

# Court Restores Wolf Protections



## **Preliminary Injunction Ruling Temporarily Reinstates Federal Endangered Species Protections for Northern Rockies Wolves**

Federal district court judge Donald Molloy of Montana reinstated federal Endangered Species Act protections for gray wolves in the Northern Rockies region on July 18. The preliminary injunction was issued in response to a lawsuit by Defenders of Wildlife and 11 other conservation groups challenging the U.S. Fish & Wildlife Service's recent decision to remove the northern Rockies population from the list of endangered species.

### **Q – What is a Preliminary Injunction?**

A preliminary injunction is a procedural ruling that maintains the status quo and prevents irreparable harm from occurring during the time a case is argued and decided. In this case, the court's order suspends the Fish and Wildlife Service's decision to delist the wolf population in the Northern Rockies, reinstating ESA protections for wolves while the delisting decision is under court review. To prevail on a preliminary injunction, a plaintiff must demonstrate both a likelihood of success on the merits and a possibility of irreparable harm. Under the ESA and longstanding Supreme Court precedent, the balance of harms tips in favor of endangered species. If a plaintiff meets the criteria above, the court should issue an injunction.

### **Q – Why did the Judge issue this ruling?**

Judge Molloy ruled that the conservation groups "are likely to succeed on a majority of their claims" that removal of wolves from the federal list of endangered species was unlawful. The decision notes that, while the Fish and Wildlife Service had previously stated that genetic exchange between wolf populations in Idaho, Montana and Wyoming was necessary for the wolf's survival, Yellowstone's wolves remain genetically isolated. Further, hunting and state predator-control laws that took effect upon delisting would likely "eliminate any chance for genetic exchange to occur." The Fish and Wildlife Service's final rule did not explain why the agency reversed course and abandoned long-established recovery criteria.

The court also ruled that the conservation groups are likely to succeed on their argument that Wyoming law, which allows unregulated wolf killing in nearly 90 percent of the state and fails to commit to maintaining sufficient wolf numbers, is inadequate. The Fish and Wildlife Service had long maintained that these aspects of Wyoming law precluded delisting. Indeed, the Service previously rejected Wyoming's 2003 state plan based on these very similar provisions. The court found that "[t]he agency flip-flopped without explanation" when it approved Wyoming's wolf management scheme with "the same deficiencies" in 2007.

### **Q – How does this ruling protect wolves?**

Since wolves were delisted on March 28, 2008, states have assumed management authority for wolves, leading to the killing of almost 100 wolves. All three states had plans to allow hunts this fall. Those hunts would have permitted more than 500 wolves to be killed this year alone. Although some wolves can still be lawfully killed under federal and state regulations in defense of property and, in limited cases, game populations, the decision prevents Idaho, Montana, and Wyoming from implementing fall wolf hunts.

### **Q – Who filed the lawsuit?**

The lawsuit was brought by Earthjustice on behalf of Defenders of Wildlife, Natural Resources Defense Council, Sierra Club, Center for Biological Diversity, The Humane Society of the United States, Jackson Hole Conservation Alliance, Friends of the Clearwater, Alliance for the Wild Rockies, Oregon Wild, Cascadia Wildlands Project, Western Watersheds Project, and Wildlands Project.

### **Q – When will the case be decided?**

The court has not yet set a schedule for briefing and argument. A decision is likely in 2009.