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MANAGED:
EXAMINING THE RELATIONSHIP BETWEEN MONTANA'S GOVERNMENT
AND ITS NATURAL RESOURCES

By

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Professional Paper

presented in partial fulfillment of the requirements
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Environmental Science and Natural Resource Journalism

Managed:

Examining the Relationship Between Montanan's Government and its Natural Resources

Chairperson: Lee Banville

Abstract Content:

The three stories in this portfolio examine the relationship between Montana's government and its natural resources. Chapter one is a narrative outlining the stories, my reporting and publication. Chapter two: New Governor Greg Gianforte makes his picks for the heads of state environmental regulatory agencies, surprising everyone in the process. Chapter three: The state legislature proposes bills to protect the future of Colstrip as the coal industry declines. Chapter four: Data raises questions over the true impact of a new wolf management program.

Chapter 1

Narrative

How natural resources are managed in the United States is ultimately up to the states in which they are found. Federal mandates must be adhered to and protected lands such as National Parks and Monuments respected, but in the end the decisions are left up to the states.

Montana is built upon a history of resource exploitation, whether the copper mines beneath Butte, the timber stands around Missoula or the coal in the Powder River Basin. The decisions made by the state's elected leaders allow for and manage such exploitative practices, decisions that are often misunderstood.

In this portfolio, I sought stories that would shine a light on the processes by which resource management decisions are made, the context in which they are made and their potential impacts. I found that oftentimes government action is more nuanced and informed than is the rhetoric surrounding such decisions.

The first story is "A new day at DEQ, DNRC." This written piece analyzes new Governor Greg Gianforte's choices for the heads of the Department of Environmental Quality and the Department of Natural Resources and Conservation within the context of his campaign. The Governor's rhetoric suggested he would choose industry forward department heads, worrying many conservation and environmental groups. His choices did not reflect that rhetoric, especially in his choosing of Chris Dorrington to head the DEQ, Montana's main environmental regulatory agency.

In "Montana looks at next steps for Colstrip" I wrote a story about some of the bills going through the legislature that would have a direct impact on Colstrip, the town supported by the Colstrip coal-fired power plant and the poster child of Montana's coal country. Senate bills 86 and 87 were introduced shortly after the election of Joe Biden as President and as the global market shifts away from coal as a power source, leaving Colstrip at a crossroads: keep burning coal as long as possible and keep the jobs it supports for now, or read the writing on the wall and begin to shift to a new energy source.

For my third piece, I created a data analysis and supporting narrative to analyze a controversial change to how the state manages its wolf population. The program, which allows for hunters and trappers to be privately reimbursed for the costs of killing a wolf, has been called a bounty and an attack on the state's wolf population. Using wolf population and harvest numbers from neighboring Idaho, which has had a similar program for a decade and houses the same distinct wolf population as Montana, I found that the program may not have the advertised effect.

While each of these stories is about the decisions our elected leaders make, they are really about the systems and that influence and support those decisions and the context in which

they are made. I tried to show the how and the why behind Montana's natural resource policies and add some doubt to the idea that the environment is a strictly partisan arena, that liberals are environmental extremists and conservatives want to destroy the planet. I firmly believe in the need for local journalism and created all of these pieces with that in mind. They were produced for a statewide audience in the hope of separating the natural resource debate in Montana away from the national discourse that overshadows local politics. Pre-reporting was informed by an understanding of state and federal natural resource law and policy as well as the natural resources debates in state politics, the recent statewide elections and the current ongoing legislative session. I interviewed state representatives, elected officials and department heads, NGO directors, industry representatives and former government bureaucrats. I watched committee hearings and votes and spent more time than I would care to admit trying to figure out how to use Excel.

Due to the COVID-19 pandemic, all of my reporting was be done over the phone, via social media or through internet recordings. This posed a number of challenges, especially when reporting on the legislative session from afar. I prepared for these stories by taking classes in public lands and natural resource law, environmental economics, planning and development and elections and investigative reporting.

Ethically, clean energy and climate change posed some problems for me, especially when it came to the second story in the portfolio, "Montana looks at next steps for Colstrip." I did my best to keep the story to just the facts and not paint a doom and gloom future for coal or to push a narrative that clean energy will solve all of our problems. The other two stories in the portfolio also forced me to check my own biases surrounding politics and realize that not all environmental issues are as black and white as I previously assumed.

"A new day at DEQ, DNRC" was published in January, 2021 in the Montana Free Press" and republished in the Missoula Current. "Montana looks at next steps for Colstrip" was published in the Daily Montanan in March of 2021. My final story will be pitched to statewide outlets like the Free Press or Lee Newspapers.

Chapter 2

A New Day at DEQ, DNRC

At a campaign event in July, candidate Greg Gianforte stood in the offices of Hecla Mining in Libby to rail against Montana's state environmental regulatory agencies.

He labeled the departments of Environmental Quality and Natural Resources Conservation the "project prevention departments" and blamed the agencies for slowing economic growth. He pointed to the Montanore and Rock Creek mines, both of which have been in the permitting process for decades, as proof of a government out of touch with the business sector.

"I don't think we should approve every permit, but we ought to be able to get a yes or no in less than 35 years," Gianforte said.

Now, having cruised to a 12-point victory in November's election, Gov. Gianforte has taken the first steps to reduce permitting times and state environmental regulations, naming new directors of the DEQ and DNRC. But former officials and environmental advocates caution that going too far in streamlining regulations and speeding permitting processes could have the opposite effect, exposing both industry and the state to lawsuits.

Amanda Kaster, a 31-year-old Pennsylvania native who was formerly the acting deputy assistant secretary for land and minerals management at the U.S. Department of the Interior will head the DNRC. Prior to her stint at the Interior Department she was acting chief of staff and senior adviser at the Bureau of Land Management, and has worked in the Office of Congressional and Legislative Affairs. She also worked as a legislative aide for former Montana U.S. Representative Ryan Zinke, and as an adviser for Zinke after his appointment as Secretary of the Interior.

Gianforte hired the new DEQ head from within the department, choosing Chris Dorrington, originally of Helena, who had been the administrator of the agency's Air, Energy and Mining Division for almost five years. Before coming to work for DEQ, Dorrington spent 10 years at the Montana Department of Transportation.

Conservation groups have expressed both concern and surprise over the hirings — concern about Kaster's inexperience in the state and history at the Interior Department under then-acting BLM Director William Perry Pendley, and surprise that Gianforte, after repeatedly attacking DEQ during his campaign, chose an agency insider to lead the department.

“It doesn’t make any sense,” said Anne Hedges, deputy director of the Montana Environmental Information Center, of Kaster’s hiring. “DNRC deals with unique issues, and to bring in someone who is really quite young and certainly inexperienced on anything related to Montana seems like folly.”

Kaster did not respond to requests for an interview.

The DNRC was created in 1971 to ensure responsible use of the state’s natural resources including coal, natural gas and timber. The agency is also responsible for overseeing the state’s water resources and water rights.

Whitney Tawney, the executive director of the nonprofit Montana Conservation Voters, expressed concern about Kaster’s record at the Interior Department. “As with any nominee, we’re going to give them a fair shake,” Tawney said. “Amanda Kaster’s most recent work at the U.S. Department of Interior is pretty troubling. She was deputy assistant secretary of land and minerals, and we watched hundreds of thousands of acres get opened up in Montana for oil and gas.”

In a press release announcing her hiring, Kaster said, “I can’t wait to get to work ensuring the Treasure State achieves its full potential by responsibly managing and developing its land and water resources and continuing efforts to make the Department responsive for all Montanans.”

“Gov. Gianforte has set clear expectations, and my first step as director is to fully absorb his direction and set our own agency objectives, goals, strategies and measures in line with that direction.”

Though the DNRC does influence the management of state lands and natural resources, and issues some permits, the burden of enacting Gianforte’s promise to streamline permitting and cut regulations falls mainly on the DEQ. And while some are expressing concern about Kaster, the hiring of Dorrington to direct the DEQ has generated surprise and praise from conservation groups and industry representatives.

“I was pleasantly surprised,” Hedges told Montana Free Press. “He is exactly the kind of person I would hope for in one of these positions.” Hedges said Dorrington’s familiarity with the agency and the law make him a good choice for the position.

“I think Chris Dorrington is a great choice. I don’t always agree with him by any means, but I do find him to be thoughtful, and he tries to figure out solutions to the problems presented to him,” she said.

Alan Olson, executive director of the Montana Petroleum Association and a member of the advisory team that helped Gianforte choose both departments' directors, told MTFP, "I've worked with Chris for almost five years. He is accessible and willing to sit down and discuss the issues."

It's DEQ's job to uphold the standards set by the state Constitution, which guarantees a clean and healthful environment for future generations, a job it achieves primarily through permitting.

The agency requires industries including logging and mining to apply for permits if the work is likely to affect the environment. The permits outline what can be done within the parameters of the law — how many trees can be cut, how much pollution is allowed in rivers — to ensure that all actions are within the rule of environmental laws such as Montana's Clean Air and Water Quality acts, mining and mine reclamation Laws and the Hazardous Waste Act. Local governments and municipalities must also get DEQ permits for things like stormwater runoff and wastewater.

It's not only state laws that the DEQ has to take into account when issuing permits. The department is also the primary agency that implements federal environmental laws within the state.

Former state officials noted that efforts to streamline permitting do not change the requirements of the underlying laws. Streamlining that skirts those laws could leave state agencies, industries and communities open to litigation.

"If someone is seen as too cozy with industry in his or her interpretation of the law, conservationists are going to sue," said Tracy Stone-Manning, vice president of the National Wildlife Federation and a former director of the Montana DEQ under Gov. Steve Bullock. Stone-Manning also served as Bullock's chief of staff and directed the environmental nonprofit Clark Fork Coalition in the early 2000s.

Stone-Manning, who also expressed surprise over the Dorrington hire, said that Dorrington's familiarity with the agency and the law put him in a good position to speed up processes while keeping remaining within the confines of the law.

"Director Dorrington will be able to be clear with the governor about why timelines are the way that they are, and what impediments there are to speeding them up, and some of those impediments are in statute," she said.

Dorrington told MTFP he plans to align the agency with the expectations set by Gianforte, including streamlining permitting and improving the state's interactions with businesses affected by agency actions.

"I think the governor uses our agency as an example of where streamlining is necessary and can be improved. I believe streamlining permitting will include clarity for the industry, and consistency that they can make economic decisions based off of," he said.

Dorrington said he's not worried about the process of streamlining permits or reducing regulations exposing the agency to lawsuits.

"We're a part of lawsuits now. The bar for our agency is not simply set to not be sued," he said.

Gianforte has made clear his intent to dramatically reduce state-level regulatory oversight. At the campaign stop in Libby, he pledged that for every regulation enacted while he is governor, he will repeal two others.

The Republican-led Legislature seems ready to help. In October, a memo reported by MTN News outlined proposed Republican goals for the upcoming legislative session. "Remove regulations from DEQ and DNRC" was listed as the No. 2 goal under the rubric of "Natural Resources." The wish list doesn't identify specific regulations to be cut.

Since the "draft blueprint" memo, attributed to state Rep. Derek Skees, R-Kalispell, and other unnamed Republican lawmakers, went public, eight bills have been requested by state legislators that would revise or change the Department of Environmental Quality, though none have yet been introduced.

One of Gianforte's oft-cited examples of a DEQ permitting delay has in fact been hung up not at the agency, but in the courts.

The Montanore mine, a copper and silver mine in the Cabinet Mountains near Libby, recently suffered a major setback when the Montana Supreme Court sent its DEQ-approved permit back to the agency to reconsider.

The mine, originally owned by Canadian mining company Noranda Minerals, was first authorized to begin operations in 1989. Noranda dug a primary tunnel completed in 1991, but ceased operations that same year because of low mineral prices. While mining was discontinued, Noranda was granted a permit allowing pollutants in the water table in 1992, and a second permit for the mine was issued in 1997.

Permits for the dormant project continued to be reissued by DEQ after a new company bought the mine in 2004. Finally, in 2018, the Montana Environmental Information Center sued the DEQ and the new mining company, Montanore Minerals Corporation, a subsidiary of Washington-based Mines Management Inc., arguing that the latest permit, issued in 2017, was still applying outdated standards from the 25-year-old original permit. The court agreed, sending the permit back to DEQ for a re-do.

“Should the mine continue to seek the ability to discharge from its proposed mining operations, those discharges would need [to] be assessed under the state’s current non-degradation policy. At this time, DEQ has not been informed of how the mine wishes to proceed,” said Shaun McGrath, DEQ’s most recent director, who led the department when the permit was remanded.

Similarly, a Montana District Court in 2019 remanded a permit issued to the Rock Creek Mine back to the DNRC.

The Montanore project highlights another issue that plays out adjacent to the permitting process. Market demand for minerals and timber often change, sometimes delaying or shuttering mining and timber operations for lack of profitability, not lack of permitting. Still other times, as with Montanore, companies sell their assets or go belly-up before commencing operations.

“You can look at some of these 20-year processes and say, ‘the government failed there,’ but when you look under the hood you see companies coming and going, companies going bankrupt, companies putting projects on hold because they don’t have the capital to continue,” said Stone-Manning, the former DEQ director.

Permits issued to companies that may not be able to see projects through can have catastrophic and costly consequences, a result Montanans have seen before. When Pegasus Gold went bankrupt at the end of the 1990s, the company left behind mines leaching toxic chemicals into the environment, and left it to the state and federal governments to clean up the mess with taxpayer dollars. Just one of those mines, the open-pit Zortman-Landusky gold mine in the Little Rockies in north-central Montana, has generated more than \$65 million in cleanup costs, a third of which is funded with public dollars.

In the lead-up to the election, and in his Montana Comeback Plan, Gianforte promised to “change the tone at the top” of the state’s environmental regulatory agencies, saying new leadership was needed for the benefit of the state’s economy. Now that Kaster and Dorrington have been installed to lead those agencies, those changes are in the works.

“Gov. Gianforte has set clear expectations, and my first step as director is to fully absorb his direction and set our own agency objectives, goals, strategies and measures in line with that direction,” Dorrington said.

Chapter 3

Montana looks at next steps for Colstrip

Less than two years ago, just over the border in Campbell County, Wyoming, around 700 coal workers lost their jobs when the Eagle Butte and Belle Ayr mines shut down. It is a fate many in Montana's coal country, like the home of the Colstrip power plant, fear is in their future.

Colstrip Republican Sen. Duane Ankney has introduced two bills, Senate Bills 86 and 87, that he said would protect citizens from the fallout of plant closures. But opponents of the bills argue they miss the opportunity to invest in the community's future.

SB 86 would require energy companies to pay into a trust to support those who own property that would be affected by the closure of a coal-fired power plant and SB 87 would allow municipalities to reclaim water rights owned by coal-fired utilities.

Ankney said these steps are needed to ensure the Colstrip community can weather the closing of the powerplant. The plant, and the Rosebud coal mine where the plant gets its coal, employ almost 800 full-time workers. Because of Colstrip's reliance on coal and isolated location far from larger cities and towns with more options for employment, a loss of coal jobs could be catastrophic to residents.

"If the plants close, the loss of property tax costs from the plants will likely exceed \$1.8 million. This cost could be shifted to the remaining taxpayers but with 700-plus estimated job losses, closure of the mine and other business there won't be many people left to share the burden. The reality would be budget cuts and layoffs," Doug, Martens, Rosebud County Commissioner, said via email.

But the community faces a bleak reality: By most metrics, the coal industry is dying.

Coal consumption in the United States has been in steady decline for more than a decade. In 2019, the country used just over half as much coal as it did in 2007 and, according to a recent study done by the investment bank [Morgan Stanley](#), coal will no longer be used by 2033.

The reasons for the decline are many. Natural gas is cheaper and advances in technology for gas extraction have made getting it much easier. Renewable energy sources like wind and solar are becoming ever more reliable and, in terms of greenhouse gas emissions, coal is the most polluting of all energy sources, making it a target for environmental and climate change related policy. President Joe Biden recently created a working group to "advance projects that reduce toxic emissions and greenhouse gasses" and Biden campaigned on a promise to make the United States' energy sector carbon-emission free by 2035.

"It ain't gonna do [Colstrip] any good," Ankney said of the Biden administration's goals.

SB 86, which has been referred to the Senate Energy and Telecommunications Committee, of which Ankney is the chair, would allow owners of land affected by the closure of a coal-fired generating unit to apply for help with clean-up from pollution, reclaim land or even help with mortgage payments.

“For those stuck in a mortgage where they can’t sell their house, there will be money in that fund to help them get out of water on that mortgage,” said Ankney.

Martens, the Rosebud County Commissioner, said that SB 86 would be a “valuable tool to property owners in the Colstrip area.” He said that if the plant were to close prematurely it would create problems, some of them unforeseen, that would require financial assistance.

The bill, which would require out-of-state owners of the power plant to pay into the account, assumes that there is no future for Colstrip outside of coal and would penalize power plant owners for shutting down, said Anne Hedges, Executive Director of the Montana Environmental Information Center.

“Colstrip has transmission capabilities that are the envy of every town in the West. You get help paying down your mortgage, but are you going to stay in that house? Wouldn’t it be better to have a job?” she said.

Hedges said the funds Ankney is talking about could be better invested in using those transmission lines to support renewable energy projects like NextEra Energy Resources windfarm that is scheduled [to be constructed](#) outside Colstrip this year, creating new jobs.

Another opportunity would be to invest in cleaning up the current plant. A [study](#) done by the Northern Plains Resource Council— a conservation and agriculture group based in Billings—showed that environmental cleanup of the toxic coal ash left behind from the plant, could be started before the plant closes and could create over 600 jobs.

Hedges added the bill will be hard to implement because it does not give enough direction for how the money will be dispersed. As it is written, it would be up to the Department of Environmental Quality (DEQ) to disseminate the funds.

“DEQ is not set up to do that, it’s not their job,” Hedges said.

The other bill, SB 87, would allow the town to assume control of the system that pumps water from the Yellowstone River to the plant and the town.

“We got to keep that water flowing,” said Ankney, who oversaw a hearing about the bill and others relating to the future of coal in Montana, including a resolution introduced by Senator Jason Small to ask Congress for funding to institute carbon capture technologies at the Colstrip Power plant, on the 18th.

Martens said that “the cost associated with pumping the water and maintain[ing] the system are much higher than the city can afford.”

During the hearing, Martens stood in favor of the bill, along with many others including Mayor of Colstrip John Williams.

The pumps used by the power plant are huge and pump enough water to supply the generating units and supply Colstrip, much more than the town of a little over 2,000 needs. Hedges, of MEIC—who opposed the bill in hearing— said that before purchasing the pumps, a study should be done to gauge how much water the town truly needs, which may show a possibility for a cheaper alternative, something that NextEra Energy Resources, the company building what will be Montana’s largest windfarm just outside of Colstrip, has offered \$100,00 for.

“I agree with Senator Ankney that there is a real water problem in Colstrip, but this bill really puts the cart before the horse,” she said.

The plant is co-owned by six companies, Avista, Puget Sound Energy, Portland General Electric, Talen Energy, Pacificorp and Northwestern Energy. Three of those owners— Avista, Puget Sound Energy and Pacificorp— will stop using the plant by 2027, a fourth—Oregon based Portland General Electric—will have to exit Colstrip by 2030 due to a state law requiring an end to the use of coal for energy.

Four of the owners, Portland General Electric, Avista, Pacificorp and Puget Sound Energy, stood in opposition to SB 87 during the hearing. Tom Ebzery, a lawyer representing PGE and Avista, said the bill was “unnecessary, unworkable, unattainable and unreasonable” in his testimony.

On Tuesday, the Senate passed SB 87 on a third reading, with 43 Senators voting in support. The bill will now move to the House.

Although these bills plan for a day when the plant goes dark, Ankney hopes that day will not come.

“It’s what I do, I try to get somebody interested in it. It’s not going to be like it was and it’ll probably only be one unit, maybe. But I think there’s still some interest and, you know, never give up, right?” he said.

Chapter 4

Data raise questions over the need for and dangers of proposed reimbursement program

This is the accompanying narrative to a data analysis. Graphs are included at the end.

When Montana Governor Greg Gianforte was cited in late March for killing a Yellowstone wolf without the proper certification, it grabbed national headlines. As did Senate Bill 267, signed into law by Gianforte weeks later allowing for the private reimbursement of successful wolf hunting and trapping.

Environmental activists claimed it could threaten the return of the species in Montana. Ranchers said it was needed to stop the wolves from slaughtering livestock. Hunters said it was needed to protect elk and big game.

It is the same debate that has erupted whenever the question of wolves comes up.

But an analysis of data from state and federal agencies shows that not only the rationale for the bill but also its possible effect on wolves seems overstated.

The Montana bill landed on the governor's desk in mid-April. Opponents of the bill have called it an attack on wolves.

“When you're paid for the animal, especially the carcass, it's a bounty,” said Amy Seaman, policy and science director at Montana Audubon. There were so many opponents to the bill that the house committee chairman had to limit the time each opponent had to testify against it so they could all be heard.

In neighboring Idaho, a similar program has been used for a decade and the non-profit that funds the reimbursements says that it is an effective way to manage the species.

“I think it prudent to point out that reimbursements and even full-blown bounties are productive management tools used by biologists around the world to control predator numbers, [the Foundation for Wildlife Management] simply recognized the fact that proven, sound, science-based wildlife management tools and tactics, do not change based on the emotions of those not affected by the control of a given animal's population,” Justin Webb, the executive director of the Foundation for Wildlife Management, said via email.

Despite the debate over the program, a review of data from the two states and Wyoming, collected from state and federal wildlife agencies, raises questions about both the threat to

wolves and the effectiveness of paying hunters or trappers. The three states house the same wolf population, the Northern Rocky Mountain Grey Wolf.

In the years after their program started in 2011, Idaho saw a marked increase in the number of wolves killed. But Montana and Wyoming, neither of which had a similar reimbursement program, show a similar rise over the same time period

In fact, the three states often reported similar trends. Idaho stopped calculating the number of wolves in the state from 2016-2018, instead calculating the number of packs. But when they returned to a similar way of counting wolves in 2019, Idaho reported 24% of the population was killed by humans, lower than Montana's 35%.

According to Montana Fish, Wildlife and Parks, the reason for the uptick in wolf deaths has to do with the overall regulations on hunting and trapping.

"2009 had a short hunting season. 2010 hunting was stopped. 2011 hunting resumed with a shortened season. 2012-2019 had both hunting and trapping for the full season with increased limits of up to 5 wolves," said Kevin Podruzny, a Wildlife Biometrician with the agency.

When the government ended Endangered Species Act protections for Wyoming's wolves in 2012, a similar percentage of the population was killed to that of Montana and Wyoming.

So far, wolf populations in all three states have remained largely stable despite the increased killings and Idaho's reimbursement program. The population of wolves in Montana has remained over 800 since 2009, peaking over 1100 in 2013. In Wyoming, their numbers have stayed over 400 since 2012 and last year Idaho reported over 1,500 wolves in the state.

The data belie the possibility that the proposed reimbursement program may not draw more hunters and trappers.

The number of livestock deaths attributed to wolves raises questions about the need for new incentives and programs to reduce the wolf populations.

During debate in the Montana House, Rep. John Fuller, R-Whitefish, called out critics of the reimbursement program, saying it is not unethical to "compensate someone who removes predators who are killing our livestock and depriving us of our income."

But even without the proposed program, the number of livestock that wolves have killed per year show only small changes in Montana. And no real surge has occurred since the introduction of hunting in 2009.

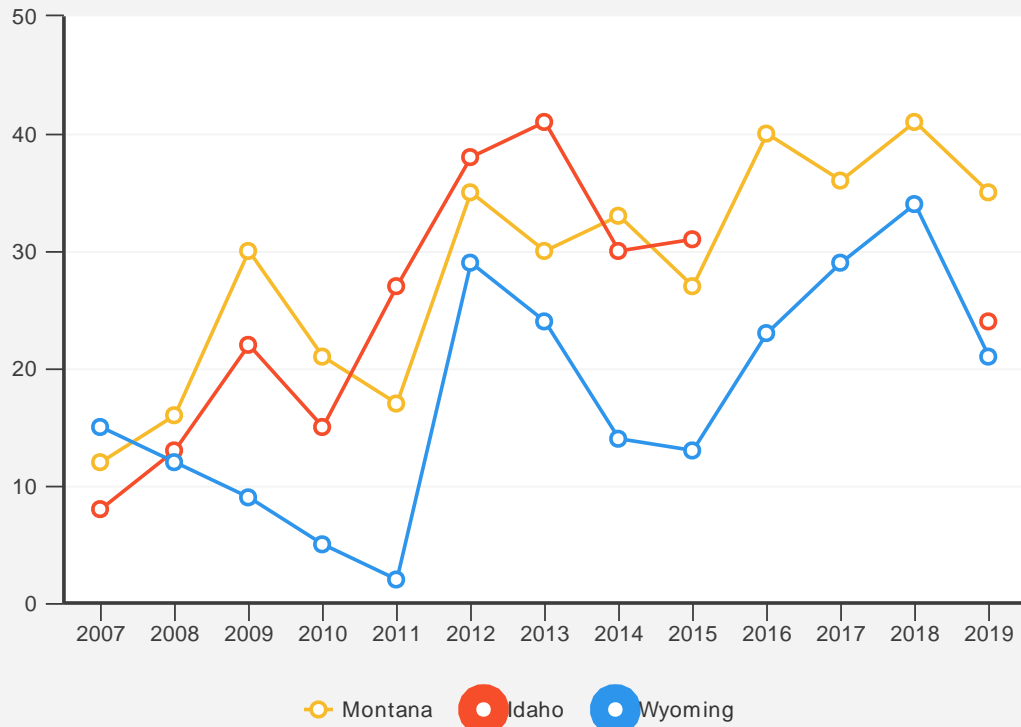
The Montana program is supported by the same group that runs the reimbursement program in Idaho, the Foundation for Wildlife Management.

The non-profit group's motto, which appears on every page of their website is "Ensuring ungulate populations recover in places negatively impacted by wolves." And two of the group's partners, the Rocky Mountain Elk Foundation and the Mule Deer Foundation, advocate for hunters in all three states.

But, again, the two states have only slightly different rates of elk bagged by hunters. Montana's elk harvest grew from 24,744 to 25,339 between 2010 and 2019, slightly less than an increase of 23,583 to 27,603 over the same period in Idaho.

There are many factors affecting wolf and elk populations in the northern Rockies, but the data from Idaho and Montana raise questions about how much a reimbursement program will encourage more hunting or trapping and how much it will threaten the wolf population in Montana.

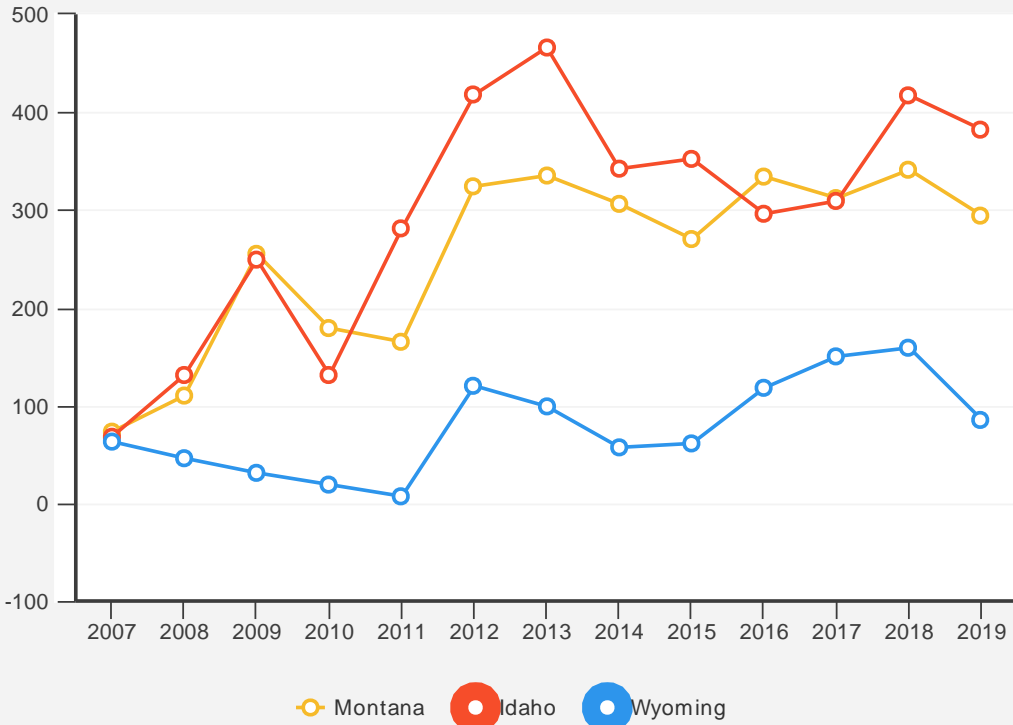
Wolves killed as a percentage of state population



Idaho population data is unavailable for 2016-2018 due to a change in calculation methods.



Total number of wolves killed by humans per year



Number of livestock killed by wolves per year

