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ENDANGERED SPECIES: Budget's wolf delisting opens Pandora's box of species attacks, enviros warn *(Tuesday, April 12, 2011)*

Phil Taylor, E&E reporter

A bipartisan measure to strip Endangered Species Act protections from gray wolves in Montana and Idaho undermines the scientific integrity of the 37-year-old law and could open the door to removing safeguards for other species and their habitats, environmental groups said.

The proposal from Sen. Jon Tester (D-Mont.) and Rep. Mike Simpson (R-Idaho) to return wolf management to their respective states was included in a bicameral budget agreement to fund the government for the rest of the fiscal year (*E&E Daily*, April 11). The spending bill is expected to be approved this week.

But while it enjoys broad support from hunters, ranchers and state officials in Montana and Idaho, the proposal would be the first time legislation has ever removed ESA protections for a species. It could threaten other wildlife whose protected status is under attack in Congress, groups say.

"It certainly sets a precedent, but probably more disturbingly, it sends a signal that, as far as the Obama administration is concerned, the Endangered Species Act is a bargaining chip," said Jeff Ruch, executive director of Public Employees for Environmental Responsibility.

Environmentalists said they are concerned lawmakers in the Republican-led House will hold other species and habitat protections hostage as the administration pursues other must-pass legislation, such as a bill to raise the debt ceiling and the 2012 budget.

Lawmakers in energy-rich states may even strive to pre-empt the Fish and Wildlife Service from designating protections from species such as the sage grouse or Arctic wildlife that could slow the development of oil and gas or other energy projects, groups said.

Jon Marvel, executive director of the Hailey, Idaho-based Western Watersheds Project -- which successfully sued to restore ESA protections for wolves -- said if the wolf language succeeds, it will embolden lawmakers to disable other federal statutes including the National Environmental Policy Act, Clean Air Act and Clean Water Act.

"All of these represent opportunities to gut what, dare I say, our great President Richard

Nixon gave us," Marvel said, referring to the president who signed into law the Endangered Species Act in 1973.

Such concerns are unfounded, Tester said.

For one, wolves in the northern Rockies now number roughly 1,700 and have greatly exceeded recovery goals set when the animals were reintroduced under the Clinton administration, Tester said.

"We didn't amend the Endangered Species Act," Tester said in an interview with *E&E Daily*. "We asked that a recovered species -- a species that [FWS] projected at 300 when it was reintroduced and now is 1,700, be taken off and managed just how we manage elk and mule deer and antelope and everything else."

Moreover, the ESA was never intended to allow one state hold another "hostage," Tester said, referring to the management plan in Wyoming that would allow wolves to be shot on site in the vast majority of the state, a plan the federal government has rejected. A federal judge last August said ESA protections for wolves must be restored in Montana and Idaho until the federal government also approves management plans in surrounding states.

"What this does is lets Montana follow its plan, Idaho follow its plan, and when Wyoming come up with a plan they can go forth with it," Tester said, adding that his legislation will benefit livestock, big game and wolves. "Those plans are based on science. It can work and it will work."

But critics of the plan say Tester and Simpson's proposal to reinstate a 2009 FWS rule removing federal protection for wolves in Idaho, Montana and parts of three other states, while barring legal challenges, is too broad and fails to incorporate provisions to ensure a viable recovery that were included in a settlement proposed by 10 environmental groups and the federal government. That settlement was rejected last Saturday by U.S. District Judge Donald Molloy (*E&ENews PM*, March 18).

"If Tester really cares about wolves and about settling this problem once and for all, he will embrace and lead the administrative conservation measures identified over the past several months rather than inflaming the situation further with a bogus political delisting," said Bill Snape, lead attorney for Center for Biological Diversity, one of the settling parties. "He's in a tough spot, but he knows better."

The legislative delisting proposal has drawn criticism from leading Democrats in the Senate including Ben Cardin of Maryland and Barbara Boxer of California, who chairs the Environment and Public Works Committee.

Some have speculated that Senate leadership allowed the wolf rider to be included in the final budget package in order to strengthen Tester's run for re-election against six-term Rep. Denny Rehberg (R-Mont.), who is also a strident supporter of state management of wolves.

"This gave Jon Tester a powerful political pelt to hang on his wall," Ruch said.

With 20 months to go in the race, the two lawmakers were statistically neck and neck according to a survey by Mason-Dixon Polling and Research that was conducted for Lee Newspapers.

Tester and Simpson's attempt to congressionally delist an endangered species is not the only

time lawmakers have tried to remedy the effects of ESA.

A proposal by Rep. Steve Pearce (R-N.M.) that was offered in February as part of the House's continuing resolution, H.R. 1, would have eliminated funding for the 12-year-old Mexican gray wolf recovery effort.

Republican leaders on the House Natural Resources Committee last month blamed ESA protections for fish for driving up the cost of electricity in the West and siphoning water needed for farmland and vowed to take action to address Obama regulations ([E&E Daily](#), March 16).

And in the 1970s, Congress exempted the Tellico Dam in Tennessee from the Endangered Species Act as an amendment in an unrelated bill, harming habitat for a small endangered fish called the snail darter.

But never before has Congress managed to delist a species altogether.

"I'm assuming that now that the door's been opened, that endangered species or related anti-environmental riders will be thrown into the mix on virtually every piece of legislation of importance," said Ruch, of PEER. "Why shouldn't they? The worst that can happen is they can say 'no,' but they look good in trying."

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