

# Trump administration continues assault on endangered species

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The Trump administration is continuing its efforts to shred important parts of the 1973 Endangered Species Act (ESA), including inventing new interpretations of the legislation that are driving several species toward extinction.

The proposed changes to the ESA regulations were announced in July 2018 as part of President Donald Trump's Executive Order 13777, directing federal agencies "to lower regulatory burdens." This will include looser requirements on the consultation process used to prevent harm to endangered species from federal activities, a repeal on automatic blanket protections for species listed as threatened and expanded exemptions for critical habitat designations.

In the proposal, the federal agencies suggested that protections for "critical habitats" under the ESA be limited strictly to areas needed to prevent the ultimate extinction of a species. In response, environmental groups as well as 18 state attorneys general argued that such a definition would only support protecting habitats to encourage the survival of the species rather than other areas that could be made suitable through restoration. It would exclude areas that are degraded and in need of restoration which might be currently uninhabited by an endangered species but where a species could be moved after restoration was complete.

Moreover, while the ESA requires that federal agencies base their decisions to list a species as threatened or endangered, "solely on the basis of the best scientific and commercial data available," the new rules now allow the government to bypass such considerations in favor of economic ones.

As a result, several specific species could easily go extinct soon or have recovery efforts severely set back if these rules are implemented.

## Gray wolves

The gray wolf is an umbrella species, meaning it is a species that plays a critical role in maintaining the structure of an ecological community, and upon which many other species depend. The gray wolf population in Washington state is already experiencing setbacks given the lethal "management" the state wildlife agency is using and given the federal attack on removing wolves from the Endangered Species List nationwide.

On August 31, 2020, Director Aurelia Skipwith of the US Fish & Wildlife Service reported that the Trump administration plans to lift endangered species protections for gray wolves across most of the country by the end of the year. Skipwith told the Associated Press, "We're working hard to have this done by the end of the year and I'd say it's very imminent."

This is a continuation of the 2019 proposal by the agency to drop the gray wolf from the endangered species list in the entire lower 48 states,

exempting a small population of Mexican wolves in the Southwest. It was the latest of repeated attempts to return management authority to the states—moves that courts have repeatedly rejected after opponents filed lawsuits.

The ESA was signed into law in 1973 by President Richard Nixon. In 1974, the gray wolf became legally protected under the ESA in the lower 48 states. Individual subspecies received endangered status: eastern timber wolf, *Canis lupus lycaon* (present in the Western Great Lakes), and Rocky Mountain wolf, *Canis lupus irremotus* (present in the northern Rocky Mountains). The Mexican gray wolf, *Canis lupus baileyi*, was listed under the ESA in 1976. Wolves were classified as endangered under Washington state law in 1980.

Shot, trapped and poisoned to near extinction in the last century to clear the land for livestock and agribusiness, wolves in recent decades made a comeback in the western Great Lakes region and portions of the Mountain West, the total population exceeding 6,000. They have been removed from the endangered list in Montana, Idaho, Wyoming and portions of Oregon, Utah and Washington state. Should the previous causes of near extinction come back into play, wolves would quickly become severely endangered once again.

In December 2011, the Washington Department of Fish & Wildlife (WDFW) issued its "Wolf Conservation and Management Plan" to allegedly guide "recovery" of gray wolves as they "naturally disperse." But the plan does just the opposite of fostering recovery and natural dispersal. The plan allows lethal and non-lethal methods of controlling the naturally dispersing wolf population in Washington in the event of wolf-livestock encounters.

A revised "wolf-livestock interaction protocol" was issued by WDFW in June 2017, which reinforced lethal methods of removing wolves from their territory where livestock are grazing, regardless of whether it is on private land or federal and state public land. This protocol states that the "objective of lethal removal is to change pack behavior to reduce the potential for recurrent depredations while continuing to promote wolf recovery."

However, killing wolves to prevent them from preying on livestock is a tactic that has been scientifically discredited numerous times by a variety of researchers. In 2014, Washington State University (WSU) researchers found that it is counter-productive to kill wolves to keep them from preying on livestock. Shooting and trapping lead to more dead sheep and cattle the following year, not fewer.

Writing in the journal *PLOS ONE*, WSU wildlife biologist Rob Wielgus and data analyst Kaylie Peebles say, "For each wolf killed, the odds of more livestock depredations increase significantly."

The trend continues until 25 percent of the wolves in an area are killed. Ranchers and wildlife managers then see a "standing wave of livestock depredations," they wrote.

Their study is the largest of its kind, analyzing 25 years of lethal control data from US Fish and Wildlife Services Interagency Annual Wolf

Reports in Montana, Wyoming and Idaho. The researchers found that killing one wolf increases the odds of depredations 4 percent for sheep and 5 to 6 percent for cattle. If 20 wolves are killed, livestock deaths double.

Wielgus and Peebles conclude that rate of wolf mortality “is unsustainable and cannot be carried out indefinitely if federal delisting of wolves is to be avoided.”

Despite this research, in August 2020, Kelly Sussewind, the director of WDFW, authorized lethal action to kill wolves in the Wedge pack and the Leadpoint pack. On August 17, the agency shot the last two remaining members of the Wedge pack, which lived near the Canadian border in the remote Colville National Forest and was finally exterminated after ranchers claimed the wolves killed cattle grazing on both private and public land.

State officials said they had killed the last two known members of the Wedge wolf pack, after investigations showed the wolves had taken part in 16 livestock attacks on animals belonging to three different ranchers. Officials said the wolves killed four animals since May and injured 19.

The assault on the wolves was instigated by Len McIrvin, owner of the Diamond M Ranch, who leases federal land to graze his cattle. The Diamond M Ranch is a massive cattle production corporation that benefits from the eradication of an endangered species by gaining access to land previously protected. Washington Department of Fish & Wildlife has killed more wolves based on complaints from Diamond M Ranch than from any other livestock producer, including the entire Old Profanity pack last summer.

These actions have been abetted by Washington’s Democratic Governor Jay Inslee, who on September 4 directed the Washington Fish and Wildlife Commission to draft new rules encouraging the department’s lethal removal of wolves involved in conflicts with livestock.

In his letter to Larry Carpenter, the chair of the Fish and Wildlife Commission, Inslee said, “The potential for future depredations and lethal control actions, under our existing framework, remains unacceptably high.

“We must move more quickly and decisively to institute practices that will avoid the repeated loss of wolves and livestock in our state.”

“Given the significant work that has been done to date on this topic, I strongly believe new rules and policies could, and should, be adopted and in place prior to the grazing season next year,” he said.

The state has lethally removed 34 wolves since 2012. Of that, 29 were killed for the same livestock owner, Diamond M, in prime wolf habitat in the Colville National Forest. This amounts to wholesale slaughter of a precarious species on behalf of agribusiness.

Governor Inslee’s decision requires the commission to start a formal rulemaking process, which includes giving notice to the public and creating an opportunity to comment on proposed rules.

## **Mexico borderlands migratory species**

To add fuel to the fire, Trump’s border wall will most likely wipe out several severely endangered and threatened species, which are already in a precarious position. In May 2017, the Center for Biological Diversity reported that President Trump’s border wall will threaten 93 endangered and threatened species, including jaguars, ocelots, Mexican gray wolves and cactus ferruginous pygmy owls. The 1,200-mile wall will cut off migration corridors, destroy genetic diversity, decimate habitat, and add vehicles, noise and light pollution to great expanses of wild lands along the US-Mexico border.

Several sections of border wall have already been built. These areas where the wall has been constructed have had a variety of harmful effects

on wildlife, including direct destruction of thousands of acres of habitat, and segregating cross-border wildlife populations like bighorn sheep and jaguars. The border wall would dissect the Cabeza Prieta, Buenos Aires and several other national wildlife refuges, along with Organ Pipe Cactus National Monument, Big Bend National Park and numerous other natural areas that are corridors for wildlife.

The San Bernardino National Wildlife Refuge is an example of a fragile and unique habitat, which will be destroyed by the border wall. It was established in 1982 to protect the rare wetlands in the middle of the Sonoran Desert that are home to a variety of wildlife, including several species of fish that are protected by the ESA. Its spans 2,300 acres over the US-Mexico border in southeastern Arizona, close to New Mexico, and is prime habitat for hummingbirds, 75 species of butterflies, bats and, most importantly, to fish native to Rio Yaqui, which the refuge was set up to protect, as reported by the Center for Biological Diversity.

The jaguar and the Mexican wolf, the most endangered mammal on the planet, both travel across the border for hunting, denning, and seeking new territory as their populations attempt to expand. Building the border wall will very likely cause the extinction of these species, which are already hanging by a thread.

## **Nassau grouper**

Four years ago, the National Oceanic and Atmospheric Administration (NOAA) listed the Nassau grouper as threatened under the ESA, but the government has since failed to follow through with the safeguards that come with such status, including the designation of a critical habitat.

On September 1, the Center for Biological Diversity and two other conservation groups sued the Trump administration for failing to protect the Nassau grouper, one of the largest coral reef fish, four years after it was designated a threatened species. The large predator fish is found in warm waters off the southern coast of Florida, in the US Virgin Islands and Puerto Rico.

The complaint alleges, “Species with critical habitat designations are twice as likely to recover as species without designated critical habitat.” Even as the species is fighting for survival, the complaint avers that human activities, coupled with sea-level rise and ocean acidification, are destroying the coastal reefs, estuaries and seagrass beds where it dwells.

“Designated habitat would identify the most important areas for Nassau grouper and prevent federal activities that would destroy them,” the complaint states. “The Nassau grouper remains at risk until the Service fulfills its statutory duties to designate the critical habitat necessary to support the grouper’s survival and recovery.”

The Nassau grouper profile on the NOAA Fisheries website states the species’ population is currently at “just a fraction of its historical size.”

## **The Migratory Bird Treaty Act**

In 2017 the Trump administration began pursuing a reinterpretation of the Migratory Bird Treaty Act of 1918, aimed at “saving from indiscriminate slaughter” migratory birds in the United States, United Kingdom and Canada.

Ratified by Congress over a century ago, the treaty banning hunting, taking or killing migratory birds was given a little-publicized reinterpretation by the Interior Department’s Solicitor Daniel Jorjani in late 2017.

Jorjani wrote a decision permitting “incidental” killings, an interpretation that suddenly removed punishment for bird deaths and devastated certain nesting areas.

The Natural Resources Defense Council and a coalition of environmental groups sued, and on August 12, 2020, US District Court Judge Valerie Caproni blocked the Trump administration’s revision of the treaty as a violation of the Administrative Procedure Act.

Since the change in late 2017, environmental groups have reported that the treaty’s enforcement has come to a standstill nationwide.

That has meant a lack of liability to the people and entities that allowed snowy owls to be electrocuted by uninsulated power lines in Delaware, Maryland, Tennessee and North Dakota; the avian life drowned by oil spills in Massachusetts, Idaho and Washington; and dove chicks thrown into a tree shredder by landscapers in San Diego.



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