



A Commission Letter To Hunters and Idahoans:

Wildlife managers and biologists agree that the wolf population in Idaho recovered years ago and that wolf numbers now need to be controlled to reduce conflicts with people and wildlife.

The recent court decision bypassed science and put Idaho wolves back under the protection of the Endangered Species Act based on a legal technicality. Now we must deal with a difficult situation.

The Endangered Species Act severely limits Idaho's abilities to manage wolves, and it is tempting to turn wolf management over to the federal government until wolves can be delisted again. But U.S. Fish and Wildlife Service officials have told us they wouldn't manage wolves to protect Idaho elk herds, and they don't share our motivation to protect the interests of our ranchers, pet owners, hunters and rural communities.

We looked carefully at our options and potential consequences. We decided that as long as we are making a difference, we must stay engaged in wolf management to protect Idaho's interests and rights. Only as a last resort will we leave the fate of Idaho residents and wildlife entirely in the hands of the federal government.

Part of the reason we feel that way is because of how we got to where we are. With the court decision to relist wolves for the second time, the federal

system has failed us. Defenders of Wildlife and other special interest groups are using a parade of lawsuits to tie the federal government in knots, and the result is against common sense, responsible wildlife management, and the stated intent of the Endangered Species Act. While we will work within the rule of law; we will use all of our influence and authority to make this right and put wolf management back in Idaho's hands

where it belongs.

Idaho's lawyers will ask a court of appeals to overturn U.S. District Court Judge Donald Molloy's ruling, but we believe the best solution is to change the law directly. We will work with Idaho's congressional delegation, Idaho Gov. C.L. "Butch" Otter and other states to resolve this problem through federal legislation. Solutions will probably not be easy or quick. We will need all of the support we can get to make this happen, and we will keep you posted as to how you can best help these efforts.

While we are pursuing change in the courts and in Congress, we will make the most of the authorities available to us. We support Gov. Otter's efforts to reach a new agreement with U.S. Fish and Wildlife to ensure as much flexibility as possible in managing wolves. The Idaho Fish and Game Commission recommended that the U.S. Fish and Wildlife Service be in charge of Endangered



IDFG photo by N.S. Nokkentved

Fish and Game biologists examine and radio-collar a captured wolf north of Boise as part of Idaho's wolf management program.

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Species Act enforcement while Idaho focuses on protecting its elk herds and reducing wolf conflicts. It should also be the federal government’s role to fund wolf management, and we support restricting the use of hunters’ license dollars for wolf management as long as wolves are federally protected.

We will continue to insist on population control, particularly in areas where wolf predation is hurting our wildlife. The processes for getting federal agency approvals involve considerable paperwork and time and impose requirements that are an additional source of frustration. For example, because of federal legal requirements, Idaho Fish and Game managers have to use wolf population estimates that are “minimum,” so we know we are underestimating the number of wolves in Idaho.

Likewise, to control wolves to protect elk herds under the “10(j)” provision of the Endangered Species Act, Idaho must demonstrate wolf predation impacts based on data that takes time to collect. We must also have our proposals reviewed by at least five scientists outside our agencies. That means we end up a year or more behind the times, using data that often doesn’t match up with what you see in the woods today. We have gotten to the point where we will soon submit a “10(j)” proposal to the U.S. Fish and Wildlife Service for wolf control actions in the Lolo Zone, and other proposals are being developed. When delisting occurred previously, we were poised with a proposal then, too.

As you can tell, we are in a tough struggle to regain state management, with scientific and legal battles on many fronts. We are concerned that some matters are dividing our community when we need to be united. For example, there are some who want to argue about what happened in Idaho politics when wolves were introduced in 1994. While we commit to learning from history, we do not want to waste our energy trying to attack, defend or change the past.

We are fighting a national battle of perception. It is easy to paint an ideal world of nature from a desk far away from rural Idaho. We need your help to explain why it is important to manage Idaho’s wolf population, just like we manage other wildlife. Someone who wouldn’t think twice about calling animal control to pick up stray dogs in the city may not think

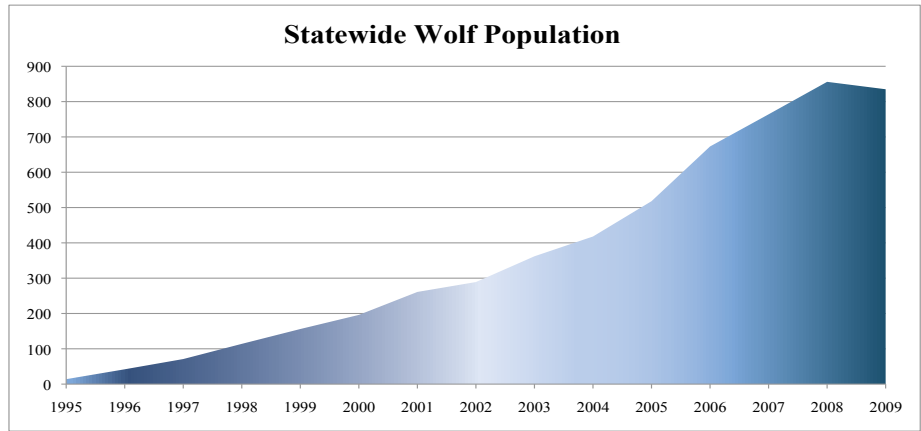


Figure 2: Estimated minimum numbers of wolves in Idaho.

about how wolves are affecting the lives of Idahoans in similar ways – unless we tell them.

National activist groups try to portray the average Idahoan as a wolf exterminator, lazy hunter or crazy extremist. We need your help to prove them wrong, just as Idahoans did when we participated responsibly in the first wolf hunting season in the lower 48 states. We need your help to support change through social networks across the country.



If state authorities are further undermined by court decisions or inaction at the federal level, there may come a time when we decide the best thing to do is to surrender and leave wolf management up to the federal government until wolves are delisted. But for now we believe the best place to fix the system and protect Idaho’s interests is by staying involved in management. We appreciate your support.

Idaho Fish and Game Commission

Idaho Fish and Game News
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 Volume 22, Number 3



Feds to Fish and Game: *“Idaho did everything right ... to have wolves recovered and to have wolves delisted.”*

Robin Thorson, regional director of the U.S. Fish and Wildlife Service attended the August meeting of the Idaho Fish and Game Commission in Idaho Falls, “to respond to your questions and comments, to be accountable for a failure of the federal rule that now leaves Idaho in a very difficult situation,” she said.

A U.S. District Court decision earlier in the month placed gray wolves in Idaho and Montana back on the federal endangered species list. The ruling had the effect of canceling public wolf hunts planned for this fall in the two states. Thorson said her federal agency is “deeply disappointed that we lost this case.”

Recounting steps that led to the current situation, Thorson said:

“Two years ago the U.S. Fish and Wildlife Service delisted wolves in Idaho because they were biologically recovered. That has not changed. Two years ago we delisted wolves in Idaho because Idaho had a wolf management plan in place to show the capability and commitment of the state to manage this as a resident species. That has not changed. And then Idaho and this commission authorized and operated a state hunt, a fair-chase wolf hunt. That was challenged, and it was upheld under challenge. We support that hunt and the continued hunting of wolves consistent with your state management plan.

“So Idaho took all the measures that were necessary to achieve a very important goal for your constituents: the restoration of state management of wolves. The fastest route to state management was recovery of wolves. Opposition to recovery of wolves would have dragged this out as a federal operation in the state. ... Idaho did everything right to walk that path, to have wolves recovered and to have wolves delisted.

“What happened? The court ruled that as a matter of law, the Fish and Wildlife Service’s rationale for delisting the wolf in Idaho was flawed, that the Service could not delist wolves in only two of the states in the Northern Rocky Mountain population of wolves. We had to deal with the northern Rocky Mountain population as one. This is a legal matter, an administrative matter, and the court ruled stridently against the rule that the Fish and Wildlife Service had operated under to delist.

“You have many questions and many issues involving wolves, the biggest one is where are we going to go from here?”

Thorson also said her agency has considered Idaho’s request to continue “a managed sport hunt” this year, but the likelihood this can be allowed is so small as to be almost impossible.

“We will not be promoting decisions that we know are legally indefensible,” she said.

But Idaho’s proposal to reduce wolf numbers in the Lolo elk zone under the 10(j) section of the Endangered Species Act may have better prospects.

“In the near term, immediately, we’re standing ready to receive Idaho’s proposal to control wolves in portions of the experimental population that are experiencing a high level of

wolf-caused ungulate mortality,” Thorson said. “Once we receive it, we’ll turn it around in no more than 60 days. We anticipate approval of the opportunity of advancing the 10(j) rule. But that



Wolf and caribou tracks mingle in the mud of Denali National Park.

depends on the rule, so I don’t want to pre-judge that.

“I hope the momentum of Idaho, for the successes that you’ve achieved, will continue with Idaho’s expert hand at the helm. I believe that’s important for day-to-day management on wolf issues because Idaho is expert and well-equipped to respond on the ground to wolf depredations and other issues.

And that state management of

the species demonstrates the capability and supports delisting, because we’re once again going to have to tackle delisting,” she said.

Because the question has been raised often in Idaho, commission Chairman Dr. Wayne Wright asked Thorson whether Idaho could have done anything to stop wolf reintroduction.

“I think that’s important in understanding that once listed under the Endangered Species Act and given its priority within the Fish and Wildlife Service, the commitment was to recover the Northern Rocky Mountain population,” Thorson replied.

“The federal government is committed to recovering the Northern Rocky Mountain population. That includes Idaho. We’re the ones who said, wolves will come into Idaho.”

Thorson could not say who would pay for enforcement while wolves are relisted but her agency is willing to discuss terms.

“But we would encourage Idaho to continue to be the active manager” of the species, she said. “The federal ruled failed. And my emphasis is that Idaho didn’t fail its constituents nor the requirements of the Endangered Species Act.”

The fastest route to delisting again, according the ruling judge, would come “if Wyoming were to have a management plan,” she said.



Ruling Returns ESA Protection to Wolf

On August 5, U.S. District Judge Donald Molloy set aside the April 2, 2009, federal rule that removed gray wolves in the Northern Rockies from the federal endangered species list.

Molloy ruled that the Endangered Species Act does not allow the U.S. Fish and Wildlife Service to list only part of a “species” as endangered, or to protect only part of a listed distinct population segment.

The legislative history of the Endangered Species Act supports the historical view, which the federal Fish and Wildlife Service also has held, that “the Endangered Species Act does not allow a distinct population segment to be subdivided,” Molloy wrote.

His ruling said in part:

“The record in this case implies that the (U.S. Fish and Wildlife) Service tried to find a pragmatic solution to the legal problem raised by the inadequacy of Wyoming’s regulatory mechanisms, and Wyoming’s choices about meaningful participation in a collective delisting agreement like that engaged in by Montana and Idaho. Even if the Service’s solution is pragmatic, or even practical, it is at its heart a political solution that does not comply with the ESA. The northern Rocky Mountain DPS must be listed, or delisted, as a distinct population and protected accordingly. The issues of the adequacy of the regulatory mechanisms of Montana and Idaho, population size, connectivity and genetic exchange are subsumed by the determination that the Final Rule is contrary to the law and as such are not decided here.”

The ruling is a major setback for state management of wolves.

As a result, wolves south of Interstate 90 have reverted to management under a section of the Endangered Species Act known as the 10(j) rule, allowing some flexibility to respond to livestock depredation and impacts on big game. Wolves north of Interstate 90 in Idaho are fully protected under the Endangered Species Act.

Idaho still must follow the rule of law. Fish and Game still will work to resolve conflicts between wolves and other game animals, and intends to submit proposals to the U.S. Fish and Wildlife Service for wolf control actions to protect dwindling game herds and reduce livestock predation.



Idaho Fish and Game Policy

Idaho wildlife management policy is set by seven volunteer commissioners. The Idaho Fish and Game Commission’s policy decisions are based on research and recommendations by the professional staff of the Idaho Department of Fish and Game, with input from the governor’s office, the state Legislature and hunters and anglers.

What Does the Federal 10(j) Rule Mean?

With wolves back on the endangered species list, they have reverted to management under section 10(j) of the Endangered Species Act south of Interstate 90 in Idaho.

But what does the section allow, and what does it mean for residents, hunters and livestock owners?

Hunters: The 10(j) rule allows individuals on private or public land to kill a wolf that is in the act of attacking their stock animals or dogs. Hunters and others can protect their pack stock and hunting dogs. But there must be evidence that wolves were a direct or immediate threat, and provided there is no evidence of intentional baiting, feeding or deliberate attractants of wolves.

On private land: Wolves seen attacking or molesting livestock, herding and guarding animals, and dogs on private land may be shot by the landowners without prior written authorization. But it must be reported to Idaho Fish and Game or the U.S. Fish and Wildlife Service within 24 hours, and there must be evidence of a wolf attack, such as dead or wounded livestock, trampled vegetation, and mixed wolf and livestock sign. State lands are considered private for the purpose of this rule.

On public land: Wolves attacking, chasing, molesting or harassing livestock and livestock herding and guarding animals on federal public lands may be shot by grazing permittees and guides or outfitters that use livestock as part of their federal land-use permit, on their active livestock allotments, and on public ceded lands by tribal members, without prior written authorization. It must be reported within 24 hours and there must be physical evidence of a wolf attack.

Under some circumstances landowners and public land grazing permittees and guide or outfitting permittees may be issued shoot-on-sight permits to kill wolves on their private land or their federal grazing federal allotments.

Also under the revised rule, wolves determined to be causing unacceptable impacts to deer and elk populations may be controlled. But such proposals must be science-based and must undergo public and peer review and be approved by the U.S. Fish and Wildlife Service.

For the complete text of the 10(j) rule, or to learn more about Fish and Game’s wolf control action proposal under the 10(j) rule in the Lolo Zone, see the Web site at: <http://fishandgame.idaho.gov>.

