



## Court Enjoins Wolf Releases in New Mexico

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The United States District Court for the District of New Mexico issued an opinion and order enjoining the United States from releasing captive-bred wolves within the State of New Mexico without first obtaining importation and release permits from the New Mexico Department of Game and Fish. In so doing, the Court agreed with New Mexico that the imminent release of wolves within the State amounted to irreparable injury and that federal and state law forbid the Fish and Wildlife Service from ignoring State permit requirements.

The dispute between New Mexico and the U.S. Fish and Wildlife Service began when the Service submitted two separate applications for permits to release captive-bred wolves in New Mexico in 2015, and the Department of Game and Fish denied them. Prior to that time, New Mexico had approved all requested releases into the nonessential experimental population of the Mexican Wolf, a species listed as endangered under the federal Endangered Species Act. When the New Mexico Game Commission denied the Service's appeal of the in fall 2015, the Service indicated it would proceed without the requisite permits.

In 2016, the Service issued a release plan that contemplated release of as many as a dozen or more captive-bred wolves in New Mexico. The New Mexico Department of Game and Fish sought a temporary restraining order and preliminary injunction on the heels of the release of two captive-bred wolf pups in New Mexico. The Department argued that the release violates State law, which forbids the import and release of wild animals in New Mexico without permits, and federal law, which requires components of the Department of the Interior to comply with State permitting requirements and waives sovereign immunity as to violations of State law by federal agencies.

The Court opined that the Department was likely to succeed on these claims. The Court also held that the balance of the equities favor an injunction, noting that the injunction does not prevent continued released but simply requires the Service to comply with its own regulations and State permitting requirements. The decision is one of a number addressing contested federal-state relations in the context of the Endangered Species Act.