
WISCONSIN FEDERATED HUMANE SOCIETIES, INC., *et al.*,

Plaintiffs,

-vs-

Case Number: 12-CV-3188

Case Code: 30701

CATHY STEPP, SECRETARY, WISCONSIN

DEPARTMENT OF NATURAL RESOURCES, *et al.*,

Defendants.

WISCONSIN BEAR HUNTERS, *et al.*

Intervenors.

AMICUS CURIAE BRIEF OF WISCONSIN MAINSTREAM HUNTERS

Introduction

Wisconsin Mainstream Hunters (“WMH”) is a group of Wisconsin hunters, landowners, and sport business owners. WMH is not opposed to the hunting of wolves. It is, however, opposed to the unrestricted use of dogs to hunt wolves.

The bases of WMH’s opposition are numerous. Most prominently, however, WMH believes that the unregulated hunting of wolves using dogs will negatively impact other established, traditional Wisconsin hunts. As a result, Wisconsin’s economy will be harmed, as will the thousands of jobs which Wisconsin hunting supports. WMH additionally believes that the unregulated use of dogs to hunt wolves will infringe upon private landowners’ rights.

I. The Economic Impact of Hunting in Wisconsin.

Hunting is a fundamental Wisconsin tradition¹, and has a significant economic impact. A

¹ In 2003, over 82% of Wisconsin residents voted to amend their Constitution’s Declaration of Rights to include the right to hunt, trap, and take game subject to reasonable restrictions. *See* [http://ballotpedia.org/wiki/index.php/Wisconsin_Right_to_Hunt_Amendment,_Question_1_\(April_2003\)](http://ballotpedia.org/wiki/index.php/Wisconsin_Right_to_Hunt_Amendment,_Question_1_(April_2003))

2002 study conducted by the International Association of Fish and Wildlife Agencies revealed that Wisconsin ranked third amongst U.S. States with an annual \$960,104,751.00 in hunting-related retail sales, creating a total beneficial impact on Wisconsin's economy of \$1,770,420,230.00.² Such sales supported 19,214 Wisconsin jobs, and resulted in Wisconsin generating \$10,159,876.00 in income tax revenue (with \$2,855,328.00 of that amount coming from non-residents). *Id.*

Of these sums deer hunting was the single largest economic contributor, accounting for \$534,981,692.00 of retail sales in 2001, a total economic impact of \$925,777,288.00, and \$4,554,418.00 in state income taxes. *Id.* Upland game hunting (quail, pheasant, grouse) accounted for sales of \$93,014,636.00, a total economic impact of \$168,290,356.00, and \$840,164.00 in state income tax revenue. *Id.* In short, traditional hunts are a large economy.

II. The Potential Negative Impact of “Hounding” for Wolves.

The majority of Wisconsin's wolf packs are found in its northernmost counties.³ Likewise, a large majority of Wisconsin's public hunting lands are located in its northern regions.⁴ It is elementary, therefore, that the areas where unregulated dog hunting for wolves and associated training will occur are the same areas where other established Wisconsin hunts *already* occur (such as hunts for deer, grouse, turkey, small game, etc.).

Just 1,160 resident and 15 nonresident wolf licenses were issued for the 2012-2013 wolf hunt.⁵ The WDNR's quota, for all public zones combined, calls for the harvest of 116 wolves.⁶ It is reasonable to conclude that many wolf hunters will use techniques other than “hounding.”

² See http://www.fishwildlife.org/files/Hunting_Economic_Impact.pdf.

³ See <http://www.vicksta.com/Wisconsin%20Wolf%20Pack%20Mapper.html>.

⁴ See <http://www.jsonline.com/news/wisconsin/169386736.html#adams-county.by-acreage>.

⁵ See <http://www.jsonline.com/sports/outdoors/wisconsin-set-for-wolf-hunt-e976tsh-174048061.html> and <http://www.startribune.com/sports/blogs/169789706.html>.

⁶ See <http://dnr.wi.gov/topic/hunt/wolf.html>.

In contrast, the number of hunters engaging in traditional hunts is staggering. According to the DNR itself, the number of hunters engaged in the following established hunts is:

| 2011-2012 Hunter Participation⁷ | |
|---|-------------------------------|
| Species | Number of Participants |
| Deer (2012 gun season) | 614,435 |
| Turkey | 265,333 |
| Grouse | 82,886 |
| Squirrel | 50,476 |
| Pheasant | 44,886 |
| Rabbit (Cottontail) | 26,718 |
| Woodcock | 15,200 |

The mere possibility – let alone the reality – that packs of unrestrained and unsupervised dogs may be allowed to run at large across public lands, whether for hunting or training, will have a significant deterrent effect upon non wolf hunters. One member of WMH resides out of State, and neither he nor his group will return to Wisconsin for their heretofore regular hunting trip so long as the unregulated dog hunting of wolves is allowed.

Other members of WMH hunt grouse, and are concerned that as wolves become acclimatized to being pursued by dogs they will begin to view *all* dogs as immediate threats. As such, they fear that wolves – which had previously not posed them problem – will now attack *all* dogs when encountered, including those not engaged in wolf hunting. Many bird hunters (grouse, pheasant, etc.) use a single dog to flush and retrieve game birds, and become extremely attached to their dog.⁸ The possibility that wolves will effectively be “taught” to attack bird hunters’ valuable and beloved dogs will deter hunting participation by bird hunters.

Yet other members of WMH hunt deer during both the bow and gun seasons. These members are concerned that unrestrained packs of dogs running through public hunting grounds

⁷ All figures provided by the Wisconsin Department of Natural Resources. See <http://dnr.wi.gov/topic/hunt/deer.html> and <http://dnr.wi.gov/topic/hunt/documents/forecast.pdf>.

⁸ The Wisconsin Department of Natural Resources itself notes that “No matter what breed it is, a good grouse dog – one that understands grouse, retrieves reliably, works within 25 yards of you at all times, and warns you of an impending flush – is priceless. **On the average, you get one of these per lifetime.**” See <http://dnr.wi.gov/wnrmag/html/stories/1997/oct97/grouse.htm> (emphasis added).

will interfere with the integrity of such deer hunts. Unrestrained dogs will harass and disburse game and disturb hunters. Retention of existing bow and gun deer hunters, and entry in to the sport by others, will be deterred. As hunters are lost, so too is their created revenue.

III. Private Landowner Rights.

Private land ownership is a bedrock right afforded to all of Wisconsin's citizens. Over 85% of Wisconsin's land is privately owned,⁹ and approximately 65% of Wisconsin's forested lands are privately held.¹⁰

Both the United States Supreme Court and the Wisconsin Supreme Court have held that:

[t]he hallmark of a protected property interest is the right to exclude others. That is "one of the most essential sticks in the bundle of rights that are commonly characterized as property."

R.W. Docks & Slips v. State, 244 Wis.2d 497, 508, 628 N.W.2d 781, 787 (Wis. 2001), quoting *Kaiser Aetna v. United States*, 444 U.S. 164, 176, 100 S.Ct. 383, 62 L.Ed.2d 332 (1979). Likewise, the United States Supreme Court has succinctly stated that the government cannot simply require landowners to dedicate private property for public use without just compensation. *Dolan v. City of Tigard*, 512 U.S. 374, 384, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994).

WMH's members include private citizens who own land located in Wisconsin's northern counties, in close proximity to public hunting grounds. Some of these members are also commercial hunting camp operators. All of WMH's members (many of whom are dog owners themselves) recognize – and common sense dictates – that dogs simply cannot discern property boundaries, and will not obey "no trespassing" signs.

WMH believes that no reasonable rule has been put in place which prevents unleashed hounding activities (whether hunting or training) from crossing on to private property and

⁹ See <http://na.fs.fed.us/spfo/invasiveplants/states/wi.asp>.

¹⁰ See http://legis.wisconsin.gov/lc/committees/study/2010/MFL/files/aug18_dnr_program_primer.pdf.

disturbing landowners' quiet use and enjoyment of their lands. The lack of such a rule effectively converts private lands into public property, and operationally eliminates private landowners' fundamental right to exclude. As to hunting camp operators, not only will their property ownership rights be violated, so too will their camp operations and potentially their livelihoods therein.

Conclusion

This year, dog use was not allowed during Wisconsin's wolf hunt. The season was scheduled from October 15, 2012, to February 28, 2013.¹¹ Wolf harvest quotas have already been met in 2 of six 6 hunting zones, and those zones closed.¹² With three months remaining, 61 out of 91 wolves have been harvested in the remaining 4 zones. *Id.* Wisconsin's wolf hunt can be (and currently *is*) successful without hounding, whereas the economic downside and potential violations of landowners' rights which unrestricted hounding represents are significant. WMH respectfully urges the Court to require reasonable restrictions upon any such hunt.

DATED: November 20, 2012.

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¹¹ See <http://dnr.wi.gov/files/PDF/pubs/wm/WM0538.pdf>.

¹² See <http://dnr.wi.gov/topic/hunt/wolf.html>.