

How the gray wolf lost its endangered status -- and how enviros helped

by Hal Herring

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In September of 1995, I worked on a trail-building crew along the edge of Little Blackfoot Meadows, in the Helena National Forest near Elliston, Mont. It was a big piece of roadless country, mostly lodgepole pines over a lush carpet of whortleberry bushes. The meadows were a sunburnt dun color, and the willows along the braids of the marshy creek glowed deep yellow from frost. In the center of a wide meadow, we noticed what I first thought was a small herd of horses. As the animals moved, their leggy, preposterous gait revealed them to be moose, huddled together, their long heads up and watching. We wondered why they were all bunched up like that. That night, the weather shifted, and the next morning, on a bench above the meadows, two sets of big dog-like tracks showed in the skiff of snow. "Wolves," my boss said. "That's why those moose were acting like they were." I had never seen wolf tracks before. Kneeling to study them, I imagined the pair of wild rovers -- from who knows where, maybe Canada or Glacier National Park -- following ancient paths through the people-less valley. I liked being where the wolves were, in a place where so many of the region's original living components survived. We all did.

No one could have predicted back then that the Northern Rockies wolves -- the 66 introduced into central Idaho and Yellowstone National Park by the U.S. Fish and Wildlife Service in 1995

and 1996, plus a few that crossed the Canadian border and naturally re-colonized -- would become one of the most successful projects of the Endangered Species Act. Wolves were among the first species sheltered by the 1973 law, and in the years since the reintroduction, their numbers have risen to more than five times the initial goal of 300 individuals and 30 breeding pairs. The success of the reintroduction has made for some excellent, fractious politics. It's also revealed the weaknesses in the strategy of the environmentalists who have used continuous lawsuits to protect wolves.

From the beginning, it was clear that the resurgent wolf population would need at least the threat of legal action to survive. Many of the West's cattle and sheep ranchers and hunters still hail the extermination of the region's original wolves (the last were slaughtered in a Yellowstone den in 1926) as the best way to deal with top-level predators that compete with human beings. Yet the pro-wolf lawsuits have ended in a colossal strategic failure: Congress has just brushed them aside and passed a bipartisan measure that strips Endangered Species Act protections from most Northern Rockies wolves, effective May 5. Suddenly, the whole Endangered Species Act looks vulnerable to more attacks from the law's traditional enemies as well as a surge of new ones. There are lessons we can pull from the apparent ruins.

The thinking of the environmental groups that persisted in filing lawsuits can be summed up: They didn't trust the Clinton administration to manage wolves, then they didn't trust the George W. Bush administration, and then they didn't trust the Obama administration. Most of all they didn't trust the state governments, hunters and ranchers. They believed they could force people to tolerate wolves and refused to acknowledge the other side's point of view -- or at least, the courtroom arenas didn't allow them to acknowledge the other side. They ignored the public's perceptions of their actions, and they didn't see the risk of filing one lawsuit too many.

In April of 2003, for instance, when the U.S. Fish and Wildlife Service decided to relax protections somewhat by downlisting wolves from "endangered" to "threatened" in nine Western states, 17 environmental groups filed suit, claiming that the decision was not "based on the best available science." The wolf population in Montana, Wyoming and Idaho at the time was estimated at 663, more than twice the original goal. Mike Clark, head of the Greater Yellowstone Coalition, one of the groups in the lawsuit, told me recently that the goal of 300 wolves was "just a number selected by U.S. Fish and Wildlife. There was never any discussion of whether that was enough to have a sustainable population, and it was certainly never set in stone." But many Westerners didn't know

that the feds' voluminous wolf plans contained a few sentences saying the goal might be adjusted to take into account ongoing research. There was enough science and legal argument on the environmentalists' side that U.S. District Judge Robert Jones in Oregon ruled in their favor, invoking the standard lawsuit language that the downlisting was "arbitrary and capricious."

It seemed like a victory, but it delayed federal efforts to hand wolf management over to the state governments. During the next three years, as wolf numbers rose, science took a back seat to the fury over the notion that the federal government -- the Inland West's favorite whipping boy, especially in rural areas -- was imposing the wolves on hunters and ranchers, on behalf of anti-hunting, anti-ranching environmentalists. That perception wasn't completely accurate, but like the strongest propaganda, it felt true enough to have an impact.

The lawsuit-oriented groups shrugged off any experts who disagreed with their own experts -- including Valerius Geist, a widely respected researcher and author who is also a professor emeritus of wildlife biology at the University of Alberta in Calgary. Geist reveres the North American Model of Conservation, a concept dating back to 1842 that prevents private ownership of wildlife while allowing hunting and fishing within the boundaries of laws set, mostly, by the states. It has been, arguably, the most effective wildlife conservation and restoration model in the world. Geist told me in 2000, while I was researching a story for the Rocky Mountain Elk Foundation's *Bugle* magazine, that wolf reintroduction was "a bad idea. ... Environmentalists have an idealistic vision that there is a balance of nature that can be achieved. What you will actually see is quite a depletion in your big-game (herds)." Geist thinks that "those dickybird fellows" -- as he calls most environmentalists -- do not really care whether the wolves reduce

opportunity for big-game hunters, even though the special taxes hunters pay on firearms and their hunting-license fees basically paid for restoring the elk that allowed the wolf recovery: "The enviros have taken a free ride on the money provided by hunters, and they have never paid their share of wildlife costs."

The pro-wolf lawsuit groups also shrugged off hunters' concerns, by repeatedly pointing out that the Northern Rockies overall have plenty of elk. (The latest totals: Idaho has about 100,000 elk, Montana has 117,880 and Wyoming 120,000.) It didn't seem to matter to them that wolves were taking a heavy toll in some locations. At the end of 2010, there were only 4,635 elk in the famous herd on Yellowstone's northern edge -- a radical decline from the 14,538 elk that were there in 2000. The elk herd on the West Fork of the Bitterroot, in western Montana, had only seven calves for every 100 cow elk, alarming biologists who say the herd won't survive without at least 25 calves per 100 cows. Idaho's long-declining Lolo elk herd was down to 2,000 from a record 16,000 in 1988. There were other factors involved, of course, including the subdivisions taking over Bitterroot winter range and the Lolo forests reclaiming meadows created by previous fires. But an adult wolf eats from 11 to 35 elk per year. To claim that hundreds of wolves were having little or no effect on big game numbers smacked of willful naiveté; it was like the oil and gas industry insisting that the decline of deer and antelope around Pinedale, Wyo., has nothing to do with the 1,400 gas wells drilled on that winter range.

As state wildlife managers try to recover elk herds in places like the Lolo, permits to hunt cow elk are

eliminated, infuriating hunters who are accustomed to taking a year's supply of meat from those herds. Hunting families rely on that meat, and the permits mean even more to agencies like the Idaho Fish and Game Department, which relies almost entirely on the sale of hunting and fishing licenses to pay its staff and carry out habitat protection and other projects.

The lawsuit-filing groups also had a mixed relationship with the ranching community, at best. One group, Defenders of Wildlife, reached out with offers of compensation for livestock lost to wolves (a 23-year-long program that was recently disbanded when Congress began allocating money for losses). But mostly the lawsuit groups trotted out statistics showing that wolves were responsible for only a miniscule percentage of total livestock losses. (Coyotes, disease and bad weather are still the major killers.) In 2009, for instance, the region's wolves killed a confirmed 192 cows, 721 sheep, and 24 domestic dogs, and ranchers were compensated with \$457,785 from the new federal Wolf Compensation and Prevention Program.

Still, ranchers bore most of the burden of living with wolves. George Edwards, coordinator for the Montana Livestock Loss Reduction and Mitigation Board, estimated that in 2009, losses to wolves in Montana alone ran as high as \$1.5 million. Edwards, a Montana native who maintains an even-keeled discourse with both ranchers and wolf advocates, says it's often impossible to compensate ranchers for such losses. "We can pay for confirmed kills, but there's no way to compensate for calves

that disappear, or the animals that never gain weight because they are being run, or that are injured running through fences trying to escape, and that's something I hear about all the time." Terri Tew, who with her husband, Tim, manages the LF Ranch near Augusta, Mont. -- known for its wildlife and tolerance of predators -- once told me, "We're not always sure why we should go through all this with losing calves and staying up all night, just so somebody from back East can come out here for a week and listen to a wolf howl." Kathy Konen of Dillon, Mont., probably felt the same way when she arrived in her family's sheep pasture -- on private land -- to find that wolves had killed 120 rams in one night in August 2009. Some ranchers lost priceless breeding stock they'd built up through generations of careful genetic management.

Western Watersheds Project director Jon Marvel -- famed for his uncompromising opposition to livestock grazing on public lands -- was involved in every major lawsuit to protect the wolves. Many ranchers wrongly assumed that Marvel spoke for all environmentalists, so they imagined the pro-wolf groups were out to get them. In turn, the pro-wolf groups fixated on the worst rhetoric in the anti-wolf camps. And there was plenty to choose from: Idaho's Republican Gov. Butch Otter often proclaimed his hatred for wolves, saying he wanted hunters to kill all but 100 of Idaho's wolves, and the Idaho Legislature shrieked that wolf recovery "has no basis in common sense, legitimate science or free-enterprise economics." Wyoming's "wolf management plan" sought to classify wolves as "predators" that could be shot and trapped like

vermin in 88 percent of the state.

In their selective use of science, the pro-wolf groups cited research that indicated the region's wolf population in the early 2000s was too small to ensure long-term genetic diversity. When research began to indicate that the population had grown enough to be genetically sustainable, with wolves roaming between the core habitat areas -- a northern Montana wolf was shot chasing cattle in Challis, Idaho, two Yellowstone wolves were killed in Colorado, and so on -- the pro-wolf groups didn't highlight that. Earthjustice attorney Doug Honnold, on behalf of several groups, sent a 35-page letter to the feds in 2007, airing a blockbuster demand: "2,500-5,000" wolves and more Northern Rockies wolf territory would be required to have a genetically healthy and sustainable population. Headlines across the West had a field day with those numbers. More hunters -- imagining 5,000 federally protected wolves eating 30 elk apiece, year after year -- began to find common ground with the anti-wolf extremists.

State wildlife agencies in Montana and Idaho were eager to take control of wolf management, and all three presidential administrations tried to oblige them. With federal approval of their plans, both states planned wolf-hunting seasons for the fall of 2009, Montana establishing a quota of 75, and Idaho a quota of 220. Thirteen environmental groups immediately sought an injunction to stop any wolf hunts. By the summer of 2009, when all this was happening, the wolf population had increased to around 1,645, with 95 breeding pairs. For many wolf advocates who followed the animals'

lives through blogs, or films, or by being among the estimated 100,000 wildlife enthusiasts who came to Yellowstone every year to watch the wolves, it was unthinkable that the states would stage a wolf hunt. There seemed to be no acceptable number of wolves that hunters could take. The outcry against the hunt rose to a melodramatic intensity in pro-wolf groups' action alerts, publications and websites.

The wolf hunt was far more vigorously opposed than the work of federal shooters, who killed 270 Northern Rockies wolves in 2009 alone. There was a reason for that: Federal shooters target only wolves involved in livestock conflicts, while public hunting, even with quotas in specific areas, is an imprecise and disruptive killing tool. But to many Westerners it looked like more hypocrisy. Even when the pro-wolf groups were suing the federal government, they still trusted federal wolf-shooters more than they trusted local hunters or their own state governments.

It was a destructive cycle: The lawsuits inspired increasing anti-wolf fury; environmentalists responded with yet more lawsuits.

In 2008, Idaho's Legislature and Gov. Otter passed a law making it easier for ranchers and pet owners to kill wolves. In December of that year, a blog post by the Natural Resources Defense Council's Louisa Willcox, of Livingston, Mont., treated the pro-wolf lawsuits as if they were Christmas presents: "Let us hope that these capable attorneys can bring light and hope to Northern Rockies wolves -- just as wolves, in return, remind us how to behave as family: hunting together, playing,

teaching the young, and surviving the tough times, together.

Ho-Ho-Ho -- or perhaps howl-howl-howl!"

The end result of exchanges like that, as Defenders of Wildlife's veteran Idaho wolf specialist Suzanne Stone said recently, was that "nobody was talking to each other anymore."

In mid-2009, the National Wildlife Federation decided that fighting in court for more wolves was unnecessary and counterproductive. The NWF claims to have almost 4 million members -- mostly hook-and-bullet types -- and 46 affiliated state-level groups. Asked why the group abandoned the lawsuit strategy in 2009, NWF's Northern Rockies regional director Tom France of Missoula, Mont., says simply, "Because the wolf population was recovered." France, who is also an NWF attorney, says he is weary of the battle and the animosity it has caused between groups that are supposed to work together as advocates for wildlife. "The details were less important than moving forward and getting good management on the ground," says France, who continues to work on related issues, especially a long-term effort that has purchased and retired grazing leases on some 550,000 acres of national forest lands where wolves and grizzly bears are in frequent conflict with cattle.

The lawsuits wound up opening deep schisms between the pro-wolf groups and the hunters' groups that were formerly considered fellow conservationists. The Rocky Mountain Elk Foundation, for instance, claims to have protected 5.9 million acres for wildlife, with

guaranteed public access on over 600,000 acres of private land. But the Elk Foundation shifted to take a hard-line position against wolves, diverging even from the Wildlife Federation's moderate stance. The lawsuit-pushing groups also fueled the ultra-hard-line Sportsmen for Fish and Wildlife, which is based in Utah and has chapters in Idaho and Montana. Bill Merrill, president of Montana Sportsmen for Fish and Wildlife, says the endless wolf debates had an upside: "The eco-Nazis realized they were losing, and they were right. The tide has really shifted, with the ag and the sporting groups taking the power. The house of cards is really starting to crumble for these environmental groups. We're getting closer to the finish line."

Even worse, the pro-wolf lawsuit groups effectively distanced themselves from the state biologists and other professional wildlife managers that had, for the most part, been staunch traditional allies of protection. It was as if the more extreme environmentalists had decided that even the biologists who worked with the wolves on a daily basis were no longer sufficiently pure in their commitment. Steeped in the righteousness of their cause, the groups believed they could go it alone.

There were some practical problems with the initial wolf-hunting season. In Idaho, hunters were unable to do anything about the wolves that were impacting elk herds in the Lolo area; the wolves were simply too smart, and the country too heavily timbered and rugged, for hunters to kill them. In Montana, nine wolves were killed by hunters in the backcountry right at Yellowstone's

northern boundary -- horrifying many wildlife lovers. The dead included the radio-collared alpha male of the Cottonwood Pack, along with his mate, known to researchers and wolf watchers as Number 527, and her daughter, known to wolf watchers as Dark Female. These animals had been celebrated in videos, articles and blogs. They were famous survivors, well-known for battling over territory and killing competing wolves. Laurie Lyman, a retired California schoolteacher who lives in Silver Gate, Mont., and blogs about wolves for the Natural Resources Defense Council, mourned, "These two females recently shot in the hunt (527 and 716) were two of the most interesting wolves I have ever watched in the last five years. What behavior we have seen. ..."

Yet most people involved in wolf recovery saw the 2009 wolf hunt as a beginning. The controversial federal control of wolves in Montana and Idaho was relinquished. The hunt generated revenue for further state management: Wolf-tag sales in Montana alone brought in over \$325,000. The wholesale slaughter predicted by pro-wolf groups did not occur. Veteran Yellowstone National Park biologist Doug Smith, whose own research was severely affected by the killing of the collared wolves of the Cottonwood Pack, recognized the inevitability of the hunt. "I thought they did a good job with it. It was very controlled. I respectfully disagree with those people who feel that the long-term survival of the wolf is enhanced by protecting them from hunting."

Extremism has its rewards. For politicians like Gov. Otter, anger over wolf recovery has been a sure-

fire vote-getter. Some hard-line hunters' groups gained members and clout as the anti-wolf rhetoric soared, just as photos of gamboling wolf pups combined with hyperbolic warnings about their impending slaughter have generated an increase of members, money and energy for some environmental groups. For many of the major players, there's been no incentive to end the conflict. Montana Wildlife Federation's Ben Lamb, who's worked on the wolf issue for eight years, says, "If this ever gets settled, then the groups that want wolves everywhere, and the people who want every wolf removed from the Lower 48, they'll both have to do something else to get their money. The more broken the policy is, the more money flows to both sides."

In August 2010, U.S. District Judge Donald Molloy, who had refused to halt the hunting season, ruled in favor of the pro-wolf groups on a technical aspect of the law, saying that whether or not the wolf population was recovered in Montana and Idaho, Wyoming still lacked a federally approved plan, and the Endangered Species Act does not permit a species to be delisted on the basis of state boundaries. The region's wolf population -- an estimated 1,706 individuals in 242 packs, with 115 breeding pairs -- was returned to federal control, and a lot more people were convinced that the wolf advocates were being unreasonable. Shortly -- like a chess player who moves the queen into a fatal position -- most of the lawsuit-filing groups realized they'd made a mistake.

As a horde of Western politicians harnessed the anti-wolf fury, determined to get Congress

to intervene, 10 of the groups involved in the fatal lawsuit panicked. Suddenly, they sought to compromise, offering a "settlement" that resembled the partial delisting they had previously sued against. There was no chance that Judge Molloy would accept the settlement, because it still enforced the federal law differently in different states and four of the plaintiffs refused to sign it. It was political theater, and Molloy rejected it on April 9.

Within a few days, Congress approved a bipartisan measure -- a rider attached to a budget bill with no real debate -- that more or less carried out the previous Bush and Obama plans to delist wolf populations in Montana, Idaho, and portions of Utah, Washington and Oregon, while maintaining federal control in Wyoming. The measure also said that the decision cannot be challenged by lawsuits. President Obama signed it, and it was finalized in the Federal Register May 5. Defenders of Wildlife warns: "This unprecedented action marks the first time in the history of the Endangered Species Act that protections for a specific species will be revoked by Congress. (It) paves the way for other bills that undermine the scientific principles of the Endangered Species Act and put countless other species at risk at the whim of politicians."

The rider's key sponsor was Montana Sen. Jon Tester, a first-term Democrat who took the seat in 2006 from a Republican incumbent by only a few thousand votes. Tester, who's also pushing a Montana wilderness compromise bill that hasn't made it through Congress (it's opposed by both left- and right-wingers), says his wolf measure "is

a common-sense approach that does not damage the ESA. ... It has the support of all the moderate elements, and it has the support of the wildlife professionals. It's good for wildlife and livestock, and in the long run, it's good for the wolves, too. If we can get the information out, people will understand that this was by far the best way to handle this situation."

The wolf issue has become a defining factor in one of the nation's hottest Senate races: In Tester's run for re-election in 2012, he's facing off against Denny Rehberg, a popular Republican rancher and developer who now holds Montana's sole seat in the House of Representatives. Rehberg has campaigned fiercely against wolves and pretty much everything else environmentalists support.

Tester needs a noteworthy accomplishment to get re-elected at a time when Montana voters are trending hard right, and Democratic Party national leaders need Tester to get re-elected, to help them maintain their slim majority in the Senate. They were eager to help Tester pass his wolf measure, framing it as a moderate solution compared to a doctrinaire, identity-politics Republican anti-wolf bill sponsored by Rehberg (who wants to let Wyoming treat wolves as vermin and end all protection for the Southwest's small, fragile population of Mexican wolves). According to Tester, "The Rehberg bill was too extreme, and everybody knew that. It was dead on arrival."

We're in new territory now. There's uncertainty over how the empowered state governments will manage the Northern Rockies

wolves, as well as over how much traction the various breeds of conservationists will have in the future. Montana's Department of Fish, Wildlife and Parks says it will likely allow hunters to kill up to 220 of the wolves in the state this year. More Montana wolves will be killed by the federal shooters (who'll still target wolves that prey on livestock), as well as by illegal shooters and cars and so on. By the end of the year, government biologists predict, Montana will still have about 400 wolves, including the new generation of pups. In Idaho, the Legislature and Gov. Otter, indulging in more identity politics, recently declared ... a wolf "disaster emergency" that would allow increased wolf killing, possibly including aerial gunning. But Jon Marvel, the head of Western Watersheds, who refused to sign the "settlement" and condemns Tester's measure, says: "We think that Montana will establish (somewhat) moderate (wolf-hunting) seasons, and that Idaho may try to eliminate wolves in some specific areas, but that, absent the use of poison baits, wolves will survive in the backcountry even with continuous efforts to eliminate them."

Mike Clark of the Greater Yellowstone Coalition says that "the battle over the ESA listing" of Northern Rockies wolves "is over. But the way they are managed will remain very much in play. I think the politicians will eventually step aside, or get tired, and the wildlife professionals will still be there. If it starts looking like there will be a wholesale slaughter, they won't go along with that. And the American people will rise up and stop it, too. I think there's going to be trouble, but the wolves will survive, and we'll find new ways to protect them."

There's also new uncertainty about applying the Endangered Species Act to any other species. Already there's a bill in Congress that would strip protections for the only fly on the endangered list. Sponsored by California Rep. Joe Baca, D, it would let developers occupy the Delhi Sands flower-loving fly's habitat in his district. We'll see more politicking around individual species -- as well as renewed efforts to "reform" the law itself. Reform might be a good idea in some respects, but those who talk most about it just want to gut the law entirely.

The lawsuits on behalf of the Northern Rockies wolves have had one undeniably good result: They kept maximum protections in place for as long as possible and gave the wolf population time to increase to today's levels. And that might prove to be a crucial factor in the long-term success of their recovery.

Meanwhile, three Western environmental groups -- Alliance for the Wild Rockies, Friends of the Clearwater and WildEarth Guardians -- are already suing the feds over the May 5 delisting of most Northern Rockies wolves, charging that it's unconstitutional for Congress to override a judge's ruling. A fourth group that also thrives in court, the Center for Biological Diversity, has filed a separate lawsuit along the same lines.

Hal Herring, based in Augusta, Mont., has written about environmental issues for the past 14 years for HCN and a range of other publications including *The Economist* and *Atlantic Monthly*. He's a contributing editor for *Field and Stream* magazine.

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