

Environmental Law Under Trump: Public Lands, Wildlife, and Federalism

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HISTORY: DEBUNKING MYTHS; DRAWING PARALLELS

- **Historically, public lands have almost always served to unify, not divide, the country (Leshy, Debunking Myths 2018)**
 - The “breathing space” of the Nation (Nixon 1971)
- **From the beginning, both Congress and the Executive Branch viewed public lands as a means of meeting national policy objectives**
 - Common schools and land grant universities
 - Watershed protection for urban residents and irrigators alike
 - Places of redemption and healing, individually and communally
 - e.g., Yosemite (Lincoln 1864); Yellowstone (Grant 1872)

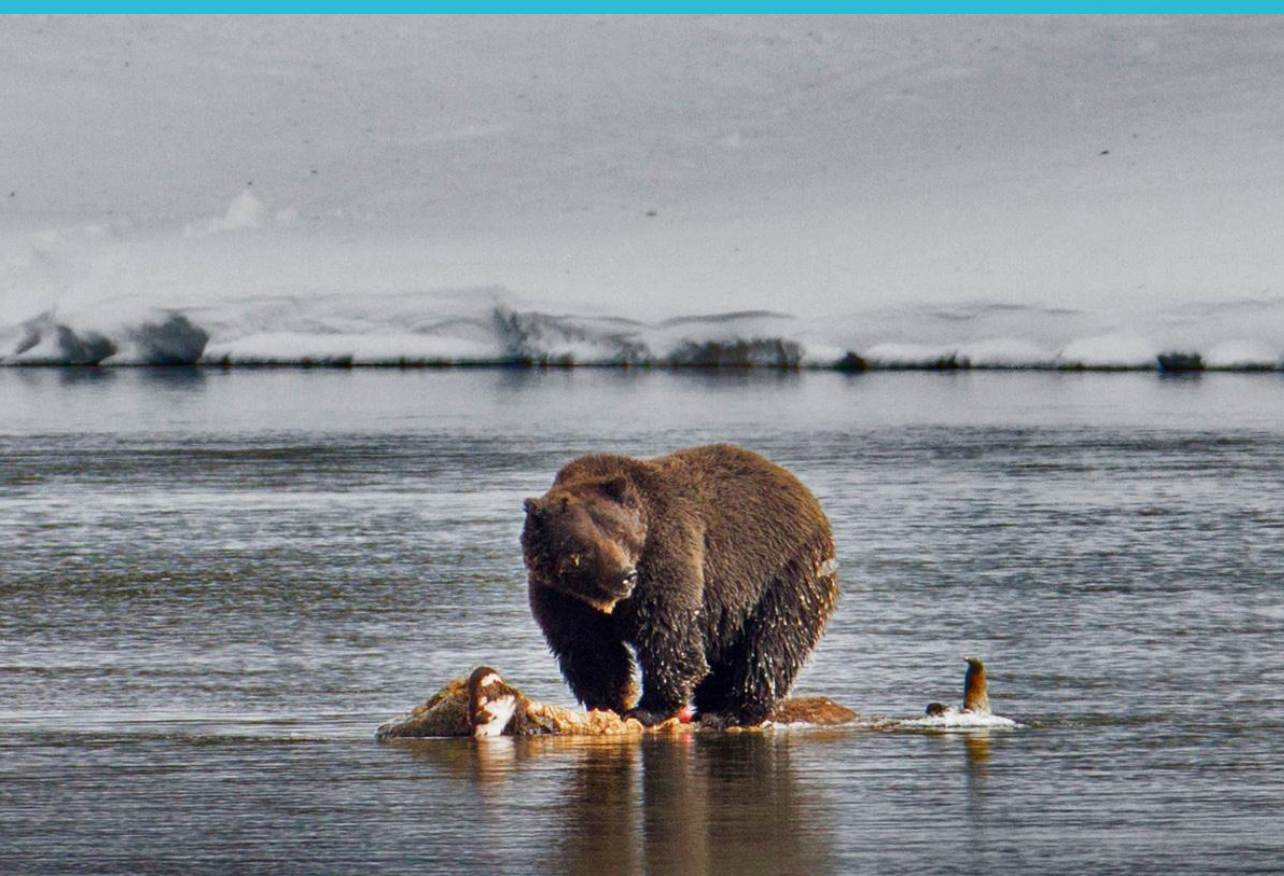
HISTORY:

DEBUNKING MYTHS; DRAWING PARALLELS

◦ Conservation of birds, fish, and wildlife

- Pribilof Isl. (fur seals 1869)
- Afognak Isl. (forest & fish reserve, Harrison 1892)
- Lacey Act (1900)
- Pelican Isl. Reserve (Roosevelt 1903)
- Game and Bird Preserves Protection Act (Refuge Trespass Act) (1906)
- Three Arch Rocks, Klamath, Malheur Bird Reservations, OR (Roosevelt 1907-08)
- Bison Fence (Wichita Forest Reserve, OK (1907); Nat'l Bison Range, MT (1908)
- Gila Wilderness (1924) (1964)
- Endangered Species Preservation Act (1966)
- Endangered Species Act (1973)

PREDATORS ON PUBLIC LANDS: A BREED UNTO THEMSELVES



Ursus arctos horribilis - Yellowstone NP delisted

Cr: [Jim Peaco/NPS](#)

Canis Lupus — Yellowstone NP delisted

Cr: NPS; Dan Hartman (HCN)





*Lynx Canadensis - threatened
(Cr: US FWS)*

Gulo Gulo -- not listed (Cr: USFS)

*'Immense political pressure' sank
wolverine*

ENN Apr 5, 2016 – FWS violated the ESA when it declined to protect the American wolverine and dismissed the threat of climate change amid political pressure, a federal court ruled yesterday.



NOTHING NEW UNDER THE SUN, FOR PUBLIC LANDS-LOVING PREDATORS ANYWAY

BUSH

- **Grizzly:** Delisting I
 - Invalidated (9th Cir. 2011)
- **Rocky Mt. Wolf:** Delisting I
 - Invalidated (D. MT 2008)
- **Lynx:** Minimal Critical Habitat
 - D.A. Secretary Julie MacDonald: “no conclusive evidence” of climate threat
 - Invalidated (D.C. Cir. 2007)

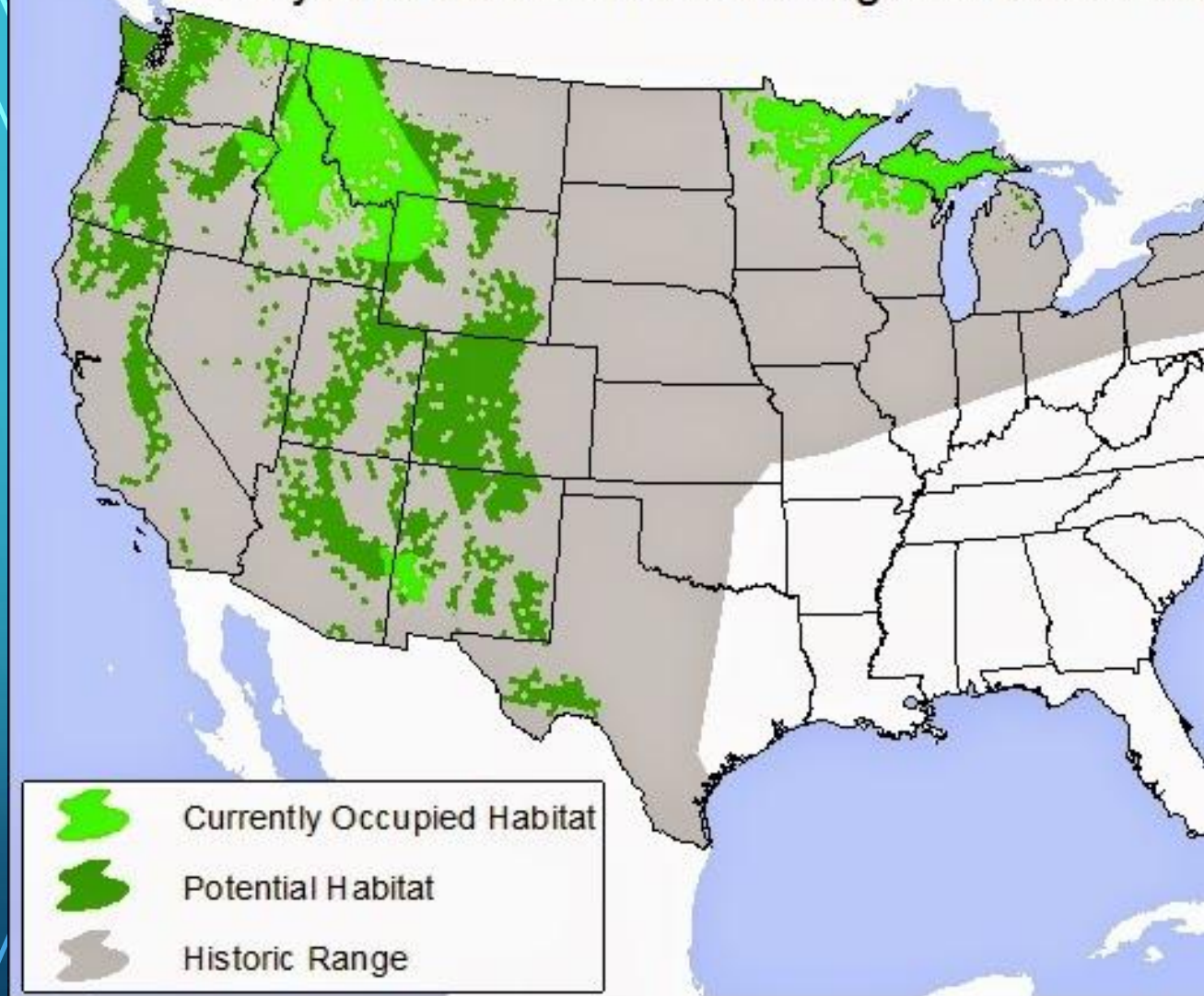
OBAMA

- **Grizzly:** Delisting II (2016)
- **Rocky Mt. Wolf:** Delisting II
 - Invalidated (D. MT 2010)
 - 2011 rider
- **Lynx:** CH 2014
 - Invalidated (D. MT 2016)
- **Wolverine:** No listing
 - FWS R.D. Noreen Walsh: climate “uncertainty”
 - Invalidated (D. MT 2016)

TRUMP

- **Grizzly:** Delisting II (cont'd)
 - Litigation pending (2017)
 - FWS seeks “comments” on *HSUS v. Zinke* timber wolf case (D.C. Cir. 2018)
 - FWS M. for Stay denied (2018)
- **Lynx:** Delisting Likely
- **Wolverine:** Post-remand decision on listing pending

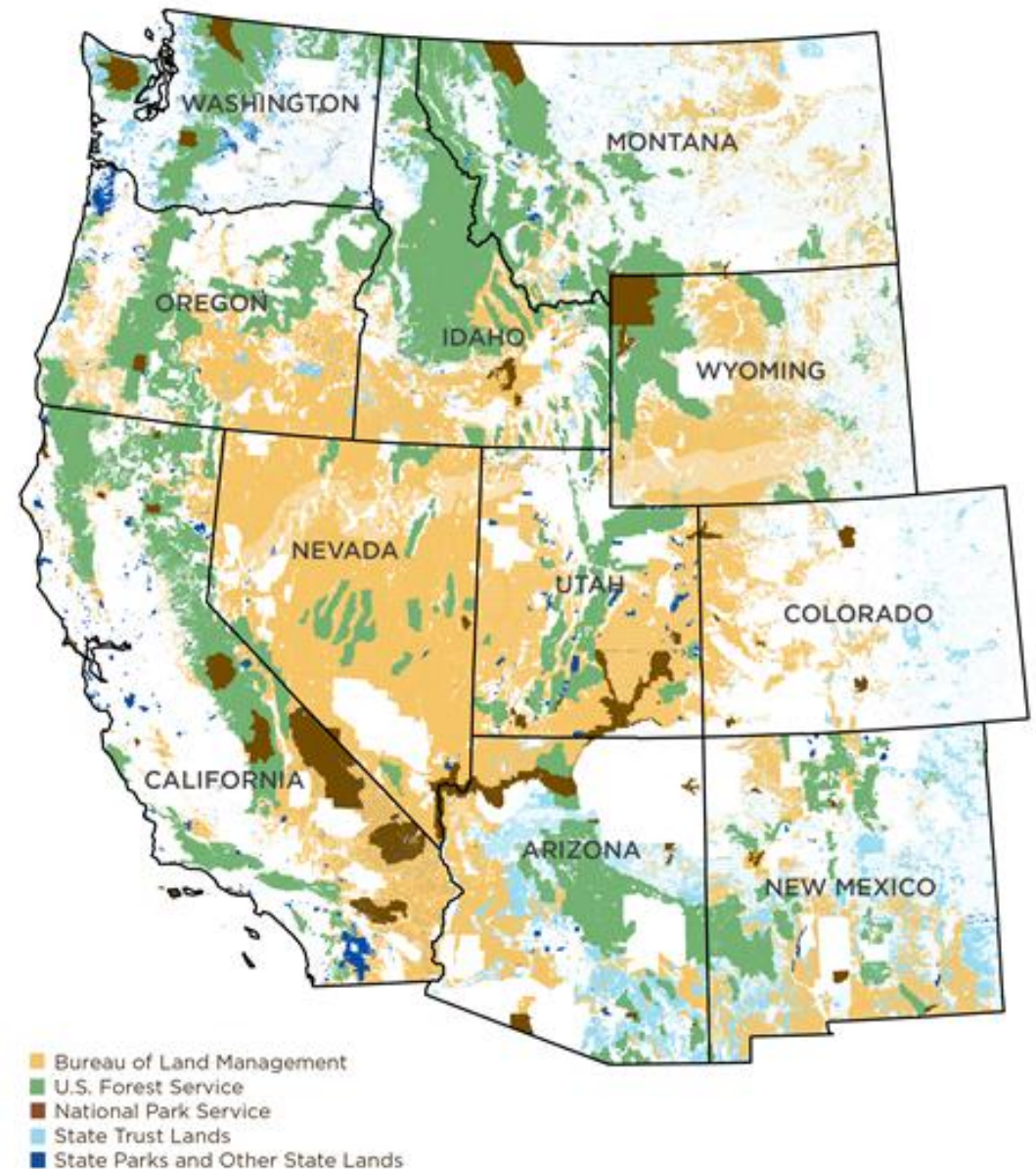
Gray Wolf Habitat in the Contiguous United States



Gray Wolf Recovery Areas.

Cr: US FWS

FIGURE 1:
FEDERAL AND STATE LANDS IN THE WESTERN UNITED STATES



Wolverine habitat

A map generated by computer modeling shows possible habitat range for wolverines in the western United States. The U.S. Fish and Wildlife Service is developing a proposal to list the wolverine as a threatened species based on the impact of climate change.

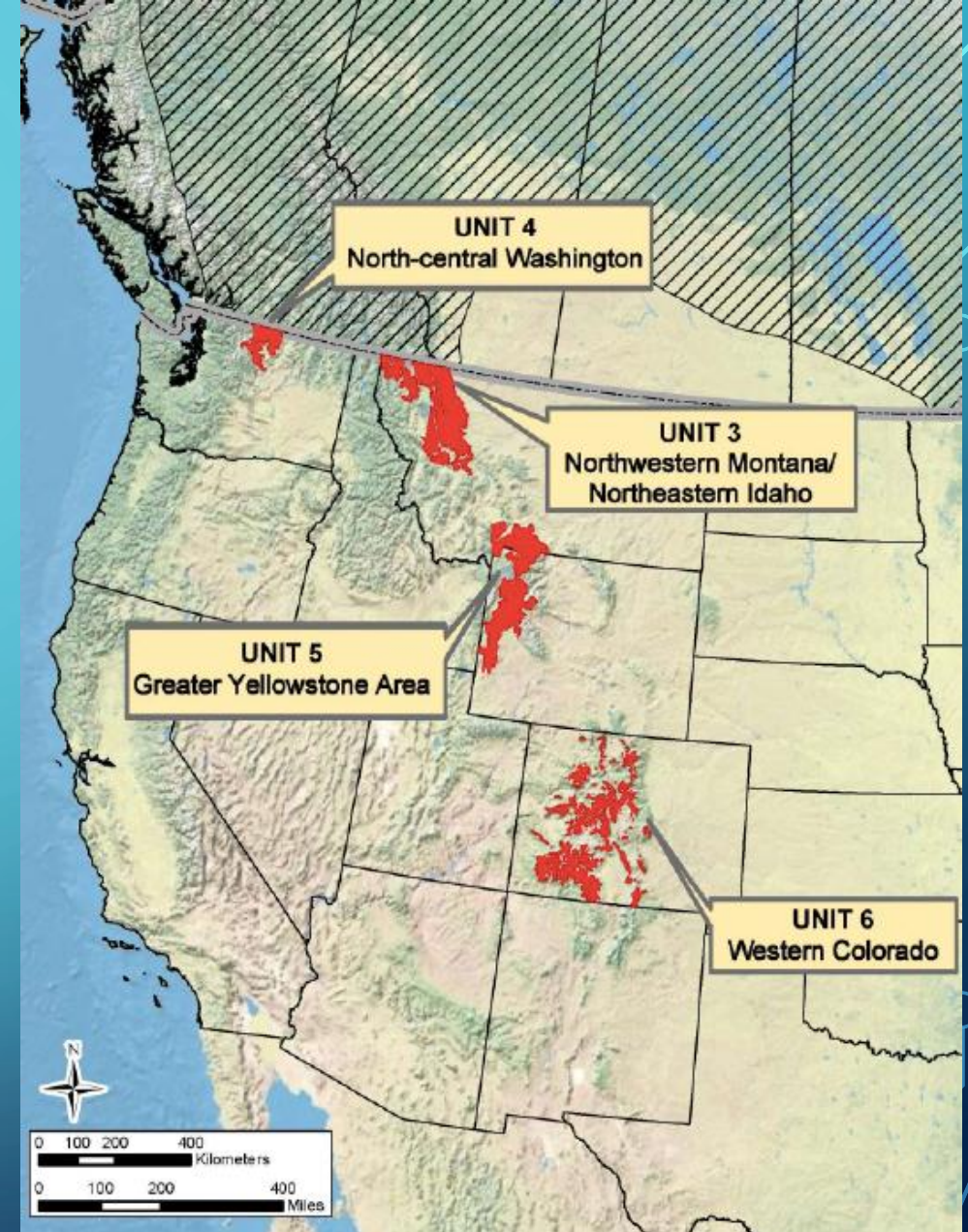


Source: U.S. Fish and Wildlife Service

The Salt Lake Tribune

Wolverine Habitat (Potential)

Cr: FWS Species Status Assessment 2017

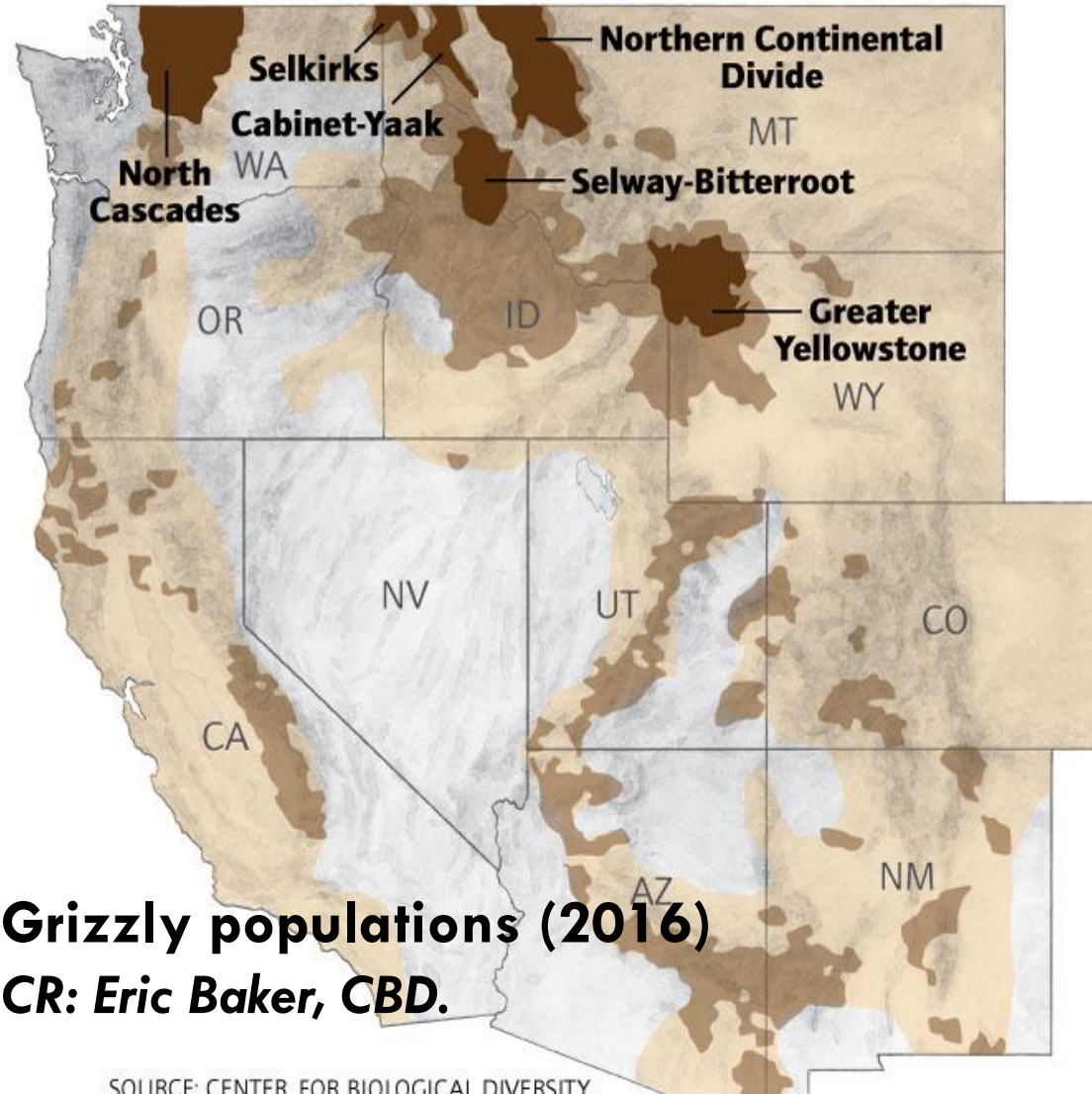


Lynx Habitat

Cr: FWS Species Status Assessment 2017

Grizzly bears in the West

Current recovery areas
 Potential habitat
 Historic range



Grizzly populations (2016)
 CR: Eric Baker, CBD.

SOURCE: CENTER FOR BIOLOGICAL DIVERSITY.

FIGURE 1:
 FEDERAL AND STATE LANDS IN THE WESTERN UNITED STATES





Cornfield Griz: *Partnership works to keep the bears out of the corn in the Mission Valley @missoulain.com (Sep 16, 2017)*

A DIFFERENCE OF DEGREE OR SOMETHING ELSE?

- ✓ Jan. 22, 2018. Secretary Zinke signed an agreement for King Cove, Alaska, to build a road through Izembek Wildlife Refuge.
 - In 2013, Secretary Jewell rejected a proposal to build the \$75 million road.
 - In 1998, Secretary Babbitt agreed to provide \$40 million to King Cove to upgrade its health clinic and buy hovercraft instead of a “road to nowhere.”
- ✓ Apr. 4, 2017. Trump stripped away protections implemented by Obama [through FWS rulemaking] for wolves, bears and other predators on wildlife refuges in Alaska.
 - The bill, adopted by Congress [per the CRA] and signed by Trump, allows wolves and pups to be killed in their dens . . . and bears to be gunned down at bait stations.
- ? Mar. 3, 2017. Zinke added a few Old West touches to his 1st day as secretary. After riding in on a horse, he voiced concern about hunting being only for “land-owning elite.”
 - And later revoked the Obama ban on lead ammunition on federal lands.

AT LEAST 2 “SOMETHING ELSE” DISTINCTIONS

1981-1989
1989-1993
1993-2001
2001-2009
2009-2017
2017-???

Presidents by congressional control and terms won/served [edit]						
No. [↕]	President [↕]	President's Party [↕]	Senate with [↕]	Senate opposed [↕]	House with [↕]	House opposed [↕]
40	Ronald Reagan	Republican	6	2	0	8
41	George H. W. Bush	Republican	0	4	0	4
42	Bill Clinton	Democratic	2	6	2	6
43	George W. Bush	Republican	4.5	3.5	6	2
44	Barack Obama	Democratic	6	2	2	6
45	Donald Trump	Republican	2	0	2	0

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No Checks & Balances

Disdain for Science (Climate Change Especially)