



PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY

962 Wayne Ave • Suite 610 • Silver Spring, MD 20910

December 12, 2022

Director Martha Williams
U.S Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20240

RE: Alaska Misuse of Pittman-Robertson Funds

Dear Director Williams:

I am writing on behalf of Public Employees for Environmental Responsibility (PEER) to request that you immediately act to end misuse Federal-Aid funding under the Pittman-Robertson Wildlife Restoration Act (WRA) to support for Alaska's predator management program. This program has traditionally been called "Intensive Management" by the Alaska Department of Fish and Game (ADFG), which also now uses the term "Active Management" to delineate the program.

Regardless of its name, however, the program is designed to achieve the "lethal removal" of predators, principally wolves, brown and black bears, to stimulate growth in the population of ungulate species, mainly moose, elk, deer, and caribou.

I. WRA Funds May Not Be Used for Purposes of Predator Control

The stated 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." States receiving WRA funds should not use them to compromise "healthy populations of wildlife" or impinge upon the "unmet needs for a diverse array of wildlife and associated habitats." Further, these federal funds are limited to state activities that are "giving appropriate consideration to all wildlife." (Emphasis added)

To fulfill these objectives, the U.S. Fish and Wildlife Service (FWS) renders financial assistance to states through Federal Aid programs for the enhancement and restoration of fish and wildlife resources.¹ The WRA implementing 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. 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.²

The FWS Policy Directive outlining the Eligibility Standards for Wildlife Restoration specifically preclude the removal or control of predatory, nuisance, or depredating animals as an authorized use of these funds:

¹ 16 U.S.C. 669-669i

² 50 C.F.R. 80.5(a)(1)

“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 depredated animals...”³

Despite this clear prohibition, FWS is allowing Alaska to continue using substantial WRA funding to carry out predator control activities.

II. Alaska Uses Federal Funds for Predator Control

According to ADFG figures for FY 2021 and FY2022⁴, the state’s entire Intensive Management budget totaled \$2,582,035.00. The amount of “Federal Operating” dollars supporting this budget was \$1,821,785.00. Thus, approximately 72% of the Alaska “IM” program comes from federal WRA funds.

In fact, the level of federal support for the state’s predator management program is so generous that the ADFG Intensive Management surcharge account still has a balance of “approximately \$1.3 million.”

The state’s IM budget indicates that federal dollars were used to finance such activities as –

“Evaluation of Intensive Management Programs...
Wolf IM Related Activities...
Long Term Effects Predator Control Moose...
Black Bear IM Related Activities...
Brown Bear IM Related Activities...”

ADFG confirms that it uses Pittman-Robertson funds to support its predator control efforts, principally 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...”⁵

The ADFG position that “survey and inventory” of wildlife populations used to target direct predator control efforts does not support its predator control program is patently absurd. ADFG’s position is that WRA funds may be used to locate and target predators for lethal removal but so long as the federal funds are not used to pay for the actual ammunition used to effect predator take then that it is an allowable use.

³ 521 FW 1 § 1.8(H) (Oct. 10, 2001)

⁴ See Attachment, obtained under the Alaska Public Records Act

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

The unreasonableness of the state's position is best illustrated by its budget table, which notes that only two items totaling \$18,815.00 – well less than 1% of the total IM budget – are deemed by ADFG as ineligible for receipt of federal funding.

In short, both ADFG's interpretation of allowable use of WRA funds – and, apparently FWS' current interpretation, as well – makes a mockery of the prohibition on the use of these funds for predator control.

III. Alaska's Use of WRA Funds Does Not Benefit "A Diverse Array of Wildlife and Associated Habitats, Including Species That Are Not Hunted or Fished"

To obtain federal WRA aid, a state must submit a comprehensive conservation plan which includes "wildlife conservation projects that expand and support existing wildlife programs, giving appropriate consideration to all wildlife."⁶

By its very nature, the Alaska IM program does not benefit predators nor is any consideration given to non-game animals. Instead, the projects themselves are meant to study species interactions for the limited purpose of decreasing moose and caribou deaths by predation. The stated justification for the IM program is increasing opportunities for human moose and caribou hunting.⁷

For brown bears, Alaska game regulation changes in predator control areas since 1986 have been designed to facilitate greater harvests, including extended open seasons for brown bear hunting, allowing killing over bait, and eliminating the requirement that resident hunters needed to purchase a tag to hunt brown bears. These measures resulted in the removal of hundreds of brown bears and a substantial reduction of their population in targeted areas.⁸

For example, 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.⁹

In fact, this latest review of this data was unable to find any correlation between predator removal and growth in ungulate populations that were supposed to benefit. Thus, the notion that Alaska's IM program confers a "benefit" on any species of wildlife cannot be credibly maintained.

IV. Penalties for Non-Complaint Use of WRA Grants

Under the statute and regulations, a state becomes ineligible for aid when they divert funds away from conservation programs eligible under the act.¹⁰ When a diversion is found, the state must

⁶ 16 U.S.C. § 669c(d)(1)(B)(i)

⁷ Rodney D. Boertje et al., Science and Values Influencing Predator Control for Alaska Moose Management, 74 J. of Wildlife Mgmt. 917, 917 (2010).

⁸ Sterling D. Miller et al., Efficacy of Killing Large Carnivores to Enhance Moose Harvests: New Insights from a Long-Term View, 14, 939 Diversity (2022)

⁹ Id.

¹⁰ 16 U.S.C. § 669; 50 C.F.R. §§ 80.11, 80.90(b)(1).

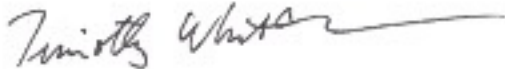
resolve the diversion before becoming eligible to receive funds again.¹¹ To resolve a diversion of funds, “(a) if necessary, the State must enact adequate legislative prohibitions to prevent diversions of license revenue. (b) The State fish and wildlife agency must replace all diverted cash derived from license revenue and the interest lost up to the date of repayment.”¹² States have been found to cure diversion only after repayment of funds.¹³ Unless and until diversion is cured, the state is ineligible for federal WRA aid.¹⁴

V. Conclusion

As a matter of both law and wise conservation policy, PEER urges you to take a clear-eyed look at Alaska’s IM program. In our view, we believe that Alaska’s IM program represents the worst elements in American game management, as well as constituting an illegal use of federal funds.

We urge you to immediately end this inhumane, illegal, and utterly misguided federal subsidy.

Sincerely,



Tim Whitehouse
Executive Director

Attachment

Cc. Paul Rauch, Assistant Director. Wildlife and Sport Fish Restoration
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¹¹ 50 C.F.R § 80.21.

¹² Id. at § 80.22

¹³ Sportsmen’s Wildlife Defense Fund v. Romer, 73 F. Supp. 2d 1262, 1269 (D. Colo. 1999).

¹⁴ 50 C.F.R. § 80.21