

EXHIBIT #1
DATE 1/11/11
HB HST 1

A BILL

To remove the Northern Rocky Mountain distinct population segment of the gray wolf from the list of threatened species or the list of endangered species published under the Endangered Species Act of 1973, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Northern Rocky Mountain Gray Wolf Recovery and Sustainability Act of 2010'.

SEC. 2. STATUS OF THE NORTHERN ROCKY MOUNTAIN DISTINCT POPULATION SEGMENT OF GRAY WOLF AS ENDANGERED OR THREATENED SPECIES.

(a) Definitions- In this section:

(1) NORTHERN ROCKY MOUNTAIN DISTINCT POPULATION SEGMENT OF GRAY WOLF – The term “Northern Rocky Mountain distinct population segment of gray wolf” means the distinct population segment described by the U.S. Fish and Wildlife Service in the April 2, 2009 Final Rule to Identify the Northern Rocky Mountain Population of Gray Wolf as a Distinct Population Segment and to Revise the List of Endangered and Threatened Wildlife (74 FR 15123-15188).

(2) THE ACT – The term ‘the Act’ means the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

(3) THIS ACT – The term “this Act” means the Northern Rocky Mountain Gray Wolf Recovery and Sustainability Act of 2010.

(4) SECRETARY- The term ‘Secretary’ means the Secretary of the Interior.

(b) Status of Northern Rocky Mountain Distinct Population Segment of Gray Wolf-

(1) IN GENERAL - The “Final Rule to Identify the Northern Rocky Mountain Population of Gray Wolf as a Distinct Population Segment and To Revise the List of Endangered and Threatened Wildlife” published at 74 Fed. Reg. 15,123 (April 2, 2009), is sufficient to comply with the Endangered Species Act.

(2) STATE MANAGEMENT PLAN FOR WYOMING – If, prior to July 1, 2012, the State of Wyoming submits a plan for the management of the Wyoming portion of the Northern Rocky Mountain distinct population segment of gray wolves, then the Secretary of the Interior may, in his sole discretion, and notwithstanding the procedural or substantive requirements of any other law, approve such plan, provided that such approval is made not later than January 1, 2013, and provided further, that the Secretary, in his sole discretion, determines that such plan provides for the management of wolves in the State of Wyoming in a manner that is consistent with the recovery of the Northern Rocky Mountain distinct population segment of gray wolves.

(3) INTERIM MANAGEMENT AUTHORITY -- Until such time as the Secretary approves a plan for the management of gray wolves in Wyoming, gray wolves in Wyoming remain subject to the provisions of the Endangered Species Act in the same manner as they were as of the day preceding enactment of this Act, except that until January 1, 2013, the Secretary may allow both lethal and non-lethal take of wolves when the Secretary, in his sole discretion, determines such control is appropriate, including, but not limited to, control to defend private property, such as livestock and pets, and control to address unacceptable impacts to wild ungulate populations. Any determination by the Secretary to allow lethal or non-lethal take of wolves pursuant to this paragraph shall not be subject to the National Environmental Policy Act, (42 U.S.C. 4321-4347).

(4) ENTIRE DISTINCT POPULATION SEGMENT DELISTED – At such time as the Secretary approves a State of Wyoming plan as provided in paragraph (2), the Secretary shall publish a concurrent Federal Register notice removing the Northern Rocky Mountain gray distinct population segment of gray wolf from the list of Endangered and Threatened Wildlife.

(c) Monitoring and Authority to Re-List –

Consistent with the provisions of section 4(g) of the Act, the Secretary shall cooperate with the States to monitor the status of the Northern Rocky Mountain distinct population segment of the gray wolf. The Secretary shall immediately notify the Governor of Montana, Idaho or Wyoming if the Secretary is presented with substantial evidence that Montana, Idaho, or Wyoming is in significant non-compliance with a plan approved by the April 2, 2009 Final Rule to Identify the Northern Rocky Mountain Population of Gray Wolf as a Distinct Population Segment and to Revise the List of Endangered and Threatened Wildlife (74 FR 15123-15188) or with a plan approved pursuant to paragraph (b)(2) of this Section. If that significant non-compliance is not addressed by the State within 90 days of notification from the Secretary, then the Secretary shall utilize the emergency listing provisions of section 4 (b)(7) of the Act (16 U.S.C. 1533(b)(7)),

and shall restore to their former listing status as of the day preceding enactment of this Act gray wolves in either –

- (1) The entire Northern Rocky Mountain distinct population segment of the gray wolf; or
- (2) Any segment of that population as the Secretary deems necessary to address and remedy the non-compliance.

SECTION 3. EXCLUSIVE LISTING AUTHORITY FOR THE NORTHERN ROCKY MOUNTAIN DISTINCT POPULATION SEGMENT OF GRAY WOLF.

For the period of 3 years from the date of enactment of this Act, the procedures herein shall be the exclusive authority for adding the Northern Rocky Mountain distinct population segment of gray wolf to either of the lists published under Section 4 (c) of the Endangered Species Act.

SECTION 4. TERMINATION AND LIMITATIONS ON STATUTORY CONSTRUCTION.

(a) Termination—After the period of 3 years from the date of enactment of this act, all provisions of Section 4 of the Endangered Species Act shall apply, without limitation, to any determination of whether gray wolves within the Northern Rocky Mountain distinct population segment of gray wolf should be an endangered species or a threatened species.

(b) Limitations --Nothing in this section shall be construed to have any application to any species or distinct population segment of a species other than the northern Rocky Mountain Gray Wolf; nor shall anything in this section be cited as precedent for management of any other species or distinct population segment of a species, or to infer Congressional intent with respect to any interpretation of any aspect of the Endangered Species Act.

SECTION 5. AUTHORIZATION OF APPROPRIATIONS FOR WOLF MONITORING

There are authorized to be appropriated \$5million for each of fiscal years 2011 through 2015to enable the Secretary to cooperate with the States in monitoring the status of the Northern Rocky Mountain distinct population segment of gray wolves pursuant to subsection (c) of Section 2 of this Act.

House Joint Resolution 1
January 11, 2011
Presented by Joe Maurier
House Fish, Wildlife and Parks Committee

Chairman Washburn and committee members, I am Joe Maurier, Director of Montana Department of Fish, Wildlife & Parks (FWP). I am here in support of House Joint Resolution 1.

FWP supports HJR 1 because it is a potentially achievable option to finally obtain full state management and control of wolves within our borders. If it can be done, it is the best solution and the only one that can bypass further bureaucratic and time-consuming federal rulemaking under the federal Endangered Species Act (ESA) and that effectively insulates a delisting of wolves from continuing legal challenges.

The issue is whether and how this can be done. FWP believes that it can be done because FWP has worked closely with the United States Department of Interior and the United States Fish and Wildlife Service on a congressional bill that had a reasonable chance of passing in the lame duck session in December. The bill would have given Montana and Idaho full state management for three years which would become permanent if Wyoming agreed to adjust their state plan to gain the approval of the USFWS. Practically this would only have required that Wyoming adjust the boundary of the line that geographically separates wolves managed as a game species from wolves managed as predators. At the time this bill was being shopped for support, the USFWS and Wyoming were negotiating a change to the predatory line in Wyoming.

Montana would have only been required to maintain wolves at about 300 for just 3 years.) Remember that Montana now has over 500 by our verified minimum count at the end of 2009.

Idaho would only have been required to manage wolves according to their 2008 5-year Wolf Plan and only for 3 years. Their minimum would have been 500 wolves, a number that the Idaho Fish and Game Commission had agreed to maintain for 5 years. Idaho had about 840 wolves at the end of 2009.

The bill was strategically drafted this way because a bill exempting a species such as wolves from the ESA cannot pass Congress. Every reliable source has advised that this is a fact. Therefore, the bill, in effect, simply delisted wolves because Congress could conclude the requirements of the ESA have been complied with as demonstrated by the interim three years of state management that adhered to the states' own plans.

The result would have been, or could be in a future congressional passage, a delisting without the bureaucracy and delay of another USFWS delisting rule and would avoid the considerable liability and delay of further litigation. The bill was what Montana has worked so hard to achieve.

The bill required the support of the three states: Montana, Idaho and Wyoming. However, only Governor Schweitzer supported the bill while the governors of Idaho and Wyoming refused to support the bill thereby killing any chance of passage.

There is a lesson in this extremely frustrating story. It is that Montana, Idaho, and Wyoming must be willing to work together to support the best and frankly the only option to quickly gain state management of wolves. FWP commits to doing everything in its power to avoid squandering the next opportunity by helping to convince Idaho and Wyoming to support what is in the best interests of all three states.