

Gray Wolf Conservation at a Crossroads

Author(s) :Adrian Treves and Jeremy T. Bruskotter

Source: BioScience, 61(8):584-585. 2011.

Published By: American Institute of Biological Sciences

URL: <http://www.bioone.org/doi/full/10.1525/bio.2011.61.8.2>

BioOne (www.bioone.org) is a nonprofit, online aggregation of core research in the biological, ecological, and environmental sciences. BioOne provides a sustainable online platform for over 170 journals and books published by nonprofit societies, associations, museums, institutions, and presses.

Your use of this PDF, the BioOne Web site, and all posted and associated content indicates your acceptance of BioOne's Terms of Use, available at www.bioone.org/page/terms_of_use.

Usage of BioOne content is strictly limited to personal, educational, and non-commercial use. Commercial inquiries or rights and permissions requests should be directed to the individual publisher as copyright holder.

Gray Wolf Conservation at a Crossroads

ADRIAN TREVES AND JEREMY T. BRUSKOTTER

Gray wolf policy in the United States is swinging between federal and state or tribal authority under a mosaic of management regimes in different states and regions. In April 2011, the US Congress intervened in gray wolf (*Canis lupus*) policy by inserting a budget bill rider that removed federal Endangered Species Act (ESA) protections for wolf populations (i.e., delisted them) in the states of Montana and Idaho and parts of Washington, Oregon, and Utah (USFWS 2009). This left wolf populations classified as *endangered* in most of the United States, except in Minnesota, where they are *threatened*, and Alaska, where they are unlisted. However, wolves in Minnesota, Wisconsin, and part of Michigan are also scheduled to be delisted in 2012 (USFWS 2011). The debate has not been settled by the federal action for at least two reasons. First, states' designs for the public hunting of wolves could prove biologically unsustainable over time, which might result in the relisting of the wolf under the five-year monitoring rules of the ESA (USFWS 2008). Second, delisting opponents are litigating at the federal level as they have successfully done before, and they may also do so at the state level.

The flux in wolf policy and current litigation reflects an important and contentious debate about the balance between meeting human needs and conserving nature and biodiversity. At one extreme, some pro-wolf groups favor continued federal protection under the ESA, arguing that state management of wolves would result in a second wave of eradication. At the other extreme, some interest groups consider wolf population growth out of control and advocate for substantially reducing wolf populations through statewide hunting, trapping, and other liberal lethal control. Although demagogues on both sides

assert that their view is the only right one, a substantial middle ground exists in public opinion.

Our research indicates that many residents in wolf ranges do not favor the extirpation but do support hunting or other lethal control when these actions are aimed at improving coexistence and reducing conflict between people and wolves (Bruskotter et al. 2007, Treves et al. 2009, Treves and Martin 2011). Such management is consistent with the wildlife trust doctrine—the legal bedrock that underlies state-led management of wildlife in the United States. In brief, the US Supreme Court recognized the wildlife trust doctrine as imposing on states a duty “to enact such laws as will best preserve the subject of the trust [i.e., wildlife] and secure its beneficial use in the future to the people of the state” (*Geer v. Connecticut*, 161 U.S. 519, 534 [1896]). In *Geer* (151 U.S. at 529), the Court noted that the state was obligated to exercise its power over wildlife “for the benefit of the people, and not as a prerogative for the advantage of the government as distinct from the people or for the benefit of private individuals as distinguished from the public good.” Hunting or culling (government-sponsored killing of many individual wolves) to the point of substantial impairment of wolf populations appears to violate that trust. Widespread killing of many wolves will be difficult to justify unless private property or human safety is seriously threatened. In short, states cannot deplete wolves simply because vocal groups dislike them and their ecological effects (e.g., scaring and eating prey). Nor can one force people to live alongside wolves at any cost. Future courts may be asked to rule on whether hunting wolves represents “substantial impairment of the trust asset” (*Illinois Central*, 146 U.S. at 455–456) and

whether a substantial improvement in the public good results.

The compromise position is to make decisions about lethal and nonlethal wolf management at spatial scales that account for both the direct costs to people exposed to wolf encounters and the standard of substantial impairment of wolf populations statewide. This might usher in an era of fine-scale measurements of attitudes and behaviors of people living near wolf packs that range outside of public lands, as well as fine-scale measures of the risk of property damage by those wolves (Treves et al. 2011). This process has not been widely attempted or explicitly articulated to our knowledge. Therefore, we present three scenarios for how one might achieve the balance needed to uphold the wildlife trust doctrine and safeguard the public good. Two scenarios retain federal control, which would apply to states not currently covered by delisting rules (USFWS 2011) or current range states if litigation reverses the delisting. The third scenario involves only state and tribal management, which accords with the states' obligations to their citizens.

Scenario 1: Federal reclassification of wolves as *threatened*

Federal protections for endangered species are often unpopular with communities living near those species, because the ESA can limit the use of lethal control to circumstances involving human health and safety or research purposes, while disallowing it for the defense of pets or property. Prolonged *endangered* status for wolves seems to be associated with increased illegal killing and civil disobedience, which is becoming organized and collective (e.g., in Wisconsin, T-shirts and leaflets exhorted readers to kill wolves, and Idaho Governor Butch Otter ordered

state officials not to enforce federal laws protecting wolves). Instead, federal *threatened* status provides flexibility in removing wolves that threaten property but still precludes regulated, public hunting of wolves. Minnesota wolves have that status now, but it is probably not politically acceptable for the Northern Rocky Mountain wolves, which have an even more flexible “experimental, nonessential” status.

Scenario 2: Enact alternative federal protections for wolves

A second scenario would entail federal legislation designed specifically to protect wolf populations (akin to the Migratory Bird Treaty Act, the Wild Free-roaming Horses and Burros Act, or the Bald and Golden Eagle Protection Act). Such legislation would allow the federal government to lift ESA protections and the ban on hunting while simultaneously implementing safeguards designed to ensure that states live up to their trust obligations. For example, Congress could limit how (e.g., restrict hunting to fair chase), where (e.g., exclude federal lands or wolf packs that have not threatened property), and when (e.g., ban hunting when wolves have pups) public hunting was implemented.

Scenario 3: Mosaic delisting with phased-in hunt

The federal government might delist wolves in various areas around the country as a way to observe the consequences region by region during the five-year monitoring period stipulated by the ESA (USFWS 2008). In this scenario, state policies would vary as legislatures and tribes followed their own trajectories, and solutions could range from hunting bans, as in Wisconsin’s classification of the badger as *protected nongame*, to the recent wolf harvest in Idaho that seemed designed to satisfy elk hunters. This solution offers the greatest flexibility to states and tribes but could open the door to state litigation under the wildlife trust doctrine. We predict that hunting

seasons designed solely to satisfy ungulate hunters or designed only to reduce the numbers of wolves across vast areas would face tenacious public opposition. Such efforts have led to a number of ballot initiatives in Alaska in recent years.

In all three scenarios, we anticipate broad sociopolitical acceptance of wolf policy if lethal management of wolves balances the public good with the wildlife trust doctrine. That means that most wolves will be protected if they range on public lands or avoid threatening private property. Local judgments of threat will certainly vary. Wolves implicated in attacks on pets or livestock or bold enough to threaten people or approach residences would be targeted for lethal management, whether through regulated hunting or government-sanctioned selective removal. In addition, proactive removal from areas where the presence of wolves is deemed too risky for the public good might enjoy public approval, unless it is contrived only to alleviate a threat to wild game or to allow people to use public lands for recreation or profit.

For policymakers, the urge to rid themselves of the wolf issue (or in some cases, to capitalize on it) must give way to a longer-term view that holds states to a commitment to conserving wolves across a significant portion of their range without sacrificing the public good. We are confident that local solutions that balance human needs with wolf conservation can be devised in addition to those described above. The critical step will be for policymakers to reject the policies advocated by vocal minorities at either extreme and to consider what policies and management options are acceptable to the (often silent) majority. Our scenarios offer an opportunity to learn what state conservation of wolves entails without the loss of federal control, at least during the five-year monitoring period stipulated in the ESA. Such joint learning by state and federal managers will demand social, scientific, and ecological monitoring (Bruskotter et al.

2010). In our view, the measure of success for any proposed solution would be increased acceptability of both wolf populations and wolf policy. Acceptability depends on reducing perceived and real threats posed by wolves and the reciprocal threat people pose to wolves. Addressing only one of these would be an incomplete and ultimately ineffective solution.

References cited

- Bruskotter JT, Schmidt RH, Teel TL. 2007. Are attitudes toward wolves changing? A case study in Utah. *Biological Conservation* 139: 211–218.
- Bruskotter JT, Toman E,ENZLER SA, Schmid RH. 2010. Gray wolves not out of the woods yet. *Science* 327: 30–31.
- Treves A, Martin KA. 2011. Hunters as stewards of wolves in Wisconsin and the Northern Rocky Mountains, USA. *Society and Natural Resources*. doi:10.1080/08941920.2011.559654
- Treves A, Jurewicz RL, Naughton-Treves L, Wilcove DS. 2009. The price of tolerance: Wolf damage payments after recovery. *Biodiversity and Conservation* 18: 4003–4021.
- Treves A, Martin KA, Wydeven AP, Wiedenhoef JE. 2011. Forecasting environmental hazards and the application of risk maps to predator attacks on livestock. *BioScience* 61: 451–458.
- [USFWS] US Fish and Wildlife Service. 2008. Post-delisting Monitoring Plan for the Western Great Lakes Distinct Population Segment of the Gray Wolf (*Canis lupus*). Report no. FWS–R3–ES–2008–N0046; 30120–1113–0000 D3. (1 June 2011; www.fws.gov/midwest/wolf/monitoring/pdf/FR_NOAfinalPDM_Plan10april08.pdf)
- . 2009. Final rule to identify the Western Great Lakes populations of gray wolves as a distinct population segment; 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. *Federal Register* 74: 15070–15123.
- . 2011. Endangered and threatened wildlife and plants; proposed rule to revise the list of endangered and threatened wildlife for the gray wolf (*Canis lupus*) in the eastern United States, initiation of status reviews for the gray wolf and for the eastern wolf (*Canis lycaon*). *Federal Register* 78: 26086–26145.
- Adrian Treves (atreves@wisc.edu) is affiliated with the Nelson Institute for Environmental Studies at the University of Wisconsin in Madison. Jeremy T. Bruskotter is affiliated with the School of Environment and Natural Resources at The Ohio State University in Columbus.
- doi:10.1525/bio.2011.61.8.2