

## June 16, 2016 – Judge temporarily halts wolf releases

(Albuquerque Journal)

A federal judge on Friday granted the state's request to halt the introduction of wolves in New Mexico until U.S. Fish and Wildlife obtains a state permit, but also said that two captive-bred pups already introduced into a wild litter need not be removed.

U.S. District Judge William P. Johnson's 24-page opinion and order follow a May 26 hearing at which the New Mexico Department of Game and Fish asked the court to stop federal plans to release a pack of wolves in New Mexico, to cross-foster pups into up to five packs in Arizona, to relocate a single wolf in New Mexico or Arizona and to move around others as needed.

"I am very pleased with the judge's ruling," Game and Fish Department director Alexandra Sandoval said in a statement. "We refused to let the U.S. Fish and Wildlife Service disregard our state's sovereignty. We will continue our effort to uphold the laws of New Mexico and ensure the Service complies with applicable state and federal law."

Michael Robinson of the Center for Biological Diversity said he was grateful "the court did not order the removal of the pups, which would have caused their lifelong captivity."

But, "The decision banning the releases of captive-born wolves condemns the wild ones to continue finding mates among close relatives, which is reducing reproductive success and may doom this unique Southwestern animal to extinction," he said.

Federal wildlife officials could not be reached for comment.

Defenders of Wildlife, an ardent proponent of wolf releases, said in a statement that the court ruling "take(s) the Mexican gray wolf one step closer to extinction in the wild . . . . The U.S. Fish and Wildlife Service has the ultimate authority to determine how to recover our endangered species. The states are playing 'puppy politics' and working to tie the hands of (the service) in their duty to recover the lobo."

The state took federal officials to court after the U.S. Fish and Wildlife Service went forward with plans to introduce wolves into the wild even after Sandoval and, later, the full commission denied a state permit to do so. State law requires anyone importing and releasing nondomesticated animals to get a permit beforehand and federal officials had in previous years obtained a permit.

Federal wildlife officials argued that consultation was required only if failing to get a permit would keep the wildlife service from carrying out its statutory duties.

The action described in the 2016 release plan for the service's Mexican Wolf Experimental Population Area "is not merely tentative," Johnson said in the ruling, and constitutes a final action subject to judicial review.

Federal wildlife officials planned the release to improve the genetic makeup of the wolf population, which they say has declined over the past year and whose viability is weakened by inbreeding. They did so after revising a federal rule on endangered species after taking public comment and preparing an environmental impact statement.

But state game officials have said the federal actions interfere with their ability to manage the state wildlife population, particularly with regard to elk, deer and antelope. Wolves must be closely managed because predator-prey relationships have ripple effects within ecosystems, the state has argued.

"By foregoing compliance with the state's permitting requirements, (U.S. Fish and Wildlife) directly impact(s) the obligations of the (New Mexico Game and Fish) department to monitor, manage, and otherwise regulate New Mexico's comprehensive wildlife management effort," Johnson wrote in agreement.

Compliance with state permit requirements, the court said, doesn't mean that Fish and Wildlife is unable to carry out its duties under the Endangered Species Act.

It is the federal regulation that places the burden on federal agencies of complying with state permit requirements, he said.

The attorneys general of Utah, Colorado and Arizona sent letters to Johnson this week in support of New Mexico's position, but attorneys defending U.S. Fish and Wildlife said those states had failed to follow the rules to achieve "friend-of-the-court" status and their comments should be disregarded.