



# ENDANGERED SPECIES LAW AND POLICY

## Environmental Groups' NEPA Challenge to USDA Wolf Killing Survives

By Crescent Cheng on April 25, 2019

Posted in Conservation, Court Decisions, Legal, Litigation, NEPA



On April 23, 2019, the U.S. Court of Appeals for the Ninth Circuit found that environmental groups have standing to challenge the federal government's killing of gray wolves in Idaho without conducting additional analysis under the

National Environmental Policy Act (“NEPA”). *Western Watersheds Project et al. v. Grimm*, No. 18-35075 (9th Cir. 2019).

Environmental groups brought an action against the U.S. Department of Agriculture Wildlife Services (“Wildlife Services”), alleging that NEPA requires Wildlife Services to prepare an Environmental Impact Statement and supplement its 2011 Environmental Assessment for the agency’s killing of Northern Rocky Mountain gray wolves (*Canis lupus irremotus*) in Idaho. The wolves were delisted under the Endangered Species Act in 2011, returning wolf management to state control. Since then, Wildlife Services has supported the Idaho Department of Fish and Game’s (“IDFG”) wolf management actions through non-lethal and lethal management strategies, such as aerial shooting operations, to protect livestock and ungulates.

The Ninth Circuit’s decision reversed the Idaho district court’s ruling that the plaintiffs lacked Article III standing because their injuries were not redressable. The panel found that plaintiffs’ injuries (harm to their aesthetic and recreational interests in tracking and observing wolves in the wild) were redressable because enjoining Wildlife Services’ killing of wolves in support of IDFG’s wolf management program pending further NEPA review could protect the plaintiffs’ interests by reducing wolf killings. The court rejected as speculative the government’s argument that redressability would be defeated because IDFG would simply replace the existing lethal wolf management program, given that IDFG had not expressed an intent or ability to implement an identical program.

The case has been remanded to the district court for further proceedings.

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