

LUNA COUNTY ORDINANCE NO. 70

AN ORDINANCE SETTING FORTH WOLF-HUMAN

PROTECTIVE MEASURES

WHEREAS, the U.S. Fish and Wildlife Service ("FWS") final rule implementing the introduction of the experimental wolf population allows Mexican Gray Wolves ("wolf") to be "taken" in certain instances. See 63 F.R. 1752, 1759; and

WHEREAS, the FWS, joined by the New Mexico Game and Fish Commission, Arizona Game and Fish Department, APHIS, the U.S. Forest Service, and others, in a document called *Mexican Wolf Encounter Safety Tips*, states that "if in imminent danger, do what is necessary to protect yourself, your family, or the lives of others;" and

WHEREAS, NMSA 1978, § 4-37-1 provides the power to the county to make and publish ordinances to provide for the health and safety of its inhabitants, and

WHEREAS, NMSA 1978, § 4-37-2 provides that county ordinances are effective within the boundaries of the county, including privately owned land or land owned by the United States; and

WHEREAS, the Luna County Commission finds and determines that the existence of the wolf within the boundaries of Luna County, New Mexico, resulting from its reintroduction elsewhere in New Mexico, is injurious, detrimental and damaging to the County and its inhabitants; and, human interactions with problem wolves have increased within the last twelve months; and, this increase may result in "imminent danger to individuals, families and the lives of others" within the County.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF LUNA COUNTY, NEW MEXICO:

SECTION 1. Procedures are hereby established for the "take" of problem wolves which present imminent danger to humans, including children or other defenseless persons, domestic animals and/or livestock; and

SECTION 2. Procedures are also established for demanding removal of problem wolves that are habitually causing physical or psychological effects on humans.

SECTION 3. The Luna County Commission, and/or the Luna County Wolf Interaction Investigator (hereinafter referred to as "CWII") shall petition the FWS for an incidental take statement or to be an authorized person or for a special management plan, to authorize the "take" of wolves.

SECTION 4. Acting either pursuant to FWS authorization, Section 1 or Section 2 of this ordinance, the CWII shall assume the following actions:

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4.1 Upon finding of imminent danger, if action is taken that result in harassment, injury or death of a wolf caused by human action, notify FWS within 24 hours of the incident or if action is taken against a wolf that does not cause death or injury to the animal, notify the FWS within seven days.

4.2 Upon notice of allegation of imminent danger, confirm presence of wolf.

4.3 Identify and document wolf.

4.4 Make an initial observation for obvious physical and/or psychological effects and/or imminent danger on humans, livestock, and/or domestic animals.

SECTION 5. If evidence of physical effects on a human is visible, the CWII shall:

5.1 Identify physical effects to determine if there are injuries or harm.

5.2 Provide comfort and apply first aid.

5.3 Contact EMS and County Sheriff to treat and investigate as necessary.

5.4 Inspect and document physical effects.

5.5 Photograph all scenes where physical effects occurred.

5.6 Measure canine spread in millimeters.

5.7 Take DNA samples.

5.8 Retain clothing for DNA testing and further investigation.

5.9 Document physical effects and harm, after conferring with EMS and/or medical doctor.

5.10 Prepare incident report including all non-confidential information described above and transmit to the Luna County Commission, FWS, and U.S. Wildlife Services within seven days.

SECTION 6. If evidence of psychological effects on human is present, the CWII shall:

6.1 Provide comfort and aid.

6.2 Utilize *Luna County Wolf-Human Interactions Complaint Form* to document the incident.

6.3 Submit Complaint Form document to mental health professionals for evaluation.

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6.4 If the mental health professional confirms and documents that there are psychological effects, CWII shall prepare incident report including all non-confidential information and transmit to the Luna County Commission, the FWS and U.S. Wildlife Services within seven days.

SECTION 7. If evidence of physical and/or psychological effects are present on a human as documented by medical and/or mental health professionals but, there is no imminent danger to human health or safety, after notification by the CWII and a vote of approval by the Luna County Commission, the Commission shall issue a Dispatch Order and demand the immediate removal of the identified wolf from the Mexican Gray Wolf Recovery Program. The Dispatch Order shall be sent to the US Wildlife Service, FWS, New Mexico Department of Game and Fish, and the Mexican Wolf Adaptive Management Oversight Committee ("AMOC") via phone or email, to be followed up by registered US Postal Service mail with return receipt requested.

SECTION 8. If evidence of physical effects on humans is not visible, the CWII shall:

8.1 Upon completion of the investigation, notify the Luna County Commission of the wolf-human incident.

8.2 Upon CWII notification and a vote of approval by Luna County Commission, the Commission shall issue a Dispatch Order and demand the immediate removal of the wolf identified as habituated from the Mexican Gray Wolf Recovery Program. The Dispatch Order shall be sent to US Wildlife Service, FWS, New Mexico Department of Game and Fish, and AMOC via phone or email, to be followed up by registered US Postal Service mail with return receipt requested.

SECTION 9. Definitions

Avoidance Response: A form of escape behavior in which the subject evades an aversive event. An avoidance response can be due to anxiety or a frightening situation and is the commonly expected response to negative or aversive events. Related to flight zone, the area surrounding an animal which, when encroached upon, will cause alarm and escape behavior. Wild animals generally have very large flight zones.

Child: As used in the Children's Code (NMSA 1978 § 32A-1-1) "child" means a person who is less than eighteen years old.

Dispatch Order: Direction issued by the Luna County Commission requesting an incidental take permit or other authorization to "take" a wolf within the borders of Luna County. The Dispatch Order is the means to request that wolves that cause habitual imminent danger to individuals, domestic animals or livestock are removed and that the threat and/or harm is eliminated.

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Domestic Animal (non-livestock) Attack: Engagement of a wolf in the pursuit of and/or and grasping, biting, attacking, wounding, or feeding upon human-controlled animals which are alive.

Domestic animals are human-controlled, that is, normally within proximity of humans or human-use areas because they are fed, watered and otherwise cared for and their movement is controlled by humans; these include but are not limited to household pets (dogs, cats, etc.), hunting dogs, barnyard poultry, horses and other equines, large birds such as emus and ostriches, 4-H project animals, etc.

Fearless Wolf: A bold-acting wolf which displays no fear of human or human use areas. A wolf that will approach within a close distance of humans. See Habituated Wolf.

Food Conditioned Wolf: A wolf which associates people with the presence of food. See Food Conditioning.

Food Conditioning: A food-related experience in which a wolf associates humans with a source of food. This initially occurs when a wolf discovers a food source with human scent, sight or sound of humans. A single experience may be all that is necessary for the wolf to become conditioned to associate humans with food. Once wolves have been successful in obtaining human associated foods, absent any negative experience, they may develop new behavior patterns and may continue to seek food at human use sites.

Food conditioning can contribute to habituation or habituation can lead to food conditioning, but either may exist in the absence of the other.

Habituated Wolf: A wolf which repeatedly approaches people and/or repeatedly visits human use areas in the presence of people without displaying an avoidance response. Habituated wolves stand, look at people in a fearless manner, and cannot be scared off by yelling, clapping hands, waving arms, throwing objects and/or discharging a firearm.

Habituation is a decreasing response to a repeated, non-consequential stimulus; the loss of a fear response to people which arises from frequent non-consequential encounters.

Human Exposure Evaluation: A component of risk assessment which describes the nature and size of a population exposed to a substance or circumstance, and the magnitude and duration of their exposure. The evaluation may include past exposures, current exposures or anticipated future exposures.

Human Health Risk: The likelihood (or probability) that a given exposure or series of exposures may already have caused or will cause damage to the health of individuals experiencing the exposures.

Human-Wolf Interaction: See Wolf-Human Interaction.

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Investigative Approaches: A rapid approach, stop and retreat without threat display made by a wolf; occurs when wolf realizes subject of investigative approach is not prey.

Livestock Attack: Engagement of a wolf in the pursuit of and/or grasping, biting, attacking, wounding, or feeding upon livestock that are alive.

Non-habituated Wolf: A wolf which is wild. Such wolves approach people, then quickly retreat once the humans have been identified.

Problem Wolf: A wolf that:

- Has depredated lawfully present domestic livestock.
- Is a member of a group or pack (including adults, yearlings, and young-of-the-year) that were directly involved in livestock depredations.
- Was fed by or are dependent up adults involved with livestock depredations (because young animals will likely acquire the pack's livestock depredation habits).
- Has depredated domestic animals other than livestock on private or tribal lands, two times in an area within one year, or
- Is habituated to humans, human residences, or other facilities.

50 C.F.R. § 17.84 (k)(15).

Psychological harm or damage: Mental stress, wound, injury, or trauma which may or may not be accompanied by physical damage.

Predation: Orientation towards the prey followed by: stalking, chasing, catching, biting, shaking the prey, carrying or dragging off. May be no prior threat display or vocalization. May continue attack on targeted prey, even with interference. Children are particularly susceptible to wolf predation on humans.

Threat: Any wolf-related circumstance or event with the potential for adverse physical or psychological impact upon a human. A wolf is considered to be a threat to a human any time the wolf demonstrates menacing or fearless behavior while in close proximity to a human. A wolf is considered to be a threat to a human without demonstrating menacing or fearless behavior when that wolf is in close proximity to a child or any human who could not reasonably be expected to be able to protect him/herself.


Wild Wolf: A wolf with wild characteristics; not tame or domesticated. A wild wolf is free ranging exclusively in the wild and has an avoidance response to humans and human use areas.

Wolf-Human Interaction: Any incident in which the behavior of a wolf has a direct physical or mental effect upon a human.

Passed, approved and adopted this 13th day December, 2007.

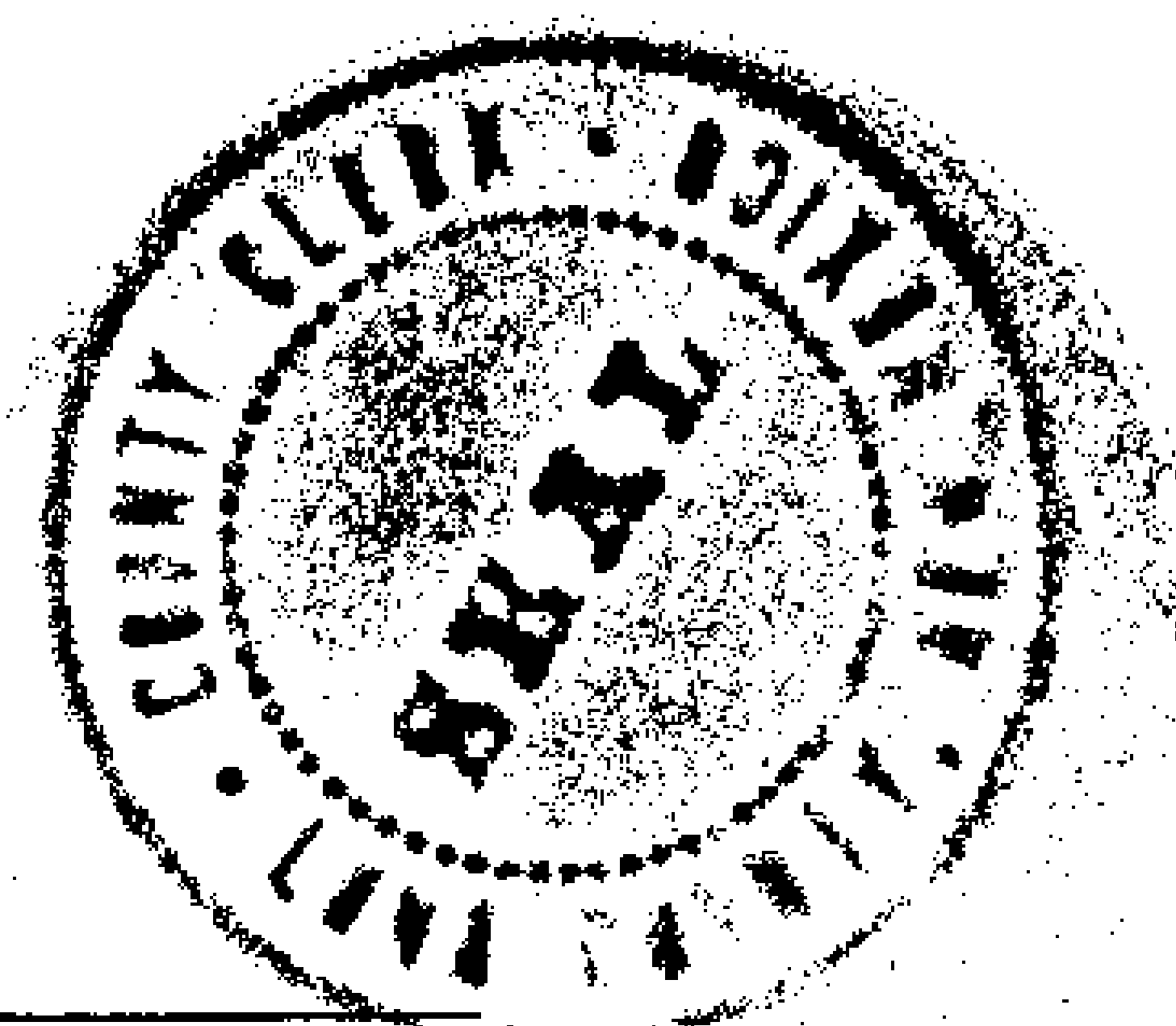
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BOARD OF COUNTY COMMISSIONERS,
LUNA COUNTY, NEW MEXICO

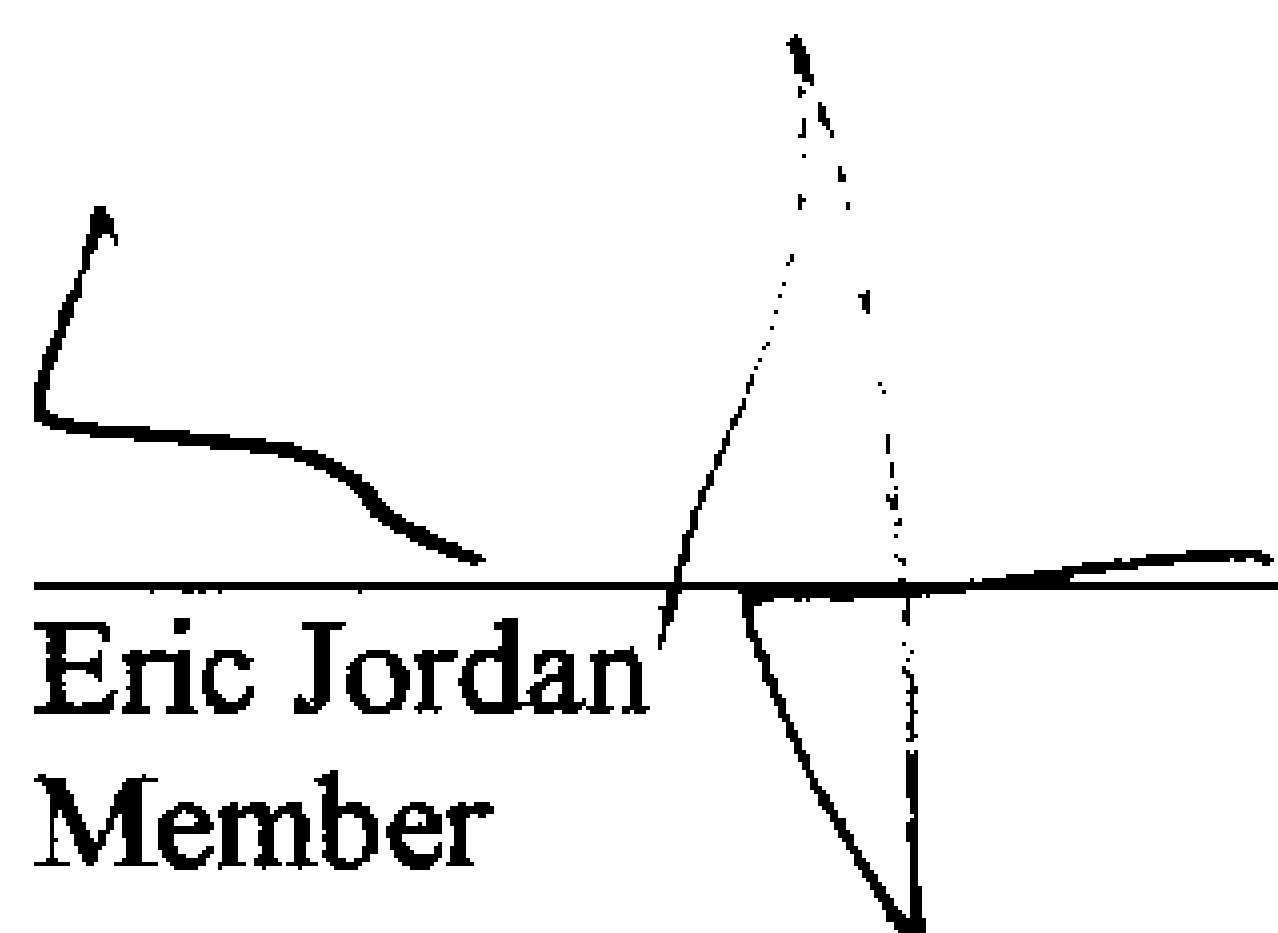

Richard Holdridge
Chairman

Attest:


Karen Smyer, County Clerk



Approved Telephonically
Becky Allen
Member


Eric Jordan
Member

APPROVED AS TO LEGAL
SUFFICIENCY:


Kent Cooper, County Attorney

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