

Wolf Recovery Is Delisting Rigged?

by

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The U.S. Fish and Wildlife Service (USFWS) has announced that wolves in Montana, Idaho, and Wyoming will be delisted by the end of March 2008. According to a recent USFWS news release, wolves in the northern Rockies were to be delisted when there was a “minimum of 30 breeding pairs and 300 wolves for at least three consecutive years. That goal was achieved in 2002, and the wolf population has expanded in size and range every year since. There are currently more than 1,500 wolves and at least 100 breeding pairs in Montana, Idaho, and Wyoming.” While most sportsmen think that delisting is long overdue, a consortium of eleven environmental groups has said they will sue to stop delisting because there are not enough wolves!! Apparently “wolf recovery” has been a fraud from the beginning!!

When I published my first article on wolves in **Petersen’s Hunting** back in 1993, USFWS’s Ed Bangs called my Department Chairman, as well as the President of my University and asked them to fire me because I had suggested that the 30 pair , 300 wolf figure was a con game between the feds and pro-wolf

groups. To quote from my 1996 monograph on wolf recovery, “The government proposed 100 wolves in each area [Montana, Idaho, and Wyoming] , knowing that the numbers would not be enough to meet ESA [Endangered Species Act] requirements of minimum population size, and environmental groups did not object [they did not], knowing that 300 wolves would raise less political opposition than 1,500 to 2,000 wolves. Wolves arrive and increase to 300. The government moves to delist. Environmentalists sue and win. The wolf population is allowed to reach 1,500 wolves or more. Environmentalists are happy, the federal agencies are happy [more federal control and bigger budgets], and the public realizes – too late – what has happened.” So I was right!! No wonder the USFWS wanted me fired!! But I was also wrong, for the Greens do not want 1,500 wolves, as they already have that, now they want 6,000 or more wolves as one interbreeding population in virtually every western state!!

In May 2007, Earthjustice, the environmental lawfirm representing pro-wolf groups, sent a long letter to the USFWS regarding wolf recovery. According to Earthjustice, “wolves have not yet rebounded to the point of recovery in the northern Rockies. While USFWS stresses that wolf numbers have exceeded the recovery plan goal of at least 300 wolves consisting of 30 breeding pairs distributed across Montana, Wyoming, and Idaho, USFWS is well aware that this goal has been set too low....Even at the time the gray wolf recovery plan was drafted, USFWS had reason to believe that it was setting inadequate goals for population size....As they now stand, the USFWS’s demographic recovery goals are not consistent with the best available data and should be revised upward... ..to reflect current scientific knowledge.” Earthjustice suggested a Minimum

Viable Population (MVP) size of 6,332 wolves. Earthjustice also reminded the USFWS of a recent federal court ruling in Oregon that wolves had to be restored to their full historic range. “The absence of wolf packs in [other western] states argues for wolves continued listing as endangered, not for delisting.”

I am not a conspiracy theorist, but on the same day that Earthjustice sent the above cited letter to the USFWS, a group of 250 scientists sent an open letter to the USFWS, which read in part, “This recovery goal [300 wolves] is an arbitrary numerical assignment that is not based on any biologically relevant information such as demographic or genetic data. Furthermore, the...recovery goal clearly violates basic principles of conservation biology by under estimating the number of individuals [wolves] needed for a viable metapopulation in the long term.... By any measure, a population of 30 breeding pairs [300 wolves] is insufficient to achieve an effective population size large enough to maintain genetic diversity.” I hate to say I told you so, but, **I TOLD YOU SO** 14 years ago and no one did anything except to try and have me fired! It is time for sportsmen to wake up because we have been, and are being played.

If you follow ESA issues, you know that the Greens win most of the lawsuits they file against the USFWS. That could be due to one of two things, incompetent federal biologists or the fact that the USFWS sets the lawsuits up to loose! Here is how it works. The USFWS makes a ruling, like wolf delisting, that appears to favor state or local interests, thereby alleviating political pressure on the agency and calls for Congress to cut the USFWS's budget or revise the Endangered Species Act. The ruling “outrages” the Greens who sue and win,

which allows the USFWS to claim that they tried to do the right thing; i.e., what they promised the public in the Final Environmental Impact Statement (FEIS), but now they can't because they have to comply with the court order.

For those unfamiliar with how our legal process works, these types of lawsuits are invariably based on what is termed the administrative record. In general, no new data can be presented and no experts allowed to testify. And guess who establishes the administrative record? Why the USFWS!! The administrative record also includes all public comments such as those by Earthjustice. Do you know what is in the administrative record, which runs to tens of thousands of pages? I don't and I have followed the wolf issue for years.

In 2003, the USFWS proposed a change in the rule of how the agency defined distinct population segments for wolves, the details of which need not concern us here. In the draft rule published in the **Federal Register**, the USFWS proposed the Colorado – New Mexico and Utah – Arizona borders as the boundary between the Mexican gray wolf on the south and the northern gray wolf to the north. While this boundary made little biological sense -- if anything ever separated the two wolves, it may have been the Colorado River-- at least it made political sense. But between the draft rule and the final rule, the USFWS arbitrarily moved the Mexican-northern gray wolf boundary up to Interstate 70 bisecting Colorado and Utah. This was done without any supporting biological or scientific evidence and is what lawyers call arbitrary and capricious; i.e., the agency pulled it out of thin air!!

If a federal rule is arbitrary and capricious, it is a simple matter for a

federal judge to overturn, which is exactly what U.S. District Court Judge Robert E. James, for the District of Oregon, did when the Greens sued. And then the judge added that wolves and all other ESA protected species had to be restored to their full historic ranges! Why an Oregon court? Because the Greens filed their complaint in the jurisdiction where they expected the most favorable ruling; i.e., they shopped for a pro-their-position judge, which happens all the time. Did any sportsmen's group intervene in this case? Where was the Rocky Mountain Elk Foundation (RMEF), the Boone and Crockett Club, Sportsmen for Fish and Wildlife, or the Mule Deer Foundation, among a long list of others?? Missing in action! As were all the other western states, who now have to live with that ruling. And surprise, surprise, the USFWS did not appeal the Oregon court ruling! Nor did Montana, Wyoming, or Idaho. Why should they? They are already full of wolves.

For my part, I tried to convince my home state of Utah that they should intervene in the Oregon lawsuit to protect the state's sportsmen and ranchers. Leaders of the Utah Legislature agreed, but the Governor and the Director of the Division of Wildlife Resources refused. So now we have people pushing for a minimum of 1,500 wolves in Utah, 2,000-3,000 wolves in Colorado, and a 1,000 or more wolves each in Washington State, Oregon, and California. Due to the Oregon court ruling, wolf delisting is everyone's problem and is not confined to just Montana, Idaho, and Wyoming. The Mexican wolf battle in Arizona and New Mexico is also affected. Thus, it is time for sportsmen's groups everywhere to stand up and be counted, for if we do not, no one else will. The hell with habitat, it is time to hire some smart lawyers! Look at what happened to RMEF. They

spent millions of dollars protecting elk habitat north of Yellowstone National Park, but today all they are growing is wolves. Late season elk permits have been cut from 4,000 per year before wolves arrived to virtually none today, and the herd is still declining.

You also have to realize that judges know next to nothing about wildlife or ecology. The last time I testified as an expert witness in federal district court-- the case had nothing to do with wolves-- the judge spent the first part of the hearing lecturing both parties on the fact that he knew absolutely nothing about the species in question, nothing about the area, and nothing about the issues, but that he would cut-the-baby (his words) if both sides could not come to agreement (they did not). Then too, pro- wolf advocates have been misleading federal judges for years.

Recently, the USFWS proposed a rule change that would allow Montana, Idaho, and Wyoming to control wolves if wolves were having a significant impact on game herds. On January 28, 2008 Earthjustice filed a Complaint for Declaratory and Injunctive Relief with the U.S. District Court at Missoula, Montana. Toward the beginning of their brief, Earthjustice stated that the wolf is a keystone predator, which by definition means that wolves depress game populations. According to the concept of keystone predation, the carnivore, wolves in this instance, holds the herbivore population, deer and elk here, well below what the habitat would otherwise support. So far so good. But later in the same brief, Earthjustice claims that wolves have no significant impact on the number of deer or elk!! Logically, if A (keystone predator) is true, B (no impact on

deer or elk) cannot be true. Conversely, if B is true, A cannot be true. But Earthjustice is arguing that both A and B are true, a totally illogical conclusion!! At various other points in their legal brief, Earthjustice contends that wolves are needed to reestablish “A Balance of Nature,” but that myth was debunked by science years ago!! -- see Daniel Botkin’s 1990 book, **Discordant Harmonies**.

There is one thing, however, that Ed Bangs and I agree on and that is the fight over wolf delisting may go all the way to the U.S. Supreme Court, because it bears directly on how other ESA cases will be decided. And unless sportsmen have a dog in this fight (probably a poor choice of words given recent events); i.e., a group of competent attorneys and experts; we can collectively kiss our mule deer hunting opportunities goodbye. If we do not protect our interests, who will?? Certainly not state fish and game agencies, who are too closely tied to the USFWS and who know even less about predation than the feds.

Finally, sportsmen need to partner with ranchers both to save mule deer and to protect the ranching community (i.e., habitat). Why have large numbers of wolves not moved beyond Montana, Wyoming, and Idaho? Because once wolves leave the Central Idaho Wilderness or the core of the Yellowstone Ecosystem, where there are no livestock, wolves move onto ranchlands and begin preying on cattle or sheep. When they do, the wolves are killed by the federal government. In one Wyoming county, the feds recently shot more than 50 wolves in one year -- wolves that were headed for Utah or Colorado. The Greens too have figured this out. So how then do they reach their goal of more than 6,000 wolves as one interbreeding population in all the western states?

The option favored by many is to stop the federal government or anyone else from killing wolves that prey on livestock. Interestingly, the rule that allows the feds to kill depredating, ESA protected wolves has never been litigated. It would not surprise me if Earthjustice asked a federal judge to declare that rule null and void because every wolf pack with livestock in its territory has, sooner or later, turned to killing livestock and had to be controlled. Every absolute one! A fact I have in writing from both the USFWS and Wildlife Services, the federal agency that does wolf control. Thus livestock producers, like sportsmen, need to get off their collective duffs and unite to protect their long-term interests ,because every western state has a monumental stake in the legal battle over delisting. Unlike the feds and the Greens, who have lied and then lied again, virtually everything that I wrote about “wolf recovery” back in the early 1990’s has come to pass in one form or another. It is time to lawyer up, as this fight could not be more serious for mule deer hunters, or ranchers, or people who just like to watch mule deer.

Recently, a reporter asked Dr. Valerius Geist, a noted mule deer expert, if wolves might not help eliminate Chronic Wasting Disease (CWD) from mule deer populations. Val replied in the affirmative because wolves will simply exterminate the West’s mule deer! Just like wolves are now doing to woodland and mountain caribou across the length and breath of Canada.

Editor’s note: The next issue will feature an article by Dr. Kay on “Wolf Predation: More Bad News,” in which he will discuss on-going Canadian research.