



September 27, 2021

Secretary Deb Haaland  
Department of the Interior  
1849 C Street, N.W.  
Washington DC 20240

Via registered mail and email: [naomie\\_germain@ios.doi.gov](mailto:naomie_germain@ios.doi.gov)

**RE: Pittman-Robertson Funding Contingent on States Meeting Federal Standards for Wildlife Management Required by the Act**

Dear Interior Secretary Haaland,

Congratulations on your historic confirmation as the first Native American to lead the Department of the Interior. Encouraged by your strong record as an environmental leader, we are approaching you on an issue of growing public concern: state predator control programs.

The Global Indigenous Council (GIC), Public Employees for Environmental Responsibility (PEER), the Center for Biological Diversity, the Humane Society of the United States, The Native Conservancy, The 06 Legacy, Alaskans for Wildlife, Attorneys for Animals, Footloose Montana, Friends of the Clearwater, Global International Council, United Tribes, Mountain Lion Foundation, National Wolfwatcher Coalition, Oasis Earth, Predator Defense, Project Coyote, Project Eleven Hundred, Protect Our Wildlife, Sierra Club-Toiyabe Chapter, Southwest Environmental Center, The Endangered Species Coalition, The International Wildlife Coexistence Network, The Rewilding Institute, Washington Wildlife First, Western Wildlife Outreach, Wildearth Guardians, Western Watersheds Project, Wyoming Wildlife Advocates, and Professor Adrian Treves of the University of Wisconsin, oppose the distribution of Pittman

Robertson Wildlife Restoration Act and Sport Fish Restoration Act funds to states that undermine federal goals.

**We are submitting this rulemaking request to the Department of Interior to incorporate a public comment period and an eligibility determination prior to distributing Acts funds to states.** This will ensure that state wildlife management is substantially consistent with the goals of sound conservation policy, and maintaining healthy and naturally diverse wildlife populations, including predator populations, as required by the Acts.

The U.S. Fish and Wildlife Service has defended the contentious delisting of wolves across the United States with the argument that the states will maintain species populations at healthy and sustainable population levels. However, in the past year Idaho and Montana have passed legislation in contradiction to federal goals, as did Alaska with its 1994 Intensive Management law mandating predator control programs. Some states supported by Pittman Robertson funds permit or encourage trophy hunting and hunting and trapping of predators without regard for sustainable levels. States have authorized controversial hunting practices including baiting and snaring of bears, use of dogs to hunt predators, shooting bears and their cubs in dens, shooting wolves and pups at dens, aerial spotting/land-and-shoot, and nighttime hunting with artificial lights. States like Wyoming and Alaska have aggressive predator control programs in place that allow hundreds of wolves and bears to be killed each year.

These state predator management programs are specifically designed to artificially suppress predator populations and to increase prey populations beyond natural levels. These programs can lead to an overabundance of prey, destabilize ecosystems, and can potentially trigger relisting of predator species. In most cases, the practice of predator control is scientifically unjustified, ecologically damaging, unacceptable to the public, and contrary to purposes of the Pittman-Robertson Federal Aid in Wildlife Restoration Act.

To cope with attempts by legislatures to override state and federal species protection programs and to address rogue state game programs that do not protect sustainable, healthy wildlife populations, we propose that the Secretary of the Interior place additional review and restrictions on federal Acts funds. As stated in the Acts, funds shall be awarded only to state fish and game agencies that support federal goals of “sound conservation policy” that is to “sustain healthy populations of wildlife.”

This petition seeks to add additional language to the regulations that would:

1. Reinforce the statutory requirements that states receiving federal funds are not compromising “healthy populations of wildlife,” impinging upon the “unmet needs for a diverse array of wildlife and associated habitats,” and are “giving appropriate consideration to all wildlife.” (Emphasis added)
2. Incorporate a public comment period and state eligibility determination before distributing Acts funds in order to allow stakeholders who have been traditionally marginalized – including Tribes, subsistence users, tourism and watchable wildlife interests, independent scientists and the conservation community – to be part of the process and support the public interest in transparency and accountability with an open process for the distribution of Acts funds.

3. Give the Secretary the opportunity to consider the impacts of new state legislation and management practices, as well as new population numbers, developing science, and comments from the interested public prior to making an eligibility determination and distributing Acts funds to the states.

It is in the national interest for the Department of Interior to ensure that state wildlife agencies, supported with federal aid funds from the Acts, are managing wildlife consistent with federal science, natural diversity, and ecosystem management standards required by the Acts.

We urge you to adopt the rulemaking in this petition to further the mission of Interior's national interest in protecting and managing the nation's natural resources.

Sincerely,

Rain, Executive Director  
Tom Rodgers, President  
Global Indigenous Council

## SIGNATORIES

### **Global Indigenous Council**

Rain, Executive Director

Tom Rodgers, President

Montana

[Unitedindiantribes@gmail.com](mailto:Unitedindiantribes@gmail.com)

[Tom@caryleconsult.com](mailto:Tom@caryleconsult.com)

### **Public Employees for Environmental Responsibility**

Tim Whitehouse, Executive Director

Maryland

[TWhitehouse@PEER.org](mailto:TWhitehouse@PEER.org)

### **Center for Biological Diversity**

Collette Adkins, Carnivore Conservation Director and Senior Attorney

Arizona

[CADkins@biologicaldiversity.org](mailto:CADkins@biologicaldiversity.org)

### **Humane Society of the United States**

Kitty Block, President and CEO

District of Columbia

[narrivo@humanesociety.org](mailto:narrivo@humanesociety.org)

### **The 06 Legacy**

Karol Miller, President

Michigan

[The06legacy@gmail.com](mailto:The06legacy@gmail.com)

### **Alaskans for Wildlife**

Jim Kowalsky, Chair

Alaska

[Alaskans4wildlife@gmail.com](mailto:Alaskans4wildlife@gmail.com)

### **Attorneys for Animals**

Bee Friedlander, J.D., President

Michigan

[Beefriedlander@yahoo.com](mailto:Beefriedlander@yahoo.com)

### **Endangered Species Coalition**

Tara Thornton, Executive Director  
District of Columbia  
[Tthorton@endangered.com](mailto:Tthorton@endangered.com)

**Footloose Montana**

Anja Heister, PhD, Co-Founder and Board Member  
Stephen Heister  
Montana  
[Stephen@footloosemontana.com](mailto:Stephen@footloosemontana.com)  
[loxodonta66@gmail.com](mailto:loxodonta66@gmail.com)

**Friends of the Clearwater**

Katie Bilodeau, Staff Attorney  
Idaho  
[katie@friendsoftheclearwater.org](mailto:katie@friendsoftheclearwater.org)

**The International Wildlife Coexistence Network**

Suzanne Asha Stone, Executive Director  
Idaho  
[suzanne@wildlifecoexistence.org](mailto:suzanne@wildlifecoexistence.org)

**Mountain Lion Foundation**

Debra Chase, CEO  
California  
[dchase@mountainlion.org](mailto:dchase@mountainlion.org)

**National Wolfwatcher Coalition**

Nancy Warren, Executive Director and Great Lakes Regional Director  
Minnesota  
[Nwarren1@earthlink.net](mailto:Nwarren1@earthlink.net)

**The Native Conservancy**

Dune Lankard, Founder and President  
Alaska  
[Dune@natureconservancy.org](mailto:Dune@natureconservancy.org)

**Oasis Earth**

Rick Steiner, Director  
Alaska  
[Richard.g.steiner@gmail.com](mailto:Richard.g.steiner@gmail.com)

**Predator Defense**

Brooks Fahy, Executive Director

Oregon

[Brooks@predatordefense.org](mailto:Brooks@predatordefense.org)

**Project Coyote**

Michelle L. Lute, PhD, National Carnivore Conservation Manager

California

[mlute@projectcoyote.org](mailto:mlute@projectcoyote.org)

**Project Eleven Hundred**

Mary O'Brien, PhD, Executive Director

Utah

[Maryobrien10@gmail.com](mailto:Maryobrien10@gmail.com)

**Professor Adrian Treves, PhD**

University of Wisconsin – Madison

Wisconsin

[Atreves@wisc.edu](mailto:Atreves@wisc.edu)

**Protect Our Wildlife**

Brenna Galdenzi, President

Vermont

[Info@protectourwildlifevt.com](mailto:Info@protectourwildlifevt.com)

**The Rewilding Institute**

John Davis, Executive Director

New Mexico

[www.rewilding.org/contact-us/](http://www.rewilding.org/contact-us/)

**Sierra Club, Toiyabe Chapter**

Brian Beffort, Director

Nevada / California

[Brian.beffort@sierraclub.org](mailto:Brian.beffort@sierraclub.org)

**Southwest Environmental Center**

Kevin Bixby, Executive Director

New Mexico

[kevin@wildmesquite.org](mailto:kevin@wildmesquite.org)

**Washington Wildlife First**

David Linn, Executive Director

Washington

[DPLinn@wawildlifefirst.org](mailto:DPLinn@wawildlifefirst.org)

**Western Watersheds Project**

Eric Molvar, Executive Director

Idaho

[EMolvar@westernwatersheds.org](mailto:EMolvar@westernwatersheds.org)

**Western Wildlife Outreach**

Lynn Okita, Board Chair

Washington

[Lynn@westernwildlife.org](mailto:Lynn@westernwildlife.org)

**WildEarth Guardians**

John Horning, Executive Director

Montana

[JHorning@wildearthguardians.org](mailto:JHorning@wildearthguardians.org)

**Wyoming Wildlife Advocates**

Kristin Combs, Executive Director

Wyoming

[Kristin@wyomingwildlifeadvocates.org](mailto:Kristin@wyomingwildlifeadvocates.org)

**Before the Department of the Interior  
Fish and Wildlife Service  
WASHINGTON, D.C. 20240**

*Petition for Rulemaking Governing Pittman Robertson Act Funds*

**Petition for Rulemaking**

**TABLE OF CONTENTS**

**Summary**

**Petition for Rulemaking**

**In Support of the Petition**

- I. FISH AND WILDLIFE SERVICE HAS AN OBLIGATION TO PROTECT PREDATORS**
- II. STATES FAIL TO SUPPORT FEDERAL PROTECTIONS FOR PREDATORS**
- III. PREDATOR POPULATIONS ARE ESSENTIAL FOR BALANCED ECOSYSTEMS**
- IV. THE PUBLIC INTEREST IN PITTMAN ROBERTSON ACT FUNDS**
- V. SYSTEM-WIDE GUIDANCE IS NEEDED**

**Conclusion**

**Appendix A - Proposed Rules**

**Appendix B- Standing Statements**



## Summary

Through the Pittman-Robertson Act and Sport Fish Restoration Act (Acts), Congress has authorized the Secretary of the Interior to distribute funds to states to support critical conservation and outdoor recreation projects. Federal regulations implementing the Acts provide that a state “becomes ineligible to receive the benefits” of the Acts if it “passes legislation contrary to the Acts.” However, as the regulation currently stands, there is no opportunity for the FWS to consider the eligibility for funds and there is no opportunity for the public to have a voice in the decision-making process.

The purpose of the Pittman-Robertson Act is to “assure sound conservation policies” “for the benefit of a diverse array of wildlife” “in recognition of the primary role of the States to conserve all wildlife.”

This petition seeks the adoption of U.S. Department of Interior policies to accomplish three objectives:

1. Reinforce the statutory requirements that states receiving federal funds are not compromising “healthy populations of wildlife”, impinging upon the “unmet needs for a diverse array of wildlife and associated habitats”, and are “giving appropriate consideration to all wildlife.” (Emphasis added)
2. Incorporate a public comment period and state eligibility determination before distributing Acts funds in order to allow stakeholders who have been traditionally marginalized – including Tribes, subsistence users, tourism and watchable wildlife interests, independent scientists, and the conservation community – to be part of the process and support the public interest in transparency and accountability with an open process for the distribution of Acts funds.
3. Give the Secretary the opportunity to consider the impacts of new state legislation and management practices, as well as new population numbers, developing science, and comments from the interested public prior to making an eligibility determination and distributing Acts funds to the states.

## Petition for Rulemaking

### Federal Conservations Goals to Guide Federal Funding to State Wildlife Programs

GIC, PEER, CBD, and HSUS pursuant to the Administrative Procedures Act (16 U.S.C. 553 (e)) and Department of the Interior regulations (43 C.F.R. Part 14), hereby petitions the Department to govern through rulemaking its furtherance of its mandate to conserve healthy wildlife populations with public notice and comment periods and eligibility review prior to distributing funds to state applicants.

The Administrative Procedures Act directs that “[E]ach agency (of the Federal Government) shall give an interested person the right to petition for the issuance...of a rule.” 5 U.S.C. 553.

### **Standing to File**

The **Global Indigenous Council** provides representation and participation for all tribal nations in the four hemispheres. The challenges, crises, and legacy of colonial conquest are not unique to the Americas. We must become not only the change, but also the leaders we seek.

**Public Employees for Environmental Responsibility (PEER)** is an IRS 501(c)(3) non-profit organization incorporated under the laws of the District of Columbia. PEER serves the professional needs of the local, state, and federal employees – the scientists, biologists, and rangers – charged with the protection of America’s environmental resources, including the species protected under statutes administered by the U.S. Fish and Wildlife Service.

In addition, PEER has a long history of seeking to protect wildlife on federal lands from harmful impacts stemming from state predator control programs. Moreover, PEER has provided legal representation to both state and federal wildlife professionals who have suffered professional retaliation for their advocacy of wildlife protection, or their administration of laws designed to promote conservation. As such, PEER is “an interested person” under the Administrative Procedures Act.

The **Center for Biological Diversity** is a nonprofit organization with over 1.7 million members and supporters dedicated to the protection and restoration of biodiversity. The Center is based in Tucson, Arizona, with offices throughout the country. The Center believes that the welfare of human beings is deeply linked to nature — to the existence in our world of a vast diversity of wild animals and plants. Recognizing the ecological importance of wolves, bears and other carnivores, the Center uses science-based advocacy to defend these magnificent animals from persecution, exploitation and extinction.

Founded in 1954, the **Humane Society of The United States** (“HSUS”) is the nation’s largest animal protection organization, HSUS is a 501(c)(3) non-profit organization headquartered in Washington D.C., with regional offices throughout the United States. On behalf of its members and supporters nationwide, HSUS works to promote the humane treatment of all animals and the protection and recovery of threatened and endangered species and their habitats. In furtherance of this mission, HSUS advocates for the protection of native carnivores and the elimination of inhumane practices affecting them through participation in federal and state regulatory processes, legislative advocacy, litigation, and public outreach and education.

See Appendix B for the standing declarations of 24 impacted Native American, conservation, and animal welfare groups.

## In Support of the Petition

### I. FISH AND WILDLIFE SERVICE HAS AN OBLIGATION TO PROTECT PREDATORS

Congress created the U.S. Fish and Wildlife Service (FWS) in 1956 to “establish a sound and comprehensive national policy with respect to fish and wildlife [and] to strengthen the fish and wildlife segments of the national economy.” 84 P.L. 1024, 70 Stat. 1119, 84 Cong. Ch. 1036.

The FWS has three basic objectives: (1) to assist in the development and application of an environmental stewardship ethic for our society, based on ecological principles, scientific knowledge of fish and wildlife, and a sense of moral responsibility; (2) to guide the conservation, development, and management of the nation's fish and wildlife resources; and (3) to administer a national program to provide the public opportunities to understand, appreciate, and wisely use fish and wildlife resources

To fulfill these objectives, the FWS renders financial assistance to states through Federal Aid programs for the enhancement and restoration of fish and wildlife resources. The Federal Aid in Wildlife Restoration Act of 1937, as amended 16 U.S.C. 669-669i, authorizes the Secretary of the Interior “. . . to cooperate with the States, through their respective State fish and game departments, in wildlife-restoration projects . . .” Section 1 concludes with “. . . all projects shall conform to the standards fixed by the Secretary of the Interior.”

The regulations state that the FWS has a duty to restore, conserve, manage, and enhance wild birds and wild mammals through providing for public use and benefit these resources. 50 C.F.R. 80.5(a)(1). And importantly, **the FWS is prohibited from using Federal Aid funds for other purposes or activities that are not consistent with the grant program purposes such as wildlife damage control activities.**

The FWS Policy Directive establishes the *Eligibility Standards for Wildlife Restoration*, 521 FW 1 § 1.8(H) (Oct. 10, 2001). This includes the removal or control of predatory, nuisance, or depredating animals.

**1.8 What are ineligible activities?** The Federal Aid in Wildlife Restoration Act prohibits using Federal Aid funds for certain purposes. ... The following is a summary of ineligible activities: ...

#### H. Wildlife damage management activities.

**(1) Wildlife damage management activities, including removal or control of predatory, nuisance, or depredating animals; purchase or application of repellants or toxicants; installation of control pipes, culverts, fences, or other barrier or exclusion structures;**

Although states may appear to officially comply with this prohibition, in actuality many continue to use the Acts funds in support of their predator control activities, including survey and inventory of wildlife populations used to justify and target direct predator control efforts and excessive take practices. Some states continue to permit unsustainable predator take levels and

direct control efforts in contravention of goals of the Acts through which they receive substantial federal aid. Such actions defeat the purpose of the Acts.

Increasingly, states receiving funds from the Acts conduct practices in direct conflict with the Acts funds eligibility requirements, and unless and until these states remedy this conflict, these states should not be the recipients of federal Acts Funds. By amending the regulations to include an eligibility determination with consideration of public comment, the Agency will have an additional opportunity to ensure that states are complying with the requirements of the Acts.

It is not novel for the government to use federal funding as a way to leverage states to comply with federal policies. Highway Trust Funds have been restricted in states that failed to comply with the national drinking age or establish speed limits. US foreign aid is regularly predicated with restrictions, requiring that countries make broad reforms in order to receive funds.

## **II. STATES FAIL TO SUPPORT FEDERAL PROTECTIONS FOR PREDATORS**

Under recent administrations, the FWS under the Department of Interior (DOI) has surrendered federal primacy in wildlife management and deferred to state game rules. State game agencies have a variety of approaches for managing predator populations that do not necessarily focus on protecting intact ecosystems or species protection. For instance, the Mojave National Preserve in California is geared towards selling hunting licenses and targeting predators to increase prize game, not to protect species or the natural ecosystem.

In contradiction of federal goals of maintaining healthy, diverse wildlife populations in Alaska's Yukon-Charley Rivers National Preserve, state-sanctioned wolf control in the surrounding area has so decimated wolf packs in the Preserve that in 2016 the National Park Service (NPS) had to end a more than 20-year research program on predator-prey relationships. Its scientists found that the wolf population in the 2.5-million-acre national preserve was "no longer in a natural state," nor were there enough survivors to maintain a "self-sustaining population."



At the very same time these photos were taken of predator control activities permitted by the State of Alaska (2018), the state had received over \$28 million in federal Pittman Robertson wildlife restoration

funding to manage for natural diversity and healthy wildlife ecosystems. These photos illustrate the obvious and glaring paradox addressed by this petition

Additionally, some states are using controversial methods to reduce predator populations. For instance, to accomplish its goals of reducing wolf populations in the entire Upper Yukon-Tanana area of Alaska by 75%, the state has permitted the practice of shooting wolves from aircraft. In 2013, all 24 members of the Yukon Charley-Rivers National Preserve's "Seventy-mile Pack," including two with radio collars, were shot from Alaska Department of Fish and Game (ADFG)-authorized private airplane gunners, eliminating the entire pack. In 2014, ADFG helicopter gunners shot all eleven members of the "Lost Creek Pack," including two collared animals, eliminating that pack as well. Alaska's trophy hunting programs allows thousands of black, brown and grizzly bears to be hunted and killed.

The wolf population in Idaho had been completely eradicated until they were reintroduced in 1995. Though they were initially federally protected, the state took on management of the species and it resulted in a delisting of the wolf from the Endangered Species Act (ESA) in 2011. The issue has always been politically charged and the legislature, not the Fish and Game department, set the minimum population level at the exceedingly low level of 15 packs.

Last year, the Idaho legislature passed a law authorizing the killing of more than 1,300 of the state's wolves, out of a population of approximately 1,500 -- far higher than a sustainable take level. Idaho now allows controversial hunting practices such as permitting individuals to trap and snare wolves on private property year-round; hunting them from all-terrain vehicles, using bait, and at night; and purchasing an unlimited number of wolf tags. The law also increases funding for killing wolves to artificially inflate elk populations.

The Idaho Department of Fish and Game opposed the legislation, which superseded its authority to manage these ecologically important carnivores. Implementation of this law will reduce the state's wolf population to the threshold triggering return to protection under the Endangered Species Act.

The State of Montana passed similarly radical legislation. Recent laws authorize hunters and trappers to kill an unspecified number of wolves through baiting, electronic calling, trapping, snaring and night hunts that utilize night vision scopes, thermal imaging technology, and spotlighting on private land. It has set a state-wide quota of 450 wolves to be killed this season and when that number has been met, they will reevaluate in 50-wolf increments. This is out of a population of approximately 833. New laws allow trapping license holders to trap or snare up to 10 wolves each and expand the trapping season for wolves by four weeks.

After federal delisting of wolves, the State of Wisconsin adopted legislation requiring a wolf hunt. In three days in February 2021, with scant population data or scientifically established quotas, hunters in Wisconsin killed 216 wolves, about 20% of the entire state population. The state set a quota for 300 more wolves for this season. Other states that receive funds from the Acts now plan to emulate the unsustainable Wisconsin model, even though such practice is clearly contrary to science and goals of the Acts.

Permitting single license holders to kill an unlimited number of wolves is contrary to the FWS conservation mission and will likely result in excessive mortality, as it did in Wisconsin. This flurry of state legislation and predator control practices reveals a comprehensive and harmful approach that could easily reduce the wolf population to levels that will trigger a return to federally “listed” status under the ESA. Such drastic measures to control wolf populations would result in history repeating itself, destroying decades of progress recovering wolves.

Consider that last year, the State of Idaho received more than 18 million dollars in funding authorized by the Acts, and it has received more than 75 million dollars over the last five years. Last year, Montana received more than 24 million dollars in funding authorized by the Acts, and it received almost 100 million dollars from 2015 to 2019. Alaska received over 28 million dollars in FY 2019, and it has received over 158 million dollars from 2015 to 2019. These funds are being used to support programs that are in direct contradiction to federal goals.

And the problem is not limited to wolf control, as state game agency control of many predator species (bears, coyotes, mountain lions, etc.), and “nuisance” species is increasingly inconsistent with science-based principles of ecosystem sustainability, natural and healthy wildlife populations, and other goals of the Acts.

Acts funds should only be entrusted to states that have demonstrated their commitment to conservation of all wildlife, including natural predator/prey balances of ecosystems.

### **III. PREDATOR POPULATIONS ARE ESSENTIAL FOR BALANCED ECOSYSTEMS**

The state programs are driven by the perception that predators should be severely reduced or exterminated because they reduce numbers of game species available for sport and trophy hunting. However, when considering the overwhelming body of science on this issue, these are overstated ideas and ignore the proven fact that predator populations are key to a balanced ecosystem.

Consider the elk population in Montana. Since wolves were reintroduced in 1995, state elk populations have dramatically increased and surpassed objectives. Similarly, since wolves were reintroduced to Idaho in 1995, the number of elk has increased by 8,000 to the number of 120,000. As for moose, Montana FWP’s own ten-year study indicated that decreasing numbers were due to parasites, like arterial worms, not wolves.

The Alaska 2020 Predator Control Program objectives include “remove 100% of the wolves in the wolf control areas” and to date has resulted in the killing of 275 wolves in the range of the Mulchatna Caribou Herd. Yet despite eight years of extensive killing of wolves in the control area, the Caribou herd has continued to decline. Scientists continue to debate the extent to which predator control may influence moose and caribou populations, as predation is only one of many variables affecting ungulate populations.

Predators appear to play a role in protecting elk and deer populations from chronic wasting disease (CWD). CWD is a contagious neurological disease that degrades brain tissue in deer and elk over time, leading to emaciation and eventually death. Scientists have not found a cure or



way to prevent the spread of CWD. But research at Yellowstone National Park indicates that wolves, by preying on weak and sick animals, may do just that.

One justification often raised for excessive predator control programs – that wolves prey on domestic livestock – is overstated. The number of cattle deaths from predators is minimal. According to numbers from the Montana Gray Wolf Conservation and Management 2019 Annual Report, wolves only accounted for .003% of all livestock deaths in Montana. Another study that tracks livestock deaths across Idaho, Montana, and Wyoming between 1987 and 2012 found that increased wolf control increased livestock depredation by four percent for sheep and five to six percent for cattle. To offset any economic losses from wolf predation on livestock, Oregon, Montana, Arizona, New Mexico, Wyoming, Idaho, Washington, and Colorado have established financial compensation programs for ranchers reporting losses due to wolves.

#### **IV. THE PUBLIC INTEREST IN PITTMAN ROBERTSON ACT FUNDS**

The public has a significant interest in the creation of a public comment period on the eligibility of states to receive federal funds. A public comment period provides the primary mechanism to engage all citizens in federal rulemaking, supports the Biden Administration’s Executive Order on Tackling the Climate Crisis at Home and Abroad through additional safeguards, and encourages legitimate decisions through transparent means.

The law intends to have the public engaged in the process, but without a mechanism to consider and incorporate public comments in decision making, the only public recourse is the courts. The Act at 16 U.S.C. §669e(C), requires that state applications for Federal Aid funds must include, “provisions to ensure public participation in the development, revision, and implementation of projects and programs...” However, the process can be a series of conversations between federal and State agencies which excludes the public and may be politically driven.

In Colorado, Chief Judge Marcia Krieger in March held that the state game agency illegally used Pittman Robertson funds to kill dozens of mountain lions and black bears, possibly so it could fast-track federal funding for most of the \$4 million program. The state agency was rushing the regulatory review process and the public was excluded. The court found that the state Fish and Wildlife Department violated the National Environmental Policy Act (NEPA) by failing to do a required analysis of the program's environmental effects. In this instance, the state game agency was caught violating the requirements of the Acts due solely to a public interest lawsuit filed by the conservation community. There are most likely repeated instances of such violations across the country, both overt and covert. These violations are seldom, if ever, detected in the mandatory five-year DOI Inspector General audit of state uses of Pittman Robertson funds. The rulemaking proposed herein will give the public the right to monitor and comment on such state wildlife management activities, and the Secretary has the authority to then determine a state’s continued eligibility to receive Acts funds.

In Alaska the Department of Fish and Game (ADFG) confirmed to the public that it uses Pittman Roberston funds to support its predator control efforts in direct contradiction to what is permitted by the Act. They state that funds are used for “survey and inventory” to determine where to implement predator control.



*The sole source of funding for actual control programs now come from the surcharge the legislature enacted in 2016. Fish and Game Fund moneys are matched to PR (federal Pittman-Robertson) moneys for Survey and Inventory projects and research programs that inform us and the Board of Game on where and when on the ground efforts are warranted. At this time we haven't any general fund moneys associated with IM [“Intensive Management,” i.e., wolf kill] programs. (Emphasis added)*

11/5/20 email from Eddie Grasser, Director, ADFG Division of Wildlife Conservation to Richard Steiner.

The Secretary of the Interior, in consultation with the Secretary of Agriculture, the Secretary of Commerce, the Chair of the Council on Environmental Quality, and the heads of other relevant agencies are required to work with state, local, Tribal, and territorial governments and other key stakeholders to conserve at least 30 percent of the nation's lands and waters by 2030. Additional safeguards further this goal of conserving wildlife and wildland ecosystems in a more natural condition. A crucial element in climate resiliency is restoring and maintaining natural and healthy wildlife populations, including natural predator/prey balances.

Tribal nations have significant interest in federal and state wildlife programs. However, historically Tribes have had a limited voice in the process. The Biden Administration is committed to environmental justice and listening to all voices. Environmental justice requires the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The proposed rule can and should improve public health and the environment and the overall well-being of all communities. A public comment period is a step forward in efforts to right past wrongs and enhance environmental justice.

The wildlife-watching contingent of the public has little opportunity to be involved in the discourse on wildlife management, yet their interests are being negatively impacted by state programs. NPS studies obtained by PEER show the significant impact hunting and trapping outside Denali National Park and Preserve, permitted by the State of Alaska, has had on the viability of wolf packs inside Denali. Not only are wolf family groups disrupted, but visitor-viewing success inside Denali—Alaska's top tourist attraction, drawing more than half a million annual visitors—has plummeted as well. The studies show that a visitor's chances of seeing wolves in the wild inside Denali dropped to 1% in 2019, down from viewing success rates as high as 45% in 2010. <https://www.peer.org/chances-of-seeing-denali-wolves-in-the-wild-now-remote/>

Transparency ensures legitimacy in the rulemaking and the federal aid in wildlife restoration process. The availability of, and ease of access by the public to, information held by the government, as well as the ability to observe or become informed about regulatory decision-making facilitates fully articulated, public-interest agency decisions. This is because the public has a significant interest in any action bearing on government misconduct. Simply put,

increasing public access enables greater public participation, which ensures better management of natural ecosystems.

While a public comment period may lengthen the time the FWS needs to reach decisions and issue funds, a public comment period strengthens government decisions. On a larger scale, any incremental cost would more than offset the societal costs involved in the unsustainable removal of predators from our nation's lands.

## **V. SYSTEM-WIDE GUIDANCE IS NEEDED**

Wildlife habitats are not confined to state boundaries. Though each state manages fish and wildlife not on federal lands within their own borders, the floor for management is determined by federal law and regulation. There is an overriding federal interest in ensuring that state game agencies that do not meet this science-based threshold do not benefit from federal funding from the Acts.

### **Conclusion**

To include those who have previously been excluded from the discussion, to cope with attempts by legislatures to override state and federal species protection programs, to address rogue state game programs that do not protect sustainable, healthy wildlife populations, and in furtherance of the Biden Administration's laudable policy goals, we propose that the Secretary of the Interior place additional restrictions on federal Acts funds. As stated in the Acts, funds shall be awarded only to state fish and game agencies that support federal goals of "sound conservation policy" that is to "sustain healthy populations of wildlife." For those reasons, adopting the rulemaking urged by this petition furthers the mission of the DOI and FWS, and the overall national interest

## Appendix A

### PROPOSED RULES

#### A. 50 CFR 80.10

##### § 80.10 Who is eligible to receive the benefits of the Acts?

States acting through their fish and wildlife agencies are eligible for benefits of the Acts only if they pass and maintain legislation that:

(a) Assents to the provisions of the Acts;

(b) Ensures the conservation of fish and wildlife. The Secretary shall place a notice in the *Federal Register* for any State comprehensive plan or wildlife-restoration project seeking public comments as to whether the State has authorized practices that threaten the healthy population of any wildlife or substantially interferes with the natural predator-prey relationship. Based upon the public comment, the Secretary shall make a finding as to whether the State has enabled such practices, which would make it ineligible for benefits of the Acts; and

(c) Requires that revenue from hunting and fishing licenses be:

(1) Controlled only by the State fish and wildlife agency; and

(2) Used only for administration of the State fish and wildlife agency, which includes only the functions required to manage the agency and the fish- and wildlife-related resources for which the agency has authority under State law.

#### B. PROVISION TO SUPERSEDE FWS Manual Order 521 FW 1.

### MANUAL AMENDMENT to Eligibility Standards for Wildlife Restoration

#### 1.5 What are the requirements to participate?

To be eligible, States must have assented to the provisions of the Act and passed laws for the conservation of wildlife that include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of the State fish and game department [50 CFR 80.3]. Each year within 60 days of the apportionment notice, States must notify the Secretary of the Interior that they want to participate in the program for the year [50 CFR 80.9]. Upon receipt of State grant applications for Acts funds, the Secretary of the Interior will place a notice for a 60-day public comment period in the *Federal Register* regarding the consistency of State management with goals of the Acts and consider public comments in making a determination that the State is eligible for funds. [50 CFR 80.10 (b)]

## **Appendix B**

### **STATEMENTS OF STANDING**

#### **The 06 Legacy, [www.the06legacy.com](http://www.the06legacy.com)**

The 06 Legacy is a nonprofit organization whose mission is to advocate for gray wolves and their ancestral lands by educating the public and breaking misconceptions about wolves, bringing awareness to current legislation, and creating change to save wolves.

#### **Alaskans for Wildlife, [alaskansforwildlife.org](http://alaskansforwildlife.org)**

#### **Attorneys for Animals, [www.attorneysforanimals.org/](http://www.attorneysforanimals.org/)**

Attorneys for Animals believes animals have a purpose of their own and inherent value. We work within the legal system and encourage efforts to ensure that animals are recognized, treated and protected as individuals.

#### **Endangered Species Coalition, [www.endangeredspecies.org](http://www.endangeredspecies.org)**

The Endangered Species Coalition's mission is to stop the human-caused extinction of our nation's at-risk species, to protect and restore their habitats, and to guide these fragile populations along the road to recovery.

#### **Footloose Montana, [www.footloosemontana.org](http://www.footloosemontana.org)**

Promoting public lands for people, pets and wildlife.

#### **Friends of the Clearwater, [www.friendsoftheclearwater.org](http://www.friendsoftheclearwater.org)**

#### **Mountain Lion Foundation, [www.mountainlion.org](http://www.mountainlion.org)**

The mission of the Mountain Lion Foundation is to ensure that America's Lion survives and flourishes in the wild.

#### **National Wolfwatcher Coalition, [wolfwatcher.org](http://wolfwatcher.org)**

#### **Oasis Earth, [www.oasis-earth.com](http://www.oasis-earth.com)**

Oasis Earth focuses on solutions to the environmental crisis, particularly in government policy. Oasis Earth and Professor Steiner assist NGOs, governments, industry, and civil society in the transition to sustainability.

#### **Predator Defense, [predatordefense.org](http://predatordefense.org)**

Predator Defense is a national nonprofit advocacy organization devoted to protecting essential native predators, teaching coexistence, and ending America's war on wildlife. We have been championing native predators with science, sanity and heart since 1990.

#### **Project Coyote, [www.projectcoyote.org](http://www.projectcoyote.org)**

Project Coyote is a national non-profit organization based in Northern California whose mission is to promote compassionate conservation and coexistence between people and wildlife through education, science and advocacy. Our representatives, advisory board members and supporters include scientists, conservationists, educators, ranchers and citizen leaders who work together to change laws and policies to protect native carnivores from abuse and mismanagement, advocating coexistence instead of killing. We seek to change negative attitudes toward coyotes, wolves and other misunderstood predators by replacing ignorance and fear with understanding, respect and appreciation.

**Project Eleven Hundred**, [www.projectelevenhundred.org](http://www.projectelevenhundred.org)

Project Eleven Hundred is organized to ensure that native plants, and the pollen and nectar they produce, are available to sustain the full diversity of native bee species on Colorado Plateau public lands. We provide scientific information to public land managers, and publicly advocate for the health of native bees and the biological communities they live in.

**Protect Our Wildlife**, [www.ProtectOurWildlifeVT.org](http://www.ProtectOurWildlifeVT.org)

Working to make Vermont a more humane place for wildlife.

**Sierra Club, Toiyabe Chapter**, [www.sierraclub.org/toiyabe](http://www.sierraclub.org/toiyabe)

To explore, enjoy, and protect the wild places of the earth; To practice and promote the responsible use of the earth's ecosystems and resources; To educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

**Southwest Environmental Center**, [www.wildmesquite.org](http://www.wildmesquite.org)

Our vision is a world where all wild animals have a right to flourish, regardless of their utility to humans. Our mission is to reform state wildlife management to be more ecologically-driven, democratic and compassionate.

**The International Wildlife Coexistence Network**, [www.wildlifecoexistence.org](http://www.wildlifecoexistence.org)

**The Native Conservancy**, [www.nativeconservancy.org](http://www.nativeconservancy.org)

**The Rewilding Institute**, [www.rewilding.org](http://www.rewilding.org)

**Washington Wildlife First**, [www.wawildlifefirst.org](http://www.wawildlifefirst.org)

**Western Watersheds Project**, [www.westernwatersheds.org](http://www.westernwatersheds.org)

**Western Wildlife Outreach**, [www.westernwildlife.org](http://www.westernwildlife.org)

Western Wildlife Outreach is a nonprofit organization with the mission to provide education about bear, cougar, and wolf ecology, behavior, and safety by partnering with government agencies, non-government organizations, and the public to help create wildlife-safe communities while promoting coexistence on the landscape.

**WildEarth Guardians, [www.wildearthguardians.org](http://www.wildearthguardians.org)**

WildEarth Guardians protects and restores the wildlife, wild places, wild rivers, and health of the American West. Guardians envisions a world where wildlife and wild places are respected and valued and our world is sustainable for all beings. Guardians believes in nature's inherent right to exist and thrive.

**Wyoming Wildlife Advocates, [www.wyomingwildlifeadvocates.org](http://www.wyomingwildlifeadvocates.org)**

Wyoming Wildlife Advocates is a non-profit organization focused on informing, educating, and empowering communities to preserve our wild legacy and protect our shared wildlife resources. We envision a Wyoming that leads the nation in exceptional and innovative wildlife management; all stakeholders are valued equally, and management decisions are driven by the best available science. Headquartered in Jackson, Wyoming, WWA has thousands of supporters in Wyoming, the Greater Yellowstone Ecosystem, and nationwide.

**Prof. Adrian Treves, PhD, Nelson Institute for Environmental Studies, University of Wisconsin – Madison.**

## References

*Solving Montana's Moose Mysteries*, Tom Dickson, September-October 2019,  
<https://fwp.mt.gov/binaries/content/assets/fwp/montana-outdoors/moose.pdf>.

*Effects of Wolf Mortality on Livestock Depredations*, Robert B. Wielgus, Kaylie A. Peebles, Published: December 3, 2014, <https://doi.org/10.1371/journal.pone.0113505>

*Keeping the herds healthy and alert: implications of predator control for infectious disease*, Craig Packer, Robert Holt, Peter J. Hudson, Kevin D. Lafferty, Andrew P. Dobson, Published: 28 July 2003,  
<https://doi.org/10.1046/j.1461-0248.2003.00500.x>

Federal Aid in Wildlife Restoration Act (“Pittman-Robertson Act”), 16 U.S.C. §§ 669-669i; Federal Aid in Sport Fish Restoration Act (“Dingell-Johnson Act”), 16 U.S.C. §§ 777-777k. <sup>4</sup> 50 CFR § 80.11.

16 U.S.C. § 669 (requiring States to “have passed laws for the conservation of wildlife”); 16 U.S.C. § 669a (defining “conservation” as “the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife”); 16 U.S.C. § 669c(e)(1)(B)(i) (requiring States to have a plan to develop and implement “wildlife conservation projects that expand and support existing wildlife programs, giving appropriate consideration to all wildlife”). Pub. L. 106–553, §1(a)(2) [title IX, §902(a), (b)] (Dec. 21, 2000).

**GIC Wolf Treaty:** <https://www.globalindigenouscouncil.com/wolf-treaty>

## PEER links

<https://www.peer.org/national-park-hunting-and-fishing-restrictions-under-fire/>

<https://www.nps.gov/dena/learn/nature/visitor-trends.html>

<https://www.peer.org/chances-of-seeing-denali-wolves-in-the-wild-now-remote/>

<https://www.peer.org/alaska-game-agents-decimate-national-park-wolf-packs/>

<https://www.peer.org/move-to-end-federal-funding-of-alaska-predator-control/>

<https://www.peer.org/alaska-pares-its-predator-control-program/>