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Wolf licenses go on sale; groups plan delisting appeal

By EVE BYRON Independent Record | Posted: Tuesday, August 9, 2011 12:47 am

Environmental groups filed a notice of their intent to appeal a judge's ruling that kept wolves off of the list of endangered species Monday, the same day that licenses went on sale for the upcoming hunting season in Montana.

Michael Garrity, executive director of the Alliance for the Wild Rockies, said they still believe Congress violated the U.S. Constitution when Sen. Jon Tester used what's known as a "rider" — a bill attached to the continuing resolution that funded the government earlier this year — to remove wolves once again from protection under the Endangered Species Act. He added that he believes U.S. District Court Judge Donald Molloy agrees, but the judge said his hands were tied by previous appellate court decisions.

Garrity and the co-plaintiffs, Friends of the Clearwater and WildEarth Guardians, said Molloy paved the way for the appeal when he wrote in his ruling that "If I were not constrained by what I believe is binding precedent from the Ninth Circuit, and on-point precedent from other circuits, I would hold Section 1713 (Tester's rider) is unconstitutional because it violates the Separation of Powers doctrine articulated by the Supreme Court ..."

Garrity said that because the rider exempts further judicial review of the legal case, it "basically nullifies" constitutional checks and balances between Congress and the judicial branches of government.

"We're continuing this battle because Judge Molloy's ruling fully supports our contention that there is a well-established legal process that applies to every other species and that pure political expediency should not be the driving force over which of our nation's imperiled animals and plants will or will not be protected for future generations," Garrity said in a statement, adding that science, not politics, should be allowed to determine the fate of endangered species.

The groups charge in their complaint that the delisting rider, which was sponsored by Tester (D-Mont.) and U.S. Rep. Mike Simpson (R-Idaho) violates the U.S. Constitution because it specifically repealed a judicial decision, then exempted the action from judicial review.

As the groups were filing their notice of intent to sue over the delisting of gray wolves in Montana and Idaho, hunters were gearing up for the second annual wolf hunt. By 3:45 p.m., close to 1,100 wolf licenses had been sold by Montana Fish, Wildlife and Parks.

In 2009, the first year a wolf hunt was held, people snatched up 551 wolf licenses by 9:30 a.m. on the first day of sales, and the quota was set at 75. The 2010 wolf hunting season was suspended as part of the ongoing legal battle over whether the wolves needed federal protection. Because of the act of Congress earlier this year, they were delisted and the harvest quota has been set at 220.

The wolf licenses went on sale the same day as over-the-counter and surplus B licenses for antlerless deer, elk and antelope, and hunters seemed more interested in those, according to FWP officials.

Wildlife managers have documented at least 566 wolves in Montana at the end of 2010. That total does not take into account any pups born this year. So, if the 2011 harvest quota is met, it's expected to reduce the wolf population to about 425 wolves.

Wolf licenses cost \$19 for residents and \$350 for nonresidents; hunters must also have a 2011 conservation license, which costs \$8 for residents.

This is the first year bow hunters will be able to take a wolf, with their archery season running from Sept. 3 through Oct. 16. The general wolf hunting rifle season is Oct. 22 through Dec. 31; they also can be taken by rifle in the backcountry from Sept. 15 through Dec. 31.

The season can end earlier if the quota is filled earlier.

About 1,700 wolves are present in the Rocky Mountains, with the bulk of them in Montana, Idaho and Wyoming. Idaho is holding both a wolf hunting and trapping season this year, and has sold an estimated 4,000 tags since they went on sale in May.

Idaho, which is home to about 1,000 wolves, didn't set a quota for wolves in most of the state. However, hunters have to report wolf harvests within 72 hours to ensure the state maintains a population of at least 150 wolves.

The Idaho hunting season runs Aug. 30 through March 31 in most of the state. But in the upper Clearwater basin, the season will run through June 30.

Wolves remain under federal protection in Wyoming, although the state and the federal government last week announced a tentative deal on how to end federal protections there.