

Senate Bill 414
April 6, 2011
Presented by Bob Lane
House Appropriations Committee

Mr. Chairman and committee members, I am Bob Lane, Chief Legal Counsel for Montana Department of Fish, Wildlife & Parks (FWP). I am here in opposition to Senate Bill 414.

FWP appreciates the intent of this bill, and shares in the frustration that underlies SB414. However, FWP rises in opposition to SB414 because rather than increasing management options and flexibility, it will do nothing but ensure wolves remain listed on the federal Endangered Species list, severely limiting or eliminating management flexibility to address issues raised by this bill.

The wolf management requirements of Section 4 means that Montana's Wolf Management Plan will no longer qualify as an approved state plan by the U.S. Fish and Wildlife Service (USFWS). Therefore, if SB414 becomes law, wolves will not be delisted and under state management because an approved state management plan is an absolute predicate for delisting either by Congressional action, by the pending settlement, or by a new delisting rule of the U.S. Fish and Wildlife Service.

We will focus our comments on Section 4.

Subsection 1 (Page 3, Lines 20-27) require the Department to use lethal action to remove entire wolf packs in response to any depredation of livestock and depredation of elk that results in the reduction of an elk herd below 80% of the 10-year average of the herd's population objective, as long as wolves are listed on the federal endangered species list. It needs to be clear that take of listed species, even wolves, is ultimately at the discretion of the USFWS. FWP has been authorizing lethal control of wolves that cause depredation of livestock under a permit from the USFWS. It is likely that if this legislation were to pass while wolves are listed, that permit would be revoked and the USFWS would determine depredation responses. Similarly, take of wolves impacting ungulate populations requires USFWS authorization while wolves are listed.

Please understand that subsection 1 of Section 4 depends on SB414 nullifying the federal Endangered Species Act which is, of course, not a possible reality.

Subsection 2 (Page 3, Lines 1-3) allows a landowner or the landowner's agent to take a wolf on the landowner's property at any time without a license. In a way, this is similar to Wyoming's predator line beyond which they have no regulations regarding take of wolves – rather than a geographical line, this bill creates a landownership line that excludes management authority in about 60% of the state. This approach has resulted in Wyoming's plan not being accepted by the USFWS, and wolves remaining on the endangered species list. This provision, if passed, represents a significant change to Montana's management authority and therefore a significant change to the State's Wolf Management Plan.

Also, subsection 4 of Section 4 (Page 4, lines 8-11), requires such intensive and excessive monitoring of wolf, moose, elk, and deer populations and the impact of wolves on moose, elk and deer populations that the additional cost will be approximately \$2.5 million per year. This level of monitoring, if actually achievable, is totally unnecessary for fully informing future wolf management.

As you are aware, the USFWS recently announced a settlement with the Plaintiffs who challenged the wolf delisting that would reinstate the delisting rule in Montana and Idaho, based on continued implementation of existing state plans. This settlement will enable the State of Montana to manage wolves in a delisted status. FWP is very concerned that this bill will significantly alter Montana's wolf management plan, and will absolutely ensure that the proposed settlement will fail.

We are very close to having a settlement in place that will reinstate the delisting rule, and state management authority for wolves. FWP is committed to managing Montana's wolf population to address issues raised in this bill, including impacts on livestock and ungulate populations, while ensuring a recovered population.

We respectfully request you Table SB414, let the settlement be implemented, and let FWP manage wolves per Montana's approved wolf management plan.

SB 414 Analyses

- SB 414, if adopted, will mean that wolves **cannot be delisted** by Congressional action, by the pending settlement, or by rule of USFWS.
- This is because Montana will no longer have a qualifying and approved state wolf management plan. Montana has an approved plan now.
- **When still listed** as an endangered species, the bill in §4(1) on page 3 requires full pack removal for **any** depredation on livestock. FWP analysis shows that in 3-4 years the number of breeding pairs will go below the delisting minimum number of at least 15 breeding pairs. §4(2), pages 3-4.
- **If delisted**, the bill allows landowners and their agents to take wolves at any time and in any way without a license.
- This is over 60% of the land in Montana and like Wyoming's predator area will mean Montana's new wolf plan (SB 414) will no longer be an approved plan.
- Note that under SB 414 if the number of breeding pairs goes below 15 breeding pairs, then FWP may issue a moratorium on this unlicensed taking, but it will be too late. Less than 15 breeding pairs is the trigger for relisting.
- The bill requires \$2.5 million per year of monitoring that is totally unnecessary to fully inform wolf management.
- A Congressional delisting will only pass if based on an approved state management plan.
- The settlement, now pending, that will delist wolves in Idaho and Montana depends on an approved state management plan.
- As a last resort, a new delisting rule, if needed, requires an approved state management plan.