

GROUPS SUE TO FORCE USFWS TO IDENTIFY WOLVERINE HABITAT

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A wolverine. (Howie Wolke photot)

Laura Lundquist

(Missoula Current) On Wednesday, 15 organizations, most based in Montana, filed a complaint in Missoula federal district court against the U.S. Fish and Wildlife Service, saying it failed to meet its deadline to designate critical habitat for the wolverine.

On Nov. 30, 2023, the Fish and Wildlife Service **ruled that the wolverine** is a threatened species in the lower 48 states. The task of designating critical wolverine habitat should have been completed within a year of listing, or within two years at the very latest, according to the Endangered Species Act.

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At the time of listing, the agency said it couldn't designate critical habitat because it had yet to obtain the necessary economic information needed, according to court records. The law gives the Fish and Wildlife Service the option of not designating habitat if it's not prudent, that is, if doing so would "increase the degree" of threats to the species.

But in its response to the organizations' 60-day notice of legal action, the agency didn't mention a "not prudent" finding. Instead, the agency said only that, after two years, it didn't have any plan or schedule to designate critical habitat for the wolverine.

"Wolverines have waited too long for protection and designated critical habitat," said Arlene Montgomery, program director for Friends of the Wild Swan, one of the plaintiffs. "It is imperative that habitat protections are in place now to ensure their survival and recovery."

The multi-decade effort to protect wolverines started in 2000, when wildlife advocates petitioned the Fish and Wildlife Service based on the threats of climate change and habitat fragmentation. In 2008, under the George W. Bush administration, the agency refused to list the wolverine, saying the U.S. population wasn't distinct from that of Canada. Two years later, the agency pivoted, saying the population was distinct, however wolverines would have to take a backseat to all the other species awaiting protection.

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Spurred by a court ruling requiring the agency to speed up Endangered Species assessments, the agency concluded in 2013 that wolverines in the lower 48 states were effectively separate from those in Canada and they were much more vulnerable.

But a year later, USFWS director Dan Ashe stalled the listing, saying his agency agreed climate change had an effect but it couldn't prove that wolverine survival was correlated to dwindling snowpack caused by climate change. Twenty organizations sued, providing several scientific reports that supported the connection to climate change. In 2016, Missoula Federal District Judge Dana Christensen sent the Fish and Wildlife Service back to take another look at the evidence.

In 2018, during the first Trump administration, the agency published a species status assessment that claimed the species was secure with an estimated 318 wolverines roaming the mountains of the West, extending up into Canada. Two years later, based on that, the agency again decided against listing, repeating that the U.S. population wasn't distinct and climate change wasn't as big of a problem as the 2013 decision said.

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Then in September 2023, under the Biden administration, the agency issued a 70-page update that reversed a number of conclusions in the 2018 Species Status Assessment. The addendum included research conducted since 2017, which used new data and better computer modeling to show that wolverine populations are probably more isolated and individuals are more dependent on consistent spring snow and habitat free from human interference than the agency had assumed.

Research has shown that deep snow that persists into the late spring is essential for wolverine reproduction. After constructing dens out of snow, females have litters of three to four kits from mid-February through March and keep their young in the dens through late April to early May. Wolverines will not den in the absence of snow and can abandon dens if temperatures warm and snow conditions become wet.

In January 2024, the state of Montana **said it would challenge** the listing and the findings in the assessment update. However, no lawsuit appears to have been filed. Montana Fish, Wildlife & Parks said it questioned whether U.S. wolverines are separated from those in Canada. It also doubts the wolverine's need for snow for winter denning, saying wolverines are adaptable, "able to den and reproduce without snow."

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It's estimated that 95% of wolverine habitat is managed by the U.S. Forest Service in the mountain ranges of Montana, Washington, Oregon, California, Idaho, Wyoming, Colorado, Nevada, Utah, and northern New Mexico. In 2023, the Fish and Wildlife Service estimated that roughly 49 wolverines occupied the Northern Continental Divide region; roughly 119 wolverines occupied the Salmon-Selway/Wallowa Mountains region; roughly 50 wolverines occupied the Idaho/Montana linkage area farther north; and roughly 63 wolverines occupied the Greater Yellowstone Ecosystem.

"Having areas set aside as critical habitat is a major—if not the most important—factor in helping threatened and endangered wildlife recover. Given wolverines' small population size and climate change quickly shrinking the snowy habitat they rely on to survive, time is of the essence," said Matthew Bishop, Western Environmental Law Center senior attorney.

The 15 plaintiffs include Western Environmental Law Center, WildEarth Guardians, Wilderness Watch, Footloose Montana, Friends of the Bitterroot, Cottonwood Environmental Law Center, Trap Free Montana, Cascadia Wildlands, Alliance for the Wild Rockies, Friends of the Clearwater, Swan View Coalition, Friends of the Wild Swan and Helena Hunters and Anglers Association.

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Contact reporter Laura Lundquist at lundquist@missoulacurrent.com.