



# WYOMING STOCK GROWERS ASSOCIATION

*Guardian of Wyoming's Cow Country since 1872*

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July 12, 2017

TO: Senator John Barrasso, Chairman  
Senator Thomas Carper, Ranking Member  
Senate Committee on Environment & Public Works

FROM: Jim Magagna, Executive Vice President, Wyoming Stock Growers Association

RE: "HELP for Wildlife Act"

## TESTIMONY

Chairman Barrasso, Ranking Member Carper and Members of the EPW Committee.

The Wyoming Stock Growers Association (WSGA) appreciates this opportunity to provide testimony on the HELP for Wildlife Act (S.1514). WSGA is generally supportive of all sections of the bill. However, we will focus our testimony on Section 8, REISSUANCE OF FINAL RULE REGARDING GRAY WOLVES IN WYOMING. WSGA strongly supports Section 8. Our comments are intended to focus on the strong need for this legislation.

WSGA, with a current membership of over 1100, has represented the livestock industry in the state since 1872. We have been actively engaged in discussions and decisions regarding wolf management in Wyoming and surrounding states since wolves were introduced into Wyoming in 1995. On a personal note, I have been involved with this issue since being named by Interior Secretary Lujan in 1990 to serve on a FACA Committee to develop a plan for the introduction of Canadian wolves into Yellowstone National Park.

While WSGA strongly opposed the introduction of wolves into the state, since this introduction became a reality, we have maintained a focus on assuring establishment of a population that would provide for the return of management to the state under a plan that would maintain a viable population in suitable areas while assuring the ability to address and minimize impacts on Wyoming livestock and wildlife.

WSGA was very involved in the development of Wyoming's initial wolf legislation in 2003. We participated with Wyoming wildlife managers, representatives of USFWS (the Service) and other interested parties in the development of Wyoming's Wolf Management Plan. The Plan provided for maintaining a viable wolf population in the suitable habitats of northwestern Wyoming while protecting the status of the wolf as a predator subject to unlimited control in the remainder of the state. We have accepted reasonable changes to both the legislation and

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the Plan to accommodate the ever-changing targets outlined by the Service over a period of years.

WSGA has defended this plan for nearly 15 years, both in comments to the Service and, when necessary, through participation in litigation to defend the plan. The process of securing delisting of a fully recovered grey wolf species in Wyoming has been a “merry-go-round” that is worthy of full understanding.

In December of 2007 the Service approved the Wyoming Wolf management Plan. The following February they issued a final rule delisting the Northern Rocky Mountain wolf population, including the population in Wyoming. When the Federal District Court in Montana issues a preliminary injunction against the delisting based on the Service’s acceptance of Wyoming’s dual classification system, rather than defend its decision, the Service chose to revoke its previous approval of the Wyoming Plan. The result was a reversal of the delisting of the wolf in Wyoming.

In 2010, following some revisions to the Wyoming Plan and the Service’s continued refusal to sanction the Plan, the State of Wyoming filed a petition in Federal District Court in Wyoming seeking an order directing the Service to begin the delisting process in Wyoming. The Wyoming Wolf Coalition, in which the WSGA was a major participant, filed a motion to intervene on behalf of the State. That motion was granted.

The District Court found the decision of the Service to be arbitrary & capricious and set it aside. Two comments of the Judge are worth noting here: *“The Court offers the following observations. Given the past history of the wolf project, both the state of Wyoming and the FWS have been facing conflicting rulings and determinations, based on substantially the same scientific and commercial data—a Catch-22 for all... In this case, the Court finds that the agency has not provided a reasoned explanation for its varying actions during the course of this long term wolf reintroduction project.”* Following this decision, the Service again proceeded with the delisting of the wolf in Wyoming.

In 2012, the Wyoming wolf delisting was again challenged. This time the environmental plaintiffs filed two lawsuits in DC Federal District Court and a third in the Colorado District Court, challenging the biological determination that the wolf population in the Northern Rockies was recovered and questioning the state’s commitment to maintaining a recovered population. These cases were consolidated in the DC Court. WSGA filed an amicus brief in the case as a member of the Wolf Coalition. In September, 2013, the District Court granted, in part, the plaintiffs’ motion based on nothing more than the Court’s view that the State’s commitment to manage for a specific numerical buffer was not included in legislation and, therefore, was an inadequate regulatory mechanism.

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It was not until 15 months later that the Service filed an appeal of this decision. The Service then defended the adequacy of the State's management plan along with Wyoming's statutes and regulations. In March of 2017 the Court of Appeals for the DC Circuit issued a decision reversing the judgment of the District Court. In doing so the Court of Appeals accepted the argument of the Service that Wyoming's predator area was never "envisioned to meaningfully contribute to wolf recovery in the region" and is this not "a significant part of its range.

In the latest chapter of this 15 year saga, the gray wolf was again delisted in Wyoming on April 25<sup>th</sup>, 2017.

Our intent in relating this complex history is to demonstrate that state management of a viable wolf population in Wyoming has been subject to incessant litigation and resulting unpredictable actions by the Service. Meanwhile, our neighboring states of Montana and Idaho representing portions of the same distinct population segment (DPS) have enjoyed six years of protection from similar judicial challenges as a result of action taken by Congress and signed by the President. According to the findings of the Service, Wyoming has fully met the established criteria for a recovered wolf population as have our two neighboring states. As a matter of equity, we are entitled to the same level of Congressional protection from judicial challenge.

The ranching community in Wyoming, both as the primary private landowners and as the most extensive users of state and federally managed lands, is a critical partner in the protection of diverse species. Our willingness to engage with state and federal wildlife managers is tempered by the threat of litigation each time that a wildlife management decision is threatened by litigation, often by organizations whose primary goal is land use control, not the welfare of the species. These judicial challenges to delisting decisions only serve to defeat and delay the intended outcome of the Endangered Species Act.

When predator species such as gray wolves and grizzly bears cannot be properly managed by qualified state wildlife managers, our members suffer significant economic impacts. AS but one example, a large in-common grazing allotment on the Bridger-Teton National Forest in western Wyoming has seen its overall cattle losses during the summer season increase from a historic average of approximately 3% to annual averages ranging from 7% to 10% since the reintroduction of wolves and the expansion of grizzly bears into their allotment.

In recent years WSGA has been drawn into litigation challenging Service decisions on wolves, grizzly bears, sage grouse and Prebles Meadow Jumping Mice, to name a few. Until Congress can identify an approach to discourage such litigation while fostering local collaborative species management, targeted Congressional action to preclude judicial review will continue to be essential.

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WSGA reiterates our strong support of Section 8 and urges swift Congressional action to pass the HELP for Wildlife Act. We appreciate this opportunity to share our experiences with you.

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