

## **Wyoming Farm Bureau Involvement in Wolf Lawsuits**

*By Kerin Clark, Wyoming Farm Bureau Federation*

From the 1980s to 2011 a lot has changed in what the United States Fish and Wildlife Service says about the wolves in Wyoming. From the 1980s to 2011 nothing has changed in what the Wyoming Farm Bureau Federation says about wolves in Wyoming.

“Wolves were supposedly going to stay in the Park,” Ken Hamilton, Wyoming Farm Bureau executive vice president, said. “The federal government sold the public on the idea that wolves were supposedly going to stay in the park. The recovery numbers and requirements by the USFWS seem to be a moving target and when you throw the judiciary in there it becomes even more confusing. In Wyoming, we now have more than double the numbers of wolves that were initially given as numbers for delisting and they are saying it isn’t enough.”

From the beginning of conversations about introducing wolves to Yellowstone, the Wyoming Farm Bureau Federation has worked to provide a voice for the livestock producers and citizens of Wyoming who are impacted by the wolves.

### **The first wolf lawsuit**

The first wolf lawsuit was filed in 1991 by the Defenders of Wildlife and the National Wildlife Federation. The Wyoming Farm Bureau, Montana Farm Bureau and Idaho Farm Bureau worked with the American Farm Bureau on the lawsuit. Farm Bureau joined with the Mountain States Legal Foundation to intervene in the original wolf lawsuit that asked for reintroduction of wolves to recover the wolf population based on recovery plans. In this case, the defendants and interveners prevailed in convincing the court that recovery plans are not mandatory documents.

“Congress then stepped in and mandated the Fish and Wildlife Service prepare an Environmental Impact Statement (EIS),” Hamilton said. “Thus the FWS started working on the EIS to analyze the impacts of wolf introduction into the tri-state area.”

### **1994 lawsuit**

The lawsuit was filed after the USFWS published the final rules on Nov. 22, 1994 for introducing wolves. At that time Wyoming Farm Bureau and other parties sought a preliminary injunction to prevent the wolves from being introduced into Wyoming. That injunction request was denied by the Court on Dec. 24, 1994.

“During the testimony at the Dec. 22, 1994 hearing information provided to the court by Farm Bureau and its members predicting what wolves would do has now come true,” Hamilton stated.

“Meeting the clear and unequivocal evidence standard was nearly impossible. There was no way to show how big the impact would be on livestock and wildlife without data,” Hamilton explained.

In the case, the *Wyoming Farm Bureau Federation v. Bruce Babbitt, et. al.*, the Wyoming Farm Bureau Federation raised eleven claims. Some of the claims were: 1) the experimental population would not be wholly separate geographically due to the naturally occurring population of wolves; 2) defendants failed to adequately analyze and/or consider the various impacts of introducing an experimental wolf population in violation of the National Environmental Policies Act; and 3) defendants failed to find, “based upon the best scientific and commercial data available,” that the introduction of experimental populations will further conserve the species.

Judge Downes ordered removal of the wolves in his ruling issued on Dec. 12, 1997. In the same ruling, he also ordered a stay on his decision pending appeal.

“In the decision, Judge Downes ruled that the wolves were illegally introduced and they were not experimental because they were not wholly separate geographically,” Hamilton explained.

The defendants appealed the district court decision on Sept. 3, 1998 and on Jan. 13, 2000 the Tenth Circuit Court of Appeals overturned the Wyoming district court decision.

### **Wyoming Wolf Coalition**

In 2004, 27 different associations, including the Wyoming Farm Bureau joined together to form the “Wolf Coalition.”

“Wildlife interests, county governments and agriculture have come together recognizing the need to protect livestock and the depleted wildlife populations,” Hamilton said. “This broad diversity of organizations shows the significant impacts wolf introduction is having on Wyoming citizens.”

On Sept. 21, 2004 the Wolf Coalition filed a civil suit for declaratory judgment and injunctive relief for the USFWS’ rejection of the Wyoming Gray Wolf Management Plan and the failure and refusal to properly manage and control the gray wolf population in Wyoming. The claim for relief was denied in a March 2005 ruling.

The Wolf Coalition and the State of Wyoming appealed the case to the Tenth Circuit Court of Appeals in 2005. On April 3, 2006 the decision was issued upholding the District Court’s decision.

In 2007, the Coalition appealed the denial of the state’s petition to delist.

Now, in 2009, the 60-day notice of intent has been filed.

### **2011 update by Harriet Hageman, Attorney for Wyoming Wolf Coalition**

On November 18, 2010, the Honorable Alan B. Johnson, the Federal District Court Judge for the District of Wyoming, issued his “Order Setting Aside Agency Decision in Part and Remanding Agency Decision in Part,” finding that the Defendants (the Department of Interior (DOI), the Fish and Wildlife Service (USFWS), Ken Salazar, Rowan Gould, and Stephen Guertin) had acted “arbitrarily and capriciously” in rejecting the Wyoming Wolf Management Plan. More specifically, Judge Johnson concluded (among other things) that the Defendants violated the Endangered Species Act (ESA) when they rejected Wyoming’s proposal to designate wolves as trophy game animals in certain areas, and predators in others.

The Defendants initially appealed Judge Johnson’s decision to the Tenth Circuit Court of Appeals. On March 14, 2011, however, they voluntarily dismissed that appeal. Such action resulted in Judge Johnson’s decision “going final,” thereby ensuring that it is not subject to

collateral attack. In other words, Judge Johnson's decision is now "the law of the land," and cannot be attacked by either the federal agencies or any environmental groups.