

States argue in court for more say over endangered species

January 18 2017, by Dan Elliott



In this Dec. 7, 2011, file photo, a female Mexican gray wolf at the Sevilleta National Wildlife Refuge in central N.M. Republicans in Congress are readying plans to roll back the reach of the Endangered Species Act after decades of complaints that it hinders drilling, logging and other activities on public lands. Over the past eight years, GOP lawmakers sponsored dozens of measures aimed at curtailing the landmark law or putting species such as gray wolves and sage grouse out of its reach. Almost all were blocked by Democrats and the White House or lawsuits from environmentalists. (AP Photo/Susan Montoya Bryan, File)

A battle over how to save endangered wolves in the Southwest moves to a federal appeals court Wednesday as judges hear arguments on whether states can block the federal government from reintroducing wildlife within their borders.

The Interior Department is asking the Denver-based 10th Circuit Court of Appeals to overturn a preliminary injunction that bars the department from releasing more captive-bred Mexican gray [wolves](#) into the wild in New Mexico without that state's approval.

It's the latest skirmish in the federal government's long and troubled effort to restore the rare wolves to part of their original range under the Endangered Species Act. It comes as the future of the law is in question, with Congress and the White House in the control of Republicans who generally see it as an impediment to jobs and economic development.

New Mexico has multiple complaints about the Mexican gray wolf program, and in 2015 it refused to issue a permit to the U.S. Fish and Wildlife Service—part of the Interior Department—to release more of the predators in the state. New Mexico also announced it might sue the agency.

Fish and Wildlife decided to release more wolves anyway, citing an urgent need to expand the wild population to prevent inbreeding. New Mexico officials went to court, and a federal judge in New Mexico issued an order last year blocking further releases while the dispute is resolved.

The Interior Department appealed to the 10th Circuit. Appeals court judges generally take weeks or months to issue a ruling after hearing oral arguments.

Even if the court sides with the government, it's not clear whether

president-elect Donald Trump's administration will continue to fight after he takes office.

New Mexico state attorneys contend the Endangered Species Act and federal rules require the Fish and Wildlife Service to cooperate with the state and not release more wolves without state permission. They also made a states' rights argument, saying states have the primary responsibility to manage wildlife.



In this undated file photo provided by the U.S. Fish and Wildlife Service, a Mexican gray wolf leaves cover at the Sevilleta National Wildlife Refuge, Socorro County, N.M. The Interior Department will ask a Denver-based court on Wednesday, Jan. 18, 2017, to overturn a preliminary injunction that bars the department from releasing more Mexican gray wolves into the wild in New Mexico without that state's approval. (Jim Clark/U.S. Fish and Wildlife Service via AP, File)

Eighteen other states filed a friend-of-the-court brief siding with New Mexico.

Interior Department lawyers argue the law allows the department to go around the state, if necessary, to save a species. The [preliminary injunction](#) against more releases "threatens the survival in the wild of a protected species," they said in written arguments.

A coalition of environmental groups, led by Defenders of Wildlife, intervened on the Interior Department's side. They argue that the state's legal interpretation would wrongly give them veto power over measures to save a federally protected species.

Reintroducing wolves is always contentious because they sometimes attack domestic livestock as well as game animals prized by hunters. Last year, the Interior Department's internal watchdog said the Fish and Wildlife Service had not fulfilled its obligation to remove Mexican gray wolves that preyed on pets and cattle.

The Mexican wolf program has had other problems, including multiple failed attempts to update the original 1982 recovery plan. Fish and Wildlife has agreed to produce a new plan this year to settle a lawsuit filed by conservation groups.

New Mexico officials also complain that federal officials tripled the target number of wolves in the wild—from about 100 to 300—without sufficient justification.

Only about 100 Mexican gray wolves live in the wild. They nearly disappeared in the 1970s, and the [federal government](#) added them to the endangered species list in 1976. The U.S. Fish and Wildlife Service began reintroducing them in New Mexico and Arizona starting in 1998.

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Citation: States argue in court for more say over endangered species (2017, January 18) retrieved 9 April 2024 from <https://phys.org/news/2017-01-states-court-endangered-species.html>

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