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# Opinion

## Editorial Board

**Publisher**  
Mike O'Brien  
opinions@capitalpress.com

**Editor**  
Joe Beach  
Online: www.capitalpress.com/opinion

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## OUR VIEW

# Immigration issue won't be decided in White House

Illegal immigration is at the forefront of this year's presidential election.

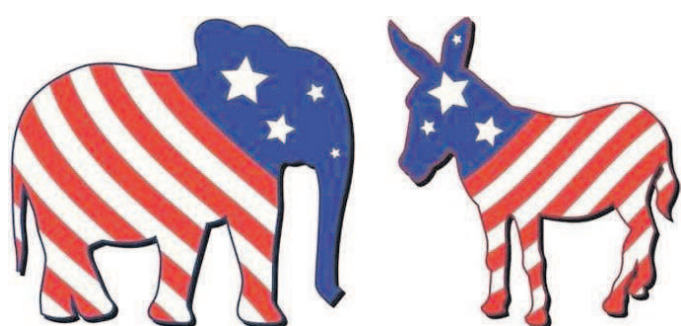
Hillary Clinton and Donald Trump have different views on the issue. We don't agree completely with either candidate. It's unlikely Congress will either, and that's the real test.

We must acknowledge the truth about the 11 million illegal immigrants living inside the United States.

Most are hardworking, earnest people who came to this country to escape crushing poverty that most of us could not imagine. We would do the same if our situations were reversed.

Their labor is vital to agriculture and processing.

Some are dangerous criminals. Most are not. All, whether they overstayed their visa or sneaked



across the border, have violated the laws of the U.S. By purchasing and presenting false documents to gain employment, assuming false identities and lying on government forms, they have committed state and federal crimes punishable by prison terms and fines.

Trump says he will enforce current law.

Trump pledges to deport the so-called criminal aliens, the million or so illegal immigrants with criminal convictions. He wants

those caught entering illegally to be repatriated. The president has this authority.

Trump wants to build a wall on the southern border. Federal law already requires the construction of a 20-foot-tall, border fence, but in 10 years only 600 miles have been built. Congress is unlikely to finish it, or authorize Trump's wall.

Trump says there will be no amnesty or path for citizenship for illegal immigrants. Everyone must

go and apply to re-enter under a law revising current limits. There is no practical provision in current law for finding and deporting 11 million people. His plan to mandate the E-Verify system — forcing illegal immigrants to “self-deport” by removing their ability to work — has been proposed and rejected by Congress.

Clinton wants to focus deportations on criminal immigrants and those posing a violent threat.

She pledges to introduce comprehensive immigration reform that includes a pathway to “full and equal” citizenship. It will end rules requiring illegal immigrants who leave the country from having to wait three to 10 years to get back in and get legal residency.

She supports President Barack Obama's executive order

granting deferred deportation and legal work status to 5 million illegals and pledges to expand the program if Congress doesn't pass comprehensive reform. The president lacks that authority.

But for all of Trump's bombastic rhetoric and Clinton's earnest belief in continuing the Obama legacy, neither candidate will decide the fate of the 11 million.

The occupant of the White House has the bully pulpit, but no power to do anything but enforce the law. The authority to reform those laws rests at the other end of Pennsylvania Avenue, with Congress.

We can't help but notice that the issue has received scant attention in the campaigns for open Senate and House seats. Everyone with a stake in immigration policy would do well to turn their attention there.

## OUR VIEW

# Free flow of information missing from Washington wolf policy

Managing wildlife — especially hot button predators such as wolves — requires total openness on the part of all parties. Ranchers, conservationists, members of the public and even critics need to have access to timely and accurate information.

By trying to manage information, officials in Washington state are creating a void that has been filled by rumors and misinformed opinions.

The folks at the Washington State Department of Fish and Wildlife have found that out the hard way.

They established a policy of releasing information once a week about their efforts to remove the Profanity Peak wolfpack after it repeatedly killed cattle in the area.

It could be expected that some opponents of removal would not like the removal decision. The fact that the agency choked off information about the management efforts only inflamed those passions.

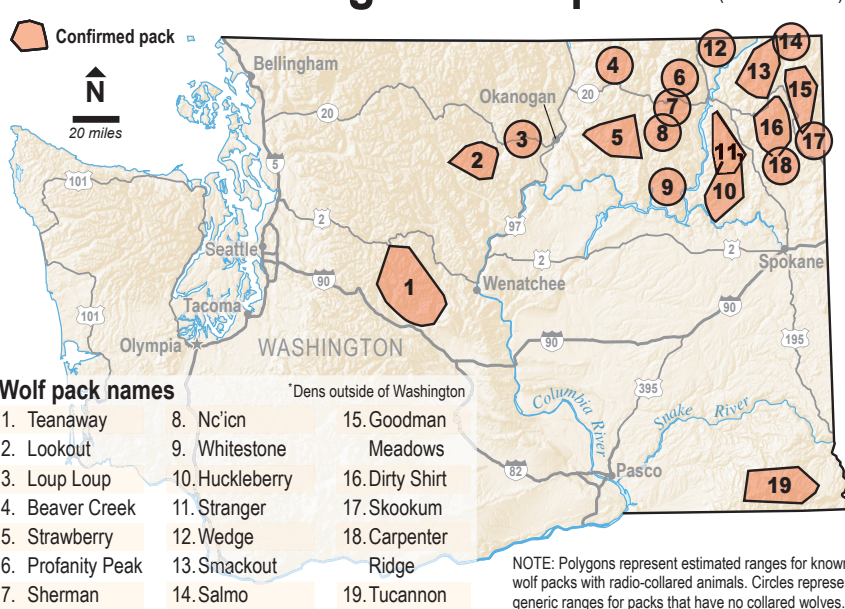
Others, including a Washington State University carnivore researcher, jumped into the fray, providing “facts” that weren't accurate and further fanning the flames.

As a result, the ranchers and the wildlife managers have even received death threats and WDFW had a full-on crisis on its hands.

We rarely agree with what the Center for Biological Diversity says about wolves, but at a recent rally one of the group's representatives made sense.

The center's Amaroq Weiss told others at the rally that nobody should be threatened.

## Known Washington wolf packs (As of June 15)



Source: Washington Dept. of Fish and Wildlife

Alan Kenaga/Capital Press



Courtesy of Wash. Department of Fish and Wildlife

The Washington State Department of Fish and Wildlife is removing members of the Profanity Peak pack, but only releasing information once a week, causing a void.

“That has no place in this discussion at all,” she told our reporter afterward.

The tragedy of recent events is magnified by the fact that the state spent \$800,000 to reboot its wolf advisory group in an effort to

open a civilized discussion of wolf management.

The members of the group — representing ranchers, conservationists and others — were ultimately able to forge a working relationship. They even developed a new policy for removing wolves that repeatedly kill livestock.

All of that hard work is now at risk.

The free flow of timely and accurate information is the only way to restore any level of trust in the department, its policies and its managers.

The WDFW must provide information on wolf removal and other developments when they happen and let everyone know why.

# ESA bureaucrats twisted law with expanded ban on ‘takes’

By JONATHAN WOOD  
For the Capital Press

**Guest comment**  
Jonathan Wood



The late Justice Antonin Scalia once described the Endangered Species Act as imposing “unfairness to the point of financial ruin — not just upon the rich, but upon the simplest farmer who finds his land conscripted to national zoological use.”

His comment resonates with far too many landowners across the United States. The U.S. Fish and Wildlife Service, the agency charged with implementing the statute, has needlessly and illegally expanded the application of the statute's most burdensome provision, harming both property owners and species.

The target of Justice Scalia's criticism was the Endangered Species Act's “take” prohibition, which broadly forbids any activity that affects a single member of a protected species or its habitat. This incredibly burdensome provision bars a wide range of ordinary land uses, and subjects anyone who violates it to costly lawsuits, substantial fines, and even imprisonment.

When Congress passed the Endangered Species Act, it was surprisingly candid in its recognition of how extreme the impacts on property owners could be. Sen. John Tunney of California, the floor manager of the bill, acknowledged that this is a “stringent prohibition.” He wasn't kidding!

The prohibition is so broad that many apparently innocent activities can run afoul of it, as Skylar Capo, an 11-year-old Virginia girl, learned several years ago, when her family was issued a fine after she rescued a protected woodpecker from a cat and nursed it back to health.

Catching a protected species, regardless of the reason, is prohibited. You can even violate the take prohibition by getting near protected species. Or not so near: The protections for one whale species criminalize surfing within five football fields of the animal.

Further extending the prohibition's reach is that it applies even if you didn't intend to cause any adverse impact to the protected animal or even know that you might.

Recognizing the severe consequences this broad prohibition can have, Congress expressly limited its application to “endangered” species — those in immediate danger of extinction. The Endangered Species Act does not automatically extend the take prohibition to “threatened” species, which face only remote risks. This distinction was intentional. As Sen. Tunney explained, Congress intended that the take prohibition “be absolutely enforced only for those species on the brink of extinction.”

However, the Service

thought it knew better than Congress. Shortly after the statute was enacted, it adopted a regulation categorically extending the take prohibition to all threatened species. Ever since, property owners across the country have borne the brunt of this regulation, without the Service ever attempting to justify it or its ruinous costs.

Recently, the Washington Cattlemen's Association, represented by Pacific Legal Foundation, filed a petition calling for the Service to repeal this regulation. The petition notes that repealing the illegal regulation will benefit not only property owners but also protected species. This is because the illegal regulation significantly undermines the incentives for conservation.

The take prohibition, if properly limited to endangered species, would act as a carrot and a stick to spur private conservation efforts. Property owners whose lands contain endangered species would have a strong incentive to aid in their recovery. If a species improved to the point that its status could be changed from endangered to threatened, the take prohibition would be lifted, rewarding property owners for their efforts.

Similarly, property owners with threatened species on their land would have an incentive to conserve them, lest they become endangered and subject to the take prohibition.

Far from encouraging conservation, the regulation adds further disincentives for property owners to assist in species improvement. Any effort to aid a threatened species could itself run afoul of the take regulation; so a property owner who invests resources in recovery efforts ironically runs the risk of environmental lawsuits, and even fines or imprisonment, for accidentally violating the take regulation.

How many property owners would accept all of these perils if they receive nothing in return?

Perhaps this explains why the Endangered Species Act hasn't lived up to its goal of recovering species. Since it was enacted more than 40 years ago, fewer than 2 percent of protected species have recovered to the point that they no longer need the statute's protections.

Repealing the illegal regulation, and restoring the statute's primary incentive for conservation, will hopefully turn this around, while reducing regulatory burdens for the property owners contributing to species' recovery.

Jonathan Wood is an environmental attorney with Pacific Legal Foundation.

## OUR VIEW

# Overtime legislation could shrink paychecks

California legislators have set up a cascade of unintended consequences with their proposal to require farmers to pay more overtime.

Now sitting on Gov. Jerry Brown's desk is a bill, AB 1066, that would require farmers to pay farmworkers time-and-a-half after 8 hours of work a day or 40 hours a week.

Currently, they are required to pay overtime after 10 hours of work in a day or a 60-hour week.

One consequence is readily apparent.

Because the bill — the

first of its kind in the U.S. — will not create money or increase prices for the crops that are grown and harvested, farmers will be squeezed financially. They will be forced to devise ways to get the work done without a massive increase in their labor costs.

That means some farmworkers will lose hours. Or it could mean hourly pay rates will be cut. Or that fewer farmworkers will be hired. Or farmers will rely on more mechanization. Or farmers will go out of business.

In spite of such economic realities, some

farmworkers believe the legislation will increase the size of their paychecks. They see it as a recognition that they ought to be treated the same as any other worker in California.

The problem: farming isn't like any other industry. Crops must be harvested within a narrow time frame as they ripen. That can mean long days. To say farmworkers must work an 8-to-5 schedule is unrealistic.

AB 1066 already has some farmworkers worried. They see the bill as a politically motivated promise that will ultimately

hurt them and their families.

Dairy worker Juan Valencia told the Associated Press that he fears his hours will be cut, reducing the size of his paycheck.

“They make it sound pretty. It's not going to be pretty at all,” he said. He fears he'll have to find another job to support his wife and children.

The governor would do well to reject AB 1066. He should know that the unintended consequences of the legislation will more than offset any hoped-for benefits.