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**UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION**

DEFENDERS OF WILDLIFE, NATURAL)
RESOURCES DEFENSE COUNCIL, SIERRA CLUB,) Case No. CV 08-56-M-DWM
HUMANE SOCIETY OF THE UNITED STATES,)
CENTER FOR BIOLOGICAL DIVERSITY, JACKSON)
HOLE CONSERVATION ALLIANCE, FRIENDS OF) DECLARATION OF M.
THE CLEARWATER, ALLIANCE FOR THE WILD) STEVEN NADEAU

ROCKIES, OREGON WILD, CASCADIA)
WILDLANDS PROJECT, WESTERN WATERSHEDS)
PROJECT, and WILDLANDS PROJECT)
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Plaintiffs,)
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v.)
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H. DALE HALL, U.S. Fish and Wildlife Service Director;)
DIRK KEMPTHORNE, Secretary of the Interior; and)
UNITED STATES FISH AND WILDLIFE SERVICE,)
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Defendants.)
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1. My name is M. Steven Nadeau and I am the Large Carnivore Manager for the Idaho Department of Fish and Game. I hold a B.S. in Wildlife Management from the Univ. of Maine at Orono in 1980, and a M.S. in Wildlife Biology from the Univ. of Montana, Missoula, 1987. I have been working with wolves since 1982 when I was hired to conduct wolf surveys throughout Idaho. I worked on grizzly bears and wolves throughout the 1980's for various agencies. As a Conservation Officer from 1989-1991, I received awards for conducting wolf and grizzly bear verification work in north central Idaho. During that time I also was the regional specialist responsible for all wolves and grizzly bear related verification and management activity and volunteered for the USFWS conducting wolf monitoring in the 9-mile Valley of Montana. As a Regional Wildlife Biologist from 1991-2002 my primary responsibilities included wolf, bear and lion management in north central Idaho. I helped train Tribal biologists on wolf management techniques and worked closely with Tribal biologists in conducting wolf research and management. I was a big game manager, habitat manager, and assisted

research during that time period. Since 2002, I have been the statewide wolf, black bear, mountain lion, and grizzly bear program manager. My primary duty has been running the wolf program for the state. The Governor of the State of Idaho signed an MOU with the Secretary of Interior in January 2006 for the State to be their designated agent in Idaho, and since then I have been making daily decisions on management of wolves under authorization of the MOU and the 10(j) rule and Idaho Wolf Conservation and Management Plan. In 2006, I won the Idaho Fish and Game Employee of the Year Award for Management/Leadership Coordination mostly for my wolf program leadership.

2. My responsibilities include overseeing day-to-day management of wolves in Idaho. I train personnel in wolf management, supervise permanent and seasonal personnel in wolf management duties, coordinate wolf activities among 500 Fish and Game employees and among agencies (primary contact with the Nez Perce Tribe wolf program personnel, United States Fish and Wildlife Service (“FWS”) recovery coordinators and Law Enforcement, and the USDA APHIS Wildlife Services (“WS”), US Forest Service, other state agencies and wolf coordinators from adjacent states), and oversee management of livestock conflicts with wolves. I was the primary author of the IDFG Wolf Population Management Plan (2008). I coordinate with the Governor’s Office and the legislature. I work with livestock and outfitter industries, the hunting and nonhunting public, as well as the environmental community. I am called upon regularly by professional organizations to give presentations on wolves and present Idaho’s perspective, I am an author and coauthor of numerous professional papers and reports on wolves, and am otherwise

considered by the state to be the wolf program expert. I am also the primary spokesman with the press on wolf related issues in Idaho.

3. The IDFG has undertaken extensive preparations over the last 6 years to assume responsibility for managing and conserving the wolf populations in Idaho upon delisting.
4. IDFG has developed and the Fish and Game Commission adopted on March 6, 2008 a Wolf Population Management Plan (“Wolf Management Plan”) that establishes goals and objectives for management of gray wolves for the period 2008-2012. The Wolf Management Plan governs the take and size of the wolf population, and how it will be monitored and managed.
5. The Wolf Management Plan is specific in the goals and population objectives that will govern wolf management, and requires IDFG to: maintain 2005-2007 populations levels (518-732 wolves), maintain viable populations, maintain genetic transfer between populations; control conflicts; and manage predator/prey balances. IDFG’s target wolf population of 518-732 wolves is five to seven times higher than the recovery levels established by the United States Fish and Wildlife Service. The determination to maintain a higher number of wolves than required by FWS was a discretionary decision by IDFG. IDFG considers wolves an important part of resident Idaho wildlife.
6. Wolf populations will be maintained at current levels primarily through providing sport harvest opportunities to hunters. By IDFG rules, wolves are classified as big game animals. IDAPA 13.01.08.010.k. IDFG is in the process of developing rules to govern wolf sport harvest. Harvest levels will be established after taking into account other sources of mortality, so that total mortality is consistent with maintenance of wolf populations at 2005-2007 levels. Based on multiple years of data collection and analysis

as reported in Nadeau et al. (2005, 2006, 2007) as well as average population performance among many different populations as described in Mech and Boitani (2003), the Wolf Management Plan determined that the Idaho wolf population will stabilize if total annual mortality is between 30-50%.

7. The Wolf Management Plan anticipates that the impact of wolves on state ungulate populations will be addressed by stabilizing wolf populations between 2005 and 2007 levels and by managing ungulate populations to provide an adequate prey base for wolves and other predators. If big game populations are maintained at or above objective, wolf populations can be maintained at higher levels, and resultant animosity toward wolves and illegal take will decline. Maintaining balance between predator and prey is an IDFG responsibility. So doing has created near record high elk and deer numbers, and near record high mountain lion and bear numbers, both predators of elk and deer. If wolves are allowed to go unrestrained, then they will suffer through starvation, intraspecific strife, competition with other predators, and humans. Maintaining wolf populations at levels that do not suppress prey numbers is the best management tool for all wildlife and will assure long-term viable wolf populations and improved public attitudes toward wolves.
8. The Wolf Management Plan anticipates that wolf mortality associated with depredation control will remain at or near current levels. Idaho Code § 36-1107 was amended this past legislative session to address control of wolf depredation by livestock or domestic animal owners. The provisions of the amended § 36-1107 are similar in substance to the depredation rules adopted by the USFWS under Section 10(j) that governed taking of wolves within Idaho when the wolves were designated as an Experimental Nonessential

Population. Under the 10(j) rules, less than 12 wolves were killed by livestock owners over the last 2 years. It is anticipated that the number of wolves killed for depredation control will be proportionally similar under Idaho Code § 36-1107 (wolf control in relation to depredation have increased every year since reintroductions as a result of increasing wolf populations expanding into higher conflict areas). Through April 30, livestock owners have killed a total of 3 wolves for depredation control purposes.

9. The Wolf Management Plan provides for intensive monitoring of wolf populations. For the immediate future, IDFG will continue to radiocollar wolves as necessary to demonstrate that post-delisting population objectives are being achieved. Such efforts, in conjunction with public observation records and intensive field efforts, are used to quantify the number of packs, breeding pairs, pups, and total wolves. An annual report is prepared by IDFG and the Nez Perce Tribe reporting the result of monitoring efforts.

The report for 2007 can be found at

<http://fishandgame.idaho.gov/cms/wildlife/wolves/state/07report/07progressReport.cfm> .

Harvests will also be carefully monitored. Hunting rules will require all wolf harvest to be reported within 72 hours, hide and skull inspected and tagged, and when quotas are reached either by zone or statewide, seasons will be stopped. If, at any time, the wolf population level falls below acceptable limits, an emergency order will be implemented by the Director to curtail harvest and lethal control.

10. While the objective of the Wolf Management Plan is to maintain the wolf population at 2005-2007 levels, the Plan also identifies population levels which, if reached, will trigger additional management measures. In the unlikely event that the population falls below 20 breeding pairs, harvest strategies will be adjusted, depredation controls will be restricted,

and monitoring will be intensified. Using 20 breeding pairs as a trigger for more restrictive management directives provides a safety margin roughly double the USFWS delisting threshold of ten breeding pairs. It bears repeating that 20 breeding pairs is *not* a population objective but rather is a management trigger used to determine when it is necessary to implement management restrictions due to unexpected population declines.

11. Additional management restrictions will be put into place in the unlikely event that the wolf population within Idaho falls to 15 breeding pairs. This is consistent with the Idaho Wolf Conservation and Management Plan prepared by the Idaho Legislative Wolf Oversight Committee and amended by the Idaho Legislature in 2002 (“2002 Plan”). While the 2002 Plan called for management measures to be implemented when the wolf population fell below 15 “packs,” it also defined “pack” as being “formed when 2 wolves of opposite sex develop a pair bond, breed, and produce pups.” In other words, the 2002 Plan used the terms “pack” and “breeding pair” interchangeably. To avoid any confusion, all management triggers in IDFG’s Wolf Management Plan are based on breeding pairs, to be consistent with the terminology used by the FWS in the delisting rule.
12. Under IDFG’s Wolf Management Plan, lethal controls for wolves committing depredation on livestock will continue essentially as such controls did under 10(j) regulations. Poisoning of wolves will not take place. Use of poison as a means of wolf control is not allowed under EPA rules and is not considered a legal technique of wolf control under Idaho law. Idaho Code § 36-201 provides that any method of taking wolves must be “in accordance with existing laws or approved management plans.”

13. Funding for IDFG management of wolves is currently provided by the federal government, and Idaho will continue to work with its congressional delegation to secure necessary funding. Idaho expects future funding for wolf management may include revenue from other sources including sales of hunting tags.
14. To date, IDFG management of wolves has not resulted in any additional mortality beyond that expected under the 10(j) rules. From March 28 – April 30 we have recorded 20 mortalities: 12 lethal controls by USDA Wildlife Services for confirmed livestock depredations, 2 illegal takes, 3 control under the state law §36-1107 by livestock producers, 2 vehicle collisions, and 1 natural mortality. Two of the above wolves were killed by a livestock owner near Ashton, Idaho under §36-1107, after the owner saw the wolves stalking his livestock. The incident was investigated by IDFG conservation officers and a report filed with the local prosecutor, who determined that no charges should be filed against the livestock owner. This year, above average snowfall and lingering winter conditions are keeping wolves at lower elevations during peak cattle calving and lambing seasons as well. All but one depredation report received has occurred on private land at low elevations. Many are occurring in areas we have not historically had high levels of depredations including Council/Cambridge area, Horseshoe Bend, Lemhi, Pahsimeroi, Ashton, Mountain Home and other locations on private ground far from core wolf areas. We have been seeing an annual increase in depredations and resultant wolf control actions every year since reintroductions under federal authority correlated to higher wolf populations and wolves establishing activity on private land with high conflict potential. As an example, the following table shows

the annual increase in wolf control actions as a result of increasing depredation problems each year.

Year	April Confirmed Depredations	April Wolves Controlled
2005	1	0
2006	3	0
2007	6	4
2008	15	10

15. Wolves in Idaho, similar to other wildlife populations, will be managed at the population level, not at the individual level. Wildlife management can not be conducted at the individual level. The wildlife management model used in North America entails state Fish and Game agencies setting rules and regulations to manage wildlife surpluses for license and tag holders at the behest of the hunters for the benefit of the species and the hunters. Sportsmen support is an essential component of wildlife recovery. For example, without sportsmen support for wildlife recovery, there would be no elk in Idaho. Elk were mostly eliminated by the time a citizens initiative established the Fish and Game Department in 1938. Today we have more than 125,000 elk statewide. Hunting the harvestable surplus has provided optimal wildlife populations mostly in balance with habitat. All wildlife populations, including wolves, produce an annual surplus of young. Wolf populations produce enough young annually to create a surplus of 30-50% (Mech and Boitani 2003). Annual mortality would have to be that high for the population to level off. Last year, the Nez Perce Tribe and IDFG estimated that approximately 181 wolves were killed for various reasons, yet the population continued to increase at an estimated 9% (Nadeau et al. 2008).

16. Wolf management under the 10(j) rule allowed for high levels of control of individual wolves throughout the 3 states for livestock conflicts and even provided an option for control of wolves due to impacts on ungulates. Even in the endangered area of northwestern Montana wolf control was necessary to manage conflicts prior to delisting. Due to wolf behavior and their habit of residing in meadows, low elevation flat country, and other highly desirable areas for humans, the incidence of wolf-human and livestock conflict is higher than other carnivores such as bears and cougars on a per capita basis. Individual wolves will always have to be controlled, as well as harvested in order to reduce conflicts and manage populations at sustainable levels. As populations increase so do conflicts and impacts. A healthy sustainable population will provide a variety of benefits including non consumptive uses with reduced conflicts and animosity toward wolves. The higher the conflict the lower the tolerance of the citizens.
17. There is no evidence that delisting has lead to higher illegal mortality as suggested in the declaration of Jon Marvel. An estimated 7-9% of wolves were killed illegally while listed, or approximately 50-65 wolves in 2007 alone (Nadeau et al. 2007, 2008). There is simply no evidence to suggest that there will be a higher level of illegal take with delisting. As a matter of fact, just the opposite is likely to occur; a recently conducted random survey of hunters by IDFG (Appendix A; Wolf Plan 2008) indicated that support for wolves would change from 74% opposed to 51 % supportive if wolves were delisted and populations managed. Idaho anti- wolf coalition leaders have stated numerous times that they were sure that wolves would not be delisted; therefore they circulated a citizens initiative to pass state law that would require the state to remove wolves from Idaho. The initiative did not succeed in drawing enough signatures to place on the ballot, as it is

evident that most citizens of the state support delisting and state management of wolves and will support wolves in Idaho if the populations are managed (Appendix A; Wolf Plan).

18. Depredation control actions will continue to be carried out by WS under the direction of IDFG. I have not changed any procedure for determining if a wolf control actions should be authorized or how many wolves should be removed to reduce or eliminate the conflict. Our procedures were adapted from those used by Carter Niemeyer, the former FWS recovery coordinator for Idaho who now works for Idaho Department of Fish and Game. To establish a baseline to compare depredations, lethal control authorizations, and lethal removals, we analyzed the control actions when the FWS made the calls, and over the last 2+ years when IDFG made the calls. In 2005 (Jan-Dec), WS conducted 92 wolf depredation investigations and confirmed 46 depredations where wolves killed cattle or sheep. FWS authorized 40 (87%) control actions that had some level of lethal control (all the way from collar 1/kill 1 to total pack removal). The control actions resulted in 23 wolves killed and 6 collared. In 2006, WS conducted 117 investigations and confirmed 54 cases of wolves killing livestock. IDFG provided authority for some amount of lethal take on 49 (90%) of those cases. We took 39 wolves and collared 12. In 2007, WS conducted 128 investigations and confirmed 74 depredations where livestock were killed by wolves. We had authority to lethally remove wolves after 68 (92%) of those confirmed investigations. We took 43 wolves and collared 9 more.
19. Lynne Stone's declaration states that she has not seen any nonlethal activity in the Stanley Basin since delisting. The cattle are not yet in the area so there is no need for nonlethal control up there. However, IDFG is coordinating a nonlethal program with 3

sheep producers, the USFS, Wildlife Services, Defenders of Wildlife, Blaine County Commissioners and others in the Sun Valley area on the south end of the Sawtooth National Recreation Area. We are working with the producers to train personnel specially hired to reduce conflicts with wolves in the area. This new project will be scientifically designed to establish a baseline to determine effectiveness of the nonlethal efforts and this program in particular. This may develop into a wolf viewing opportunity for local citizens. IDFG is attempting to increase the use of nonlethal control as we transition into state management and regional control of livestock depredation management. Managers will attempt to reduce conflicts with producers by improving husbandry, and providing hunting opportunity as opposed to agency control. This has already begun in the last month with training as the regional supervisors, biologists, and regional landowner sportsmen coordinators take on the livestock depredation role.

20. Lynne Stone's Declaration also declares her opinion that Idaho law 36-1107 will make it easier to kill wolves in Idaho. The language for 36-1107 is very similar to the 10(j) rule in that a wolf has to be in the act of molesting or attacking livestock. IDFG interprets the definition of "molesting" to be similar in many ways to the 10(j) definition. Like any new law, enforcement staff, citizens, and prosecutors will need to become familiar with the intent and language to address various cases. IDFG has published a question and answer document to help staff and citizens understand when it is and isn't legal to kill a wolf. It has been made available to the public at IDFG's website at: <http://fishandgame.idaho.gov/cms/wildlife/wolves/livestockQA.pdf>. Under Idaho law and the hunting rules being proposed, all reported mortality will become part of the mortality limit for each wolf zone. Any kill under 36-1107 would reduce the take

allowed for hunter harvest. Any illegal, natural, road kill, etc. reported would also reduce the number of wolves allowed to be harvested. Once the total mortality limit for the zone or state is reached, all hunting would be closed. Hunting would be allowed where there is a harvestable surplus of wolves, and harvest would be higher where there are chronic livestock conflicts. Harvest would be regulated using only techniques allowed for other big game animals, except no baiting will be allowed. No trapping, aerial hunting, and no poisons would be allowed.

21. Connectivity between Idaho, Montana, and Yellowstone is included in our Wolf Plan as a goal. Wolf Data Analysis Units (“DAUs”) were designed to allow flexibility and improve management of wolf metapopulation connectivity between Montana and Wyoming. Rather than designating small, discrete DAUs along the Montana and Yellowstone National Park (“YNP”) borders, Game Management units (“GMUs”) were placed in larger groupings to provide greater flexibility in conflict and population management while maintaining avenues for connectivity within the metapopulation. Wolves will be allowed to persist along the border in these areas if they remain mostly free of conflict, though some harvest may be allowed. Travel between core populations across state borders and into YNP can be enhanced through restricted harvest and limited control actions during peak dispersal periods and during breeding season. In particular, GMUs 30, 30A, 58, 59, 59A, and 61 will be closely monitored and managed for connectivity. Maintaining adequate packs within DAUs and focusing on border units is expected to assure continued dispersal and genetic exchange among states. Border packs are numerous (13 along Idaho-Montana border, 4 along Wyoming – Idaho border) and

the 3 NRM recovery states and YNP are committed to continued communication and coordination of border pack management.

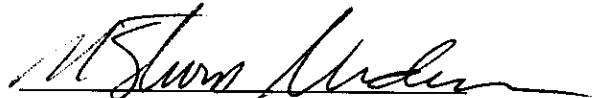
22. Idaho will coordinate with neighboring states to reach consensus on corridor management and metapopulation connectivity. Connectivity, as it relates to long-term genetic isolation in the Greater Yellowstone Area is addressed through the above management actions and the innate ability of wolves to disperse long distances. We have had radio collared animals travel from near Boise to the Yellowstone Ecosystem, from Banff National Park Alberta to central Idaho, and daily from the area near Island Park on the Idaho side into and out of Yellowstone. We have 4 verified packs of wolves on the Idaho side of Yellowstone; the Beckler (mostly in the Park), Biscuit Basin, Bishop Mountain, and Falls Creek. We also have regular dispersal activity along the border. Radio and nonradiocollared animals are regularly documented between the Salmon and Yellowstone corridor. We proposed restricting hunting during peak dispersal seasons along the border (mostly during breeding season in February through spring), providing nonlethal and proactive control of problems with local livestock producers, and promoting a tolerance for wolves adjacent to the Park through increased public outreach efforts (e.g. IDFG public meeting in Ashton, April 8, 2008). Managers are aware of the need to assure connectivity by assuring healthy populations of wolves within the DAUs along the border, thus maintaining a surplus of dispersers available to occasionally provide genetic transfer to the park.
23. Wolves along the Montana border are shared between the 2 states. We document the pack as a resident of the state by which state it dens; if that information is unknown, then by the majority of telemetry data, and lastly by which state documented the wolf first.

We only count wolf packs once. The tri-state and YNP wolf managers meet regularly, provide our border flight data to each other, and otherwise discuss border wolf issues through email, phone, and in person meetings. Wolves along the border will always be subject to some mortality; however, the robust population characteristics of wolves, their ability to travel dozens of miles daily, and their desire to find a mate will lead to consistent presence of wolves throughout the suitable habitat and corridors along the borders. Managers will provide a legal and regulatory framework to assure it.

24. The Plaintiffs' claim of irreparable harm being caused by individual wolves being killed is not valid. Individual wolves will die daily with or without federal protections. Individual wolves were killed by agencies or individuals daily while listed. However, the State of Idaho has promised the USFWS and the citizens of Idaho and the nation that wolf populations are here to stay; they will be managed as a viable healthy population at or near current levels under state management.

I declare under penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct.

Executed this 14th day of May, 2008, at Boise, Idaho.


M. Steven Nadeau

Literature cited in Nadeau May 14 Declaration

Mech, L. D., and L. Boitani. 2003. Wolves: behavior, ecology, and conservation. University of Chicago Press, Illinois, USA.

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