree to cooperate fully with each other and conscientiously attempt to abide by a schedule to achieve the purpose of this Addendum; and
- (d) All Parties agree to participate in this planning process in good faith and make every reasonable effort to resolve any perceived areas of conflict. The Parties agree to fully explore issues before coming to conclusions and to commit to searching for opportunities for resolution designed to contribute to an effective outcome; and
- (e) All internal working draft documents for the development of the EIS are pre-decisional and the Parties will ensure that these documents will not be made available for review by individuals or entities other than Parties to this Addendum, unless otherwise required by applicable law; and

(f) All documents created, collected, or provided by the Parties in support of the development of the EIS are part of the official Service administrative record and may only be released by the Service to the extent allowed by the Freedom of Information Act and/or the Privacy Act; and

(g) For services related to plan development, all Parties agree not to employ any third party having a financial interest in the outcome of the EIS. The Parties also agree to take all necessary steps to ensure no conflicts of interest exist with any officers, agents (including consultants), or representatives they may employ in the development of the EIS; and

(h) The Parties recognize that nothing in this Addendum will be construed as limiting, affecting, or binding in any way the authority or legal responsibility of any of the Parties to perform beyond the respective authority of each, or as requiring any of the Parties to assume any obligation or expend any sum in excess of authorization and appropriations available. Nothing in this Addendum may be construed to obligate the United States, the Department of the Interior, or the Department of Agriculture to any current or future expenditure of resources in advance of the availability of appropriations from Congress; and

(i) The terms of this Addendum are contingent upon sufficient resources being available to the signatory Parties for the performance of this Addendum. The decision as to whether sufficient resources are available to each signatory Party shall be determined by each signatory, shall be accepted by all other signatories, and shall be final; and

(j) No Right of Action: This Addendum is strictly for internal management purposes for the Parties. It is not legally enforceable and shall not be construed to create any legal obligation on the part of the Parties or their respective agencies. This agreement shall not be construed to provide a private right or cause for action by any person or entity including third-parties. This MOU is neither a contract, Federal rule or regulation; and

(k) Press Releases. All Parties to this Addendum will coordinate with the other Parties all press releases, published advertisements, or other communications and statements intended for the public that refer to this Addendum or the EIS, or the name or title of any employee of any of the Parties in connection with this agreement; and

(l) Elected Officials Not to Benefit: No member of or delegate to Congress shall be entitled to any share or part of this Addendum, or to any benefit that may arise from it; and

(m) The Lead Federal Agency shall engage in government-to-government consultation with affected Indian tribe(s) during all phases of the planning process, in accordance with applicable federal statutes, regulations, and other authorities, including NEPA, the National Historic Preservation Act, the American Indian Religious Freedom Act, and Secretarial Order 3206. Status as a Cooperating Agency in no way affects the responsibility of the Lead Federal Agency, and the authority of affected tribe(s) to engage in these government-to-government consultations. To the extent that Parties to this Addendum receive any Indian Trust Asset data as a function of the requirement to conduct government-to-government consultations with affected Indian tribes, the Lead Federal Agency certifies that it will accord such data all necessary protection and security pursuant to applicable statutes, regulations, and policies, including those set forth in the context of any applicable litigation; and

(n) All notices, demands, or requests from one Party to another may be personally delivered, sent by facsimile/email, sent by recognized overnight delivery service, or sent by mail, certified or registered, postage prepaid, to the persons set forth below and addressed as follows or at such other address as any Party may from time to time specify to the other Parties in writing and shall be effective at the time of personal delivery, facsimile/email transmission, or mailing upon notification of delivery by a recognized overnight delivery service or the United States Postal Service:

- i. United States Fish and Wildlife Service  
Attn: Sherry Barrett  
New Mexico Ecological Services Field Office  
2105 Osuna NE  
Albuquerque, New Mexico 87113  
Phone: 505-761-4748
- ii. U.S. Forest Service  
Attn: Bobbi Barrera  
333 Broadway SE  
Albuquerque, New Mexico 87102  
Phone: 505-842-3194
- iii. USDA APHIS – Wildlife Services  
Attn: David Bergman

8836 N. 23rd Ave., Suite 2  
Phoenix, Arizona 85021  
Phone: 602-870-2081

- iv. Arizona Game and Fish Department  
Attn: Jim deVos  
5000 Carefree Highway.  
Phoenix, Arizona 85086-5000  
Phone: 623-236-7302
- v. White Mountain Apache Tribe  
Attn: Cynthia Dale  
P.O. Box 220  
Whiteriver, Arizona 85941  
928-338-4385
- vi. The Eastern Arizona Counties Organization  
Attn: Pascal Berlioux  
550 N. 9<sup>th</sup> Place  
Show Low, Arizona 85901  
928-637-3037
- vii. Graham County (AZ)  
Attn: Drew John  
921 Thatcher Blvd.  
Safford, Arizona  
928-428-3250
- viii. Greenlee County (AZ)  
Attn: Ron Campbell  
P.O. Box 908  
Clifton, Arizona  
928-865-4417
- ix. Navajo County (AZ)  
Attn: Sylvia Allen  
P.O. Box 668  
Holbrook, AZ 86025  
928-524-4053

(o) This Addendum becomes effective upon written concurrence by the referenced signatory Parties below, and may subsequently be amended in

accordance with the June 30, 2010 MOU to which it is an Addendum. Any Party may terminate its involvement in this Addendum by providing written notice of termination in accordance with the aforementioned MOU. If not terminated sooner, this Addendum will end upon agreement of all Parties once the EIS is final and the Service issues the ROD.

**Signatory Parties to this Addendum:**

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Larry D. Voyles, Director  
Arizona Game and Fish Department

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Date

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Regional Director, Western Region  
USDA APHIS/Wildlife Services

\_\_\_\_\_  
Date

\_\_\_\_\_  
Cal Joyner, Regional Forester  
USDA Forest Service Southwestern Region

\_\_\_\_\_  
Date

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Benjamin N. Tuggle, Director, Region 2  
U.S. Fish and Wildlife Service

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Date

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Ronnie Lupe, Chairman  
White Mountain Apache Tribe

\_\_\_\_\_  
Date



October 25, 2013

\_\_\_\_\_  
Drew John, Chair  
Graham County (AZ) Board of Supervisors

\_\_\_\_\_  
Date



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David Gomez, Chair  
Greenlee County (AZ) Board of Supervisors

October 25, 2013

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Date

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Jonathan M. Nez, Chair  
Navajo County (AZ) Board of Supervisors

October 25, 2013

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Date



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Pascal Berlioux, Executive Director  
Eastern Arizona Counties Organization

October 25, 2013

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Date

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Michael Pastor, Chair  
Gila County (AZ) Board of Supervisors

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Date

Addendum to June 30, 2010 MOU for Mexican Wolf Conservation  
Re: Development of an EIS  
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