



C. L. "BUTCH" OTTER  
GOVERNOR

April 19, 2011

The Honorable Ben Ysursa  
Secretary of State  
State Capitol  
Boise, ID 83720

VIA HAND DELIVERY

Dear Mr. Secretary,

I am transmitting to you today the following House Bill, which I signed into law as prescribed by the Constitution:

**H 343**

In the waning days of the session the Legislature passed H 343 which, among other things, declares a disaster emergency as defined in Idaho law because of the introduction of wolves. It also empowers the Governor to take action to reduce or eliminate the threats caused by wolves. My concerns with the legislation are not whether it is an appropriate response to the devastation that wolves have caused. I understand and share the frustration of Idahoans over the impact wolves have had across our state in the past 16 years. However, I am concerned that H 343 is largely unnecessary and it unintentionally infringes on the statutory authority of the Governor to declare disasters.

Last week, thanks to the efforts of Congressman Mike Simpson, Congress passed and the president signed into law language requiring the Secretary of Interior to delist wolves within 60 days in Idaho and other states. This new federal law will restore state management in Idaho under our approved management plan, which will provide flexibility for the Idaho Department of Fish and Game (IDFG) to address the impacts of wolves and alleviate the need for emergency measures.

Many people expressed concerns about public safety during the Senate committee hearing and legislative debate on H 343. Idahoans should know they have always been able to kill a wolf in self defense or in the defense of other humans. That has not changed, nor is this legislation or a disaster declaration necessary for anyone to protect themselves or other people from wolves in any part of the state. People also should know they can legally kill wolves that are attacking (killing, wounding, or biting) or in the act of attacking (actively chasing, molesting, harassing) their livestock, stock animals and pets upon delisting without a declared disaster or emergency.

House Bill 343 also is unnecessary because the Legislature already has provided the Governor with broad authority to declare a disaster or emergency pursuant to the State Disaster Preparedness Act, title 46, chapter 10 of Idaho Code. The definition of a disaster includes the “occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, windstorm, wave action, volcanic activity, explosion, riot, or hostile military or paramilitary action.” IDAHO CODE 46-1002 (3). Moreover, an emergency is defined as the “occurrence or threat of a disaster or condition threatening life or property which requires state emergency assistance to supplement local efforts to save lives and protect property or to avert or lessen the threat of a disaster.” IDAHO CODE 46-1002 (4).

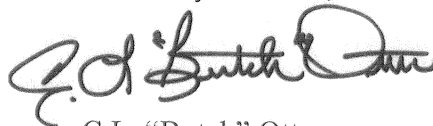
The Legislature passed the State Disaster Preparedness Act in 1975. In doing so, the Legislature vested authority in the Governor alone to declare disasters or emergencies pursuant to executive order or proclamation. The pertinent code section states that:

A disaster emergency *shall* be declared by executive order or proclamation of the governor if *he* finds a disaster has occurred or that the occurrence or the threat thereof is imminent. (IDAHO CODE 46-1008. Emphasis added).

The Legislature did not change the authority of the Governor in H 343 or provide itself with comparable authority; instead it usurped the Governor’s statutory authority by declaring a disaster unilaterally under the terms of the State Disaster Preparedness Act. This portion of the bill infringes on the authority of the executive branch and violates the separation of powers provision outlined in the Idaho Constitution.

I signed this legislation into law despite the aforementioned reservations because: (1) the Legislature has agreed to work with me next session to fix the provisions that infringe on the authority vested in the Governor to declare disasters; and (2) unfortunately we have been here before – only to have state management overturned and federal protection restored. Portions of this bill may prove useful in the future if state management is revoked or the species is relisted under the Endangered Species Act. In the meantime, however, I have asked the IDFG to focus on resuming state management of wolves pursuant to our state management plan. Part of that focus includes immediately reducing depredations on wildlife and livestock as state management is restored.

As Always – Idaho, “Esto Perpetua”

A handwritten signature in black ink, appearing to read "C.L. Butch Otter". The signature is stylized with a large, looped "C" and "O".

C.L. “Butch” Otter  
Governor of Idaho

Cc: The Honorable Lawrence Denney  
Speaker of the House