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17 **UNITED STATES DISTRICT COURT**
18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

19 NATURAL RESOURCES DEFENSE
20 COUNCIL, INC.,

21 Plaintiff,

22 v.

23 UNITED STATES DEPARTMENT OF THE
24 INTERIOR; UNITED STATES FISH AND
25 WILDLIFE SERVICE,

26 Defendants.

Case No. 21-cv-561

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

(Endangered Species Act,
Administrative Procedure Act)

1 INTRODUCTION

2 1. Plaintiff Natural Resources Defense Council (NRDC or “Plaintiff”)
3 challenges the United States Fish and Wildlife Service’s (the “Service”) decision to remove
4 the gray wolf (*Canis lupus*) from the list of threatened and endangered species.
5 Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*)
6 From the List of Endangered and Threatened Wildlife,” 85 Fed. Reg. 69,778 (Nov. 3, 2020)
7 (the “Delisting Rule” or the “Rule”).

8 2. Gray wolves are an iconic species nearly extirpated in the United States
9 through widespread predator control programs, and habitat and prey loss. Since the 1970s,
10 slowly and with the protection of the Endangered Species Act (ESA), wolves have begun
11 to recover. After repeated failed attempts to reduce or eliminate protections for wolves
12 over the last twenty years, the Service’s new Delisting Rule unlawfully removes
13 protections for gray wolves across the United States based on their recovery in one area –
14 the Great Lakes. This nationwide delisting would stop wolf recovery in its tracks,
15 particularly in areas where wolves have only begun to regain their historical footing.

16 3. According to the Service, there are about 4,200 wolves in the Great Lake
17 states of Minnesota, Michigan, and Wisconsin. However, these states have only committed
18 to maintaining half of that number (about 2,150).

19 4. Gray wolves are present, but not yet recovered, in several other geographic
20 areas, including the Pacific Coast, the Central Rockies, and other portions of the Midwest
21 and the Northeast.

22 5. There are only 54 wolves and seven established, breeding wolf pairs in the
23 Pacific Coast region of California and the western portions of Washington and Oregon
24 where wolves have been protected as endangered (“Pacific Coast wolves”).

25 6. Gray wolves have recently been identified in the Central Rockies (Utah,
26 Colorado), including six wolves observed in 2020 in an established pack in Colorado
27 (“Central Rockies wolves”).

28

1 7. There have been confirmed wolf sightings in portions of the Midwest (North
2 Dakota, South Dakota), and further sightings in eleven more western, midwestern, and
3 eastern states (Vermont, Massachusetts, New York, Indiana, Illinois, Iowa, Missouri,
4 Nebraska, Kansas, Arizona, and Nevada).

5 8. Gray wolves remain endangered throughout significant portions of their
6 range. Delisting gray wolves prematurely will doom their nationwide recovery. Federal
7 protections for wolves should remain in place until wolves have recovered in areas such as
8 the Central Rockies, along the Pacific Coast, and the Northeast, where there is still
9 significant suitable habitat but where wolf populations remain low.

10 9. In promulgating the Rule, the Service violated the ESA and the
11 Administrative Procedure Act (APA) by improperly relying on one or two core
12 populations to delist gray wolves throughout the country, impermissibly treating the
13 Pacific Coast wolf population as a mere remnant, departing from the Service's prior
14 position without explanation, misapplying the key term "significant," failing to use the
15 best available science in its analysis of a significant portion of wolves' range, failing to
16 account for the impacts and causes of lost historical range, and failing to provide notice of
17 its analysis in the Rule.

18 10. For these reasons, the Rule violates section 4 of the ESA and its
19 implementing regulations, *see* 16 U.S.C. § 1533; 50 C.F.R. pt. 402, and is arbitrary,
20 capricious, an abuse of discretion, and contrary to law under the APA, *see* 5 U.S.C. § 551 *et*
21 *seq.* It must be set aside.

22 JURISDICTION AND VENUE

23 11. This court has subject matter jurisdiction over this action pursuant to 28
24 U.S.C. § 1331 (federal question), 16 U.S.C. § 1540(g) (ESA citizen-suit provision), and 5
25 U.S.C. § 702 (judicial review of agency action).

26 12. The relief requested may be granted under 28 U.S.C. §§ 2201-2202
27 (declaratory and injunctive relief), 16 U.S.C. § 1540(g) (ESA citizen-suit provision), and 5
28 U.S.C. §§ 701-706 (APA).

1 13. Pursuant to section 11(g)(2) of the ESA, 16 U.S.C. § 1540(g)(2), NRDC
2 provided the Department of the Interior, the Secretary of the Interior, the Service, and the
3 Director of the Service with written notice of NRDC's intent to file this suit on November
4 23, 2020, more than sixty days prior to the commencement of this action. A copy of this
5 notice letter is attached as Exhibit A.

6 14. Defendants have not corrected their violations of law in response to NRDC's
7 written notice.

8 15. Venue is proper in this District under 28 U.S.C. § 1391(e)(1) and 16 U.S.C.
9 § 1540(g)(3)(A) because a substantial portion of the events giving rise to NRDC's claims
10 occurred in this District. At least one established pack of gray wolves impacted by the Rule
11 resides in California, gray wolves are known to disperse to the state, this District has
12 suitable habitat for gray wolves, and this District is a part of the historical range of gray
13 wolves. The Service analyzed the status of gray wolves in California in the Rule, and the
14 Rule will affect the state of California's management of gray wolves. NRDC also has an
15 office and members in this District.

16 **INTRADISTRICT ASSIGNMENT**

17 16. This case is properly assigned to the San Francisco Division or the Oakland
18 Division under Civil L.R. 3-2(c) because NRDC's office is located in San Francisco County.

19 **PARTIES**

20 17. Plaintiff NRDC is a national, nonprofit environmental membership
21 organization whose purpose is to safeguard the Earth—its people, its plants and animals,
22 and the natural systems on which all life depends. NRDC was founded in 1970 and is
23 organized under the laws of the State of New York. NRDC is headquartered in New York,
24 NY, and maintains offices in other locations within the United States and abroad. NRDC
25 has hundreds of thousands of members nationwide, including many in this judicial
26 district. NRDC has long been active in efforts to protect endangered and threatened
27 species generally and gray wolves specifically.

28

1 18. NRDC members regularly observe, visit, study, work to protect, and delight
2 in the presence of gray wolves in the wild. NRDC members intend to continue doing so in
3 the future. NRDC members derive scientific, educational, recreational, conservation,
4 aesthetic, and other benefits from the existence of gray wolves in the wild. These interests
5 have been, are, and will be directly, adversely, and irreparably affected by Defendants'
6 violation of the law. These are actual, concrete injuries, traceable to Defendants' conduct
7 that would be redressed by the requested relief. Plaintiffs have no adequate remedy at
8 law. NRDC members will continue to be prejudiced by Defendants' unlawful actions until
9 and unless this Court provides the relief prayed for in this Complaint.

10 19. NRDC member Ellyn Wiens lives in Duluth, Minnesota. She has been keenly
11 interested in gray wolves ever since her grandparents introduced her to the outdoors and
12 wildlife, and she has now passed that same sense of appreciation on to her own
13 grandchildren. Wolves are her favorite wild animal, and it is important for her that they
14 have room to roam and to thrive. Ms. Wiens has always wanted to see a wolf in the wild
15 and hopes to see one from her own wooded home. She feels great excitement and joy
16 about the possibility of seeing a gray wolf on or around her property in the future. Her
17 neighbors in Minnesota have captured images of wolves on trail cameras, which gives her
18 great hope that she will soon experience one on her property. She has seen evidence of
19 wolves and learned more about them on visits to Isle Royale and Denali National Parks.
20 She stays informed on the status of wolves locally through a wildlife biologist friend and
21 has also enjoyed seeing wolves at zoos. Ms. Wiens has concerns about the negative
22 impacts of delisting, including state management of wolves, genetic inbreeding of small
23 wolf populations, and negative effects on wolf social dynamics.

24 20. NRDC member Matt Wilkin is a retired federal employee who worked for
25 the U.S. Forest Service and Bureau of Land Management who has been interested in
26 wolves for decades. Mr. Wilkin lives in Minnesota and has a family farm in Michigan's
27 Upper Peninsula. At his home in Minnesota, Mr. Wilkin has seen wolves and their tracks.
28 This past fall, he even heard and recorded multiple wolves howling to each other. Mr.

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