

## A policy analysis of Senate Bill 602 and Assembly Bill 712, legislation to limit Wisconsin Department of Natural Resources conservation and management of gray wolves

December 14, 2017

### Legislation Description

The following is an excerpt of the analysis of Senate Bill 602 (SB 602) and companion bill Assembly Bill 712 (AB 712) by the Legislative Reference Bureau (LRB).

“This bill makes changes to the laws regulating wolf hunting and the laws authorizing funding for wolf management activities. Under current law, the Department of Natural Resources is required to allow the hunting and trapping of wolves if the wolf is not listed on the U.S. list of endangered and threatened species and is not listed on the state endangered list. This bill prohibits a law enforcement officer from enforcing a federal or state law that relates to the management of the wolf population in this state or that prohibits the killing of wolves in Wisconsin. The bill prohibits the Department of Natural Resources (DNR) from expending any funds for the purpose of managing the wolf population in this state other than for the purpose of making payments under the endangered resources program to persons who apply for reimbursement for certain damage caused by wolves or protecting private property, including domestic cattle from wolf depredation. The bill prohibits DNR from taking any action to inform or support federal law enforcement officers regarding the enforcement of any federal or state law relating to wolves. The bill specifies that these prohibitions apply only if wolves are listed on the U.S. list of endangered and threatened species. Under the bill, if wolves are removed from that list, the prohibitions in the bill will no longer apply”.

### IMPACTS SUMMARY

#### Science

- Positive
- Neutral
- Negative

#### Natural Resource Management

- Positive
- Neutral
- Negative

### Impact Synopsis

This legislative proposal would eliminate DNR research, monitoring and management of gray wolves not directly related to wolf depredation until federal delisting occurs. Scientific work that would be eliminated includes annual wolf population monitoring and winter population estimates, radio-collaring of wolves, and monitoring of diseases in the wolf population. Research into wolf monitoring cost efficiency and improved population estimate procedures would stop. This legislation complicates the work of law enforcement officers, raises the risk of future litigation with Wisconsin's Chippewa Tribes over co-management status, and could jeopardize Wisconsin's continued eligibility to receive federal Pittman-Robertson funding.

### Federal Delisting Timetable

This legislation would remain in effect until the US Fish and Wildlife Service (USFWS) removes wolves from the federal endangered or threatened species lists. There are two scenarios under which federal action could occur:

1. The first would be congressional passage of legislation requiring USFWS to delist the Western Great Lakes gray wolf population and preventing judicial review of the delisting. This would cause an estimated 1-year disruption in Wisconsin's wolf conservation work.
2. The second, and likely more time consuming option, would be that Congress doesn't act and the USFWS restarts a delisting process from scratch. An estimated 4-5 year disruption could occur under the normal USFWS delisting process. The history of litigation in similar wolf management actions by USFWS suggests significant time may lapse before delisting is completed. This would create a multi-year gap in scientific data collection and conservation.

## Science Impacts

Since 1980 the DNR has developed annual estimates of Wisconsin's wolf population. Current accurate population estimates allow Wisconsin to assess how wolf population levels relate to number of depredations (livestock, pets, etc.) and deer population trends. Data on individual wolves, especially pack members, is critical to understanding the impacts and efficacy of management actions such as wolf harvest seasons and depredation removals, and serves to guide future management decisions.

Under the proposed legislation monitoring of wolf populations would be affected as follows:

1. Replacement of wolf radio-collars whose battery life is expiring would NOT be authorized, reducing DNR's ability to track mortality, pack movement, dispersion, and related depredation.
2. Elk herd mortality research would be impacted by the inability to collar or replace collars on wolves within elk range. DNR currently can track interactions between radio-collared elk and wolves.
3. Monitoring diseases in wolves would be discontinued. Some of these diseases are known to impact other wildlife species or domestic animals.
4. Winter track surveys or work with citizen scientists on data collection could no longer be coordinated with DNR staff/experts. Two major aspects of citizen wolf monitoring are as follows:
  - a. Since 1995, the WDNR has trained, guided, and used data from volunteer carnivore trackers. Interruption of this program would reduce citizen science opportunities in Wisconsin, and eliminate a source of wolf population data for the WDNR. Though the program was started in 1995, it took several years after establishment for trackers to gain the expertise to assure and maximize data quality. Disruption of this program may require several years for re-establishment and reduce support from volunteers.
  - b. Wisconsin has launched SnapShot Wisconsin, a citizen science monitoring effort using trail cameras, to track wildlife species occurrence and abundance in our state. Wolf images captured in this effort provide information on annual reproduction and geographic distribution of wolves. This bill would prevent DNR spending time or funds to process any wolf images collected by Snapshot Wisconsin participants until wolves are federally delisted. Delayed processing of wolf images would delay discovery of new wolf pack territories and assessment of pup production.
5. DNR's Office of Applied Research has been conducting research to improve Wisconsin's wolf population monitoring methods for zone-specific population estimates, where harvest levels can be set to allow more precise wolf population management. This research would be eliminated under the proposed legislation.

## Management Impacts

DNR wolf management would be directly affected by this proposed law. Tools used by DNR to responsibly manage wolves include enforcing laws, partnering with other jurisdictions, and using citizen monitoring to broaden population data. Examples include the following:

### Implications for law enforcement

Prohibiting enforcement of laws relating to wolf management (such as illegal killing of wolves) by Wisconsin law enforcement officers will impact state, and in some instances, tribal conservation wardens, county sheriff deputies and local police officers. The following are some of these potential impacts (next page).

# Wisconsin's Green Fire: Voices for Conservation

## Implications for law enforcement (continued)

- 1) Officers take an oath of office to enforce the law; this proposal would put law enforcement officers in the position of selectively enforcing laws.
- 2) The language in the bill prevents officers from "knowingly" enforcing or "attempting" to enforce the law. These terms are subjective and leave a gray area for interpretation by officers and the public. For instance, it would make investigations very difficult when an offense involved both wolves and other species.
- 3) This inability to enforce laws will create complex violation scenarios in which DNR would be restricted from taking action. Such as:
  - a) Violators avoiding prosecution for hunting/trapping violations for other species by claiming to be in pursuit of wolves.
  - b) Poison baits set to kill wolves that are also harming domestic pets, livestock or other species of wildlife.
  - c) Use of trap and snare types that are not legal for use in Wisconsin.
  - d) This legislation would also prohibit an officer from coming to the aid of a federal warden enforcing a wolf-related law.
  - e) Law enforcement strives for public confidence that they enforce all laws fairly and evenly. This legislation requires that they look the other way on wolf violations, effectively sanctioning illegal behavior and eroding public support for law enforcement.

## Impairs wolf depredation abatement

Wolf depredation abatement services are provided by USDA-APHIS-Wildlife Services in Wisconsin under cooperative agreements with DNR. DNR provides the financial support for these services. Under these bills, financial support would halt. Installation of new non-lethal depredation abatement materials such as fladry flagging and electric fences, as well as maintenance of installed materials would be stopped. The cessation of radio-collaring would end the use of radio activated guard boxes that can detect the presence of a nearby radio-collared wolf and emit a strobe light and sounds to deter wolf depredations.

## Raises risk for co-management litigation

This proposed legislation has the potential to result in litigation with Wisconsin's Chippewa tribes. During the original court case that defined treaty rights in Wisconsin, the tribes sought co-management status for the fish and wildlife resources within the ceded territory. Under co-management, both the DNR and the tribes would share veto authority over proposed fish and wildlife regulations and policies within the ceded territory. The federal court decided against the tribes on this issue and placed management authority with DNR. This legislation prevents DNR wardens from enforcing federal laws relating to wolves and prevents DNR from performing basic population monitoring activities. If enacted, this legislation would provide the basis for the tribes to re-litigate the co-management question based on changed circumstances. The tribes could argue that the State of Wisconsin is not fulfilling its public trust obligations in conserving Wisconsin wolf populations.

## Reduces validity and trust in Wisconsin's wolf management plans

USFWS federal delisting of wolf populations in Wisconsin will require a finding that all impacted states have science-based wolf management and conservation plans in place. This legislation will create doubts at the federal level and amongst wolf advocacy groups that Wisconsin is committed to the long-term conservation of wolf populations. This legislation will be pointed to as a sign that Wisconsin's management system can't be trusted by future litigants.

Wisconsin's 37-year data set and annual population estimates have made it possible to examine the impact of Wisconsin's wolves on prey populations and track annual variability of depredations. It also documents resiliency of wolves to mortality from harvest seasons, disease and harsh winters. This dataset allowed USFWS' original delisting determination. This dataset would be relied on in any future determination to delist Wisconsin wolves and is needed to

# Wisconsin's Green Fire: Voices for Conservation

guide decisions on annual harvest quotas for future hunting and trapping seasons. Interrupting the continuity of this dataset weakens the scientific basis for future management decisions.

Wisconsin's annual population estimates involve significant volunteer citizen effort. Wolf tracking volunteers attend training to identify wolf sign and learn proper data collection methods. Volunteers conducted roughly half of the 14,167 wolf tracking miles during winter 2016-17. If DNR is precluded from monitoring wolves, it is unlikely sufficiently trained volunteers would be able to cover the areas currently monitored by DNR personnel. DNR could lose valuable volunteer-collected data, and would need extra volunteer recruitment and training when they resume wolf management. DNR staff would be prohibited from cooperating with, and/or, notifying neighboring states when a wolf radio-collared outside of Wisconsin is identified within our state borders. This would erode the cooperation states expect as they collectively seek to manage wildlife populations.

## **Fiscal impacts & loss of federal wildlife conservation funding**

This legislation would jeopardize Wisconsin's ability to receive federal Wildlife Restoration Grants commonly referred to as Pittman Robertson (PR) funds. If enacted, the legislation would prevent enforcement of the illegal killing of wolves, as well as scientific population monitoring and management by DNR. Wisconsin's eligibility for these funds is contingent on DNR having the legal authority to properly manage wildlife populations within the state. It is likely that the USFWS would need to review WDNR's ability to properly manage Wisconsin's gray wolf population. A negative finding would result in Wisconsin's loss of these important PR-funds.

Pittman-Robertson grants, Wisconsin's share of the federal excise taxes on hunting equipment, are used to monitor wildlife populations, undertake research, and manage wildlife habitat for a wide range of species. In 2017, Wisconsin received over \$19 million grant dollars which was nearly 14% of the total revenue to the state's Fish & Wildlife Account. Loss of these grant funds would require DNR to lay off staff and eliminate wildlife management activities.

To date the DNR has invested staff resources and funding in citizen science initiatives cited in this paper. These programs help reduce the costs of wolf monitoring and management. Lack of continuity in citizen science training will reduce the effectiveness of volunteers and would increase start up costs in the future.

## **About Wisconsin's Green Fire**

Wisconsin's Green Fire: Voices in Conservation (WGF) is a newly formed independent nonpartisan organization. WGF supports the conservation legacy of Wisconsin by promoting science-based management of its natural resources. Members represent extensive experience in natural resource management, environmental law and policy, scientific research, and education. Members have backgrounds in government, non-governmental organizations, universities and colleges and the private sector. More information about WGF can be found at [www.wigreenfire.org](http://www.wigreenfire.org).

Wisconsin's Green Fire

W1 - 12/14/17

Website: [www.wigreenfire.org](http://www.wigreenfire.org)

Contact email: [tomhauge@wigreenfire.org](mailto:tomhauge@wigreenfire.org)