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Ruling halts downgraded protection for wolves

by Jeff Barnard
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GRANTS PASS, Ore. — A federal judge has struck down a Bush administration rule that lowered Endangered Species Act (ESA) protection for wolves that are migrating out of strongholds in the Northern Rockies and Great Lakes into neighboring states.

In a ruling released yesterday, U.S. District Judge Robert Jones in Portland rescinded the April 2003 decision by the U.S. Fish and Wildlife Service which had divided wolf range into three areas and had reclassified the Eastern and Western populations as threatened instead of endangered. The agency had left wolves in the Southwest in the endangered category.

"Interior Secretary Gale Norton tried to gerrymander the entire contiguous 48 states so that wolves in a few areas would make up for the absence of wolves in much-larger regions," said Michael Robinson of the Center for Biological Diversity, one of the 19 environmental groups bringing the lawsuit.

"Now, instead of drawing lines on the map based on political considerations, any future lines must be based on science."

Under the court order, Fish and Wildlife will have to rescind federal rules that allow ranchers to shoot wolves on sight if they are attacking livestock, Robinson said.

Practically speaking, that only affects wolves now established in northwestern Montana, because the ruling does not cover experimental populations established in the 1990s in Yellowstone National Park, elsewhere in Wyoming and in central Idaho, said Ed Bangs, wolf-restoration coordinator for Fish and Wildlife.

But it will become more important as wolves migrate into nearby states such as Oregon, Washington and Colorado, Robinson said.

In recent years, three wolves have been confirmed in Oregon, though no wolves are known to be in the state at present. Oregon's Fish and Wildlife Commission is set to vote next week on a state wolf-management plan that would allow ranchers to shoot wolves attacking livestock, based on the 2003 rule that lowered the protection status to threatened.

Sharon Beck, an Eastern Oregon rancher and former president of the Oregon Cattlemen's Association, said the ruling leaves ranchers little recourse but to break the law — known around the West as "shoot, shovel and shut up" — when wolves move into their areas.

"Even though the environmentalists won this round, this may be the thing that really ends it all for them," she added. "They are so insistent that wolves need to be everywhere, to follow the Endangered Species Act — there are going to be a lot of people who disagree with that."

The judge ruled that Norton improperly applied the policy for designating distinct population segments, extending the boundaries from core areas where wolves are doing well in the Northern Rockies and Western Great Lakes to include vast areas of the West and East where they are just hanging on or extinct.

As a result, the status of wolves within the Western population, for example, varied dramatically, from recovered in parts of Montana, to precarious in Washington, to extinct in Nevada, the judge ruled.

The judge also found that Fish and Wildlife did not consider five factors listed in the Endangered Species Act in evaluating the wolf's status across its range: the state of habitat; over-exploitation for commercial, recreational, scientific or educational purposes; threats from disease and predators; the inadequacy of existing regulations; and other natural or man-made factors affecting survival.

Fish and Wildlife expressed disappointment in the ruling.

"We believe our rule provided for biologically sound management of the core population of wolves in areas where we knew they could thrive as stable viable populations," the agency said in a statement. "We also believe the rule was correct as a matter of law under the Endangered Species Act."

Fish and Wildlife was considering what needs to be done legally and biologically to get back on track, and whether to appeal, Bangs said.

Mike Senatore, vice president of Defenders of Wildlife, said the ruling would make it more difficult for the Bush administration to reduce or eliminate Endangered Species Act protection for wolves and other species that have blocked development of their habitat.

”There is a pending proposal out there to delist the wolf in the eastern part of the country, the Great Lakes and Northeast,” he said. “This decision certainly is going to make it virtually impossible to move forward on that proposal.”

Virtually wiped out in the lower 48 states to control attacks on livestock, wolves were reduced by the 1970s to a small population in northern Minnesota. In the 1980s, a small number migrated naturally into northwest Montana from Canada.

Gray wolves were reintroduced in and around Yellowstone National Park in 1995 and 1996, and federal wildlife officials have declared their recovery a success. Officials estimate there are now 825 or more wolves in the Western population in Montana, Idaho and Wyoming. About 3,200 wolves are estimated to be in the Eastern population in Minnesota, Wisconsin and Michigan.

A small number of Mexican wolves were reintroduced in the Southwest in 1998.