

NATIONAL ENVIRONMENTAL POLICY ACT SCOPING REPORT

FOR THE

BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY GRIZZLY BEAR HABITAT CONSERVATION PLAN

**U.S. Fish and Wildlife Service Helena, Montana
October 12, 2004**

1. INTRODUCTION

The Burlington Northern and Santa Fe Railway Company (BNSF), in consultation with the U.S. Fish and Wildlife Service (USFWS), has proposed to prepare an application for an Incidental Take Permit (ITP), pursuant to Section 10 for the Endangered Species Act, to request authorization for the incidental take of grizzly bears that may result from the operation and maintenance of the railroad within the Middle Fork Flathead River corridor between Hungry Horse and Browning Montana. The ITP application will include a draft Habitat Conservation Plan (HCP) and a draft Environmental Assessment (EA). The HCP and EA will clarify the activities associated with the operation and maintenance of the railroad which may affect grizzly bears; evaluate other factors that contribute to human caused mortality of grizzly bears in the Middle Fork Flathead River corridor; evaluate alternative strategies to minimize the effects of railroad operations on grizzly bears; and, develop an adaptive management framework for grizzly bear conservation in the corridor.

In 1991, BNSF entered into an agreement with the state and federal agencies that have relevant jurisdiction in the Middle Fork Flathead River Corridor to form the Great Northern Environmental Stewardship Area (GNESA). GNESA fosters a positive working relationship among industry, government and conservation interests. The cooperators recognize that the Middle Fork Flathead River corridor is an area with unique natural values. They also recognize that commerce has an important place in the area. Accordingly, they seek to promote proper stewardship so that these two aspects are compatible. In addition to BNSF, the GNESA cooperators include the Flathead National Forest; Lewis and Clark National Forest; Glacier National Park; U.S. Fish and Wildlife Service; Blackfeet Indian Nation; Montana Fish, Wildlife and Parks; Montana Department of Natural Resources and Conservation; Montana Department of Transportation; Flathead County; Glacier County; the Great Bear Foundation; the Flathead Land Trust; The Nature Conservancy; and, two citizen members.

In cooperation with GNESA, BNSF has implemented an operating protocol that includes several railroad operation and maintenance procedures intended to minimize train/bear incidents and ensure a rapid response and removal of attractants from the railroad right of way. BNSF has implemented and continues to operate according to the GNESA protocol

because the company is interested and motivated to operate the railroad in a manner that promotes good stewardship and conservation of grizzly bears in the Middle Fork Flathead River corridor. BNSF also expects to implement the HCP in close cooperation with GNEESA.

2. PURPOSE AND NEED

The grizzly bear was listed as a threatened species, pursuant to the federal Endangered Species Act in 1975. The original Grizzly Bear Recovery Plan was approved in 1982 and a revised plan was approved in 1993. The Middle Fork Flathead River corridor lies within the Northern Continental Divide Grizzly Bear Recovery Zone (NCDE). The recovery subgoal for the NCDE includes, among other objectives, 10 females with cubs inside GNP and 12 females with cubs outside GNP running over a 6-year average; 21 of 23 bear management units (BMU) occupied by females with young from a running 6-year sum of observations with no two adjacent BMU's unoccupied; and known, human-caused mortality not to exceed 4 percent of the population estimates, based on the most recent 3-year sum of females with cubs, and no more than 30 percent of this 4 percent mortality limit shall be females. Among other objectives, the Grizzly Bear Recovery Plan includes objectives to reduce accidental deaths of bears and minimize activities that result in attraction of bears to sites of conflict.

Railroad operation is one cause of accidental grizzly bear deaths in the Middle Fork Flathead River corridor. Mortalities have occurred because the railroad right of way crosses several natural bear movement corridors.

The U.S. Fish and Wildlife Service is encouraged by Congress under Section 10 of the Act to enter into creative partnerships with non-federal entities whose actions may impact the habitats of listed species, if an HCP developed by the non-federal entity adequately conserves species to be covered by an incidental take permit. Adequate conservation includes meeting the purposes of the Act of conserving species' ecosystems and allowing for their recovery, in part by minimizing and mitigating incidental take resulting from the plan.

The HCP is intended to promote good stewardship of railroad operations in the Middle Fork Flathead River Corridor, with an emphasis on conservation of the grizzly bear. Implementation of the HCP will minimize the potential for grizzly bear/train collisions, and moderate the consequences of unavoidable bear/train collisions.

3. SCOPE OF THE PROPOSED ACTION AND THE ENVIRONMENTAL ASSESSMENT (EA)

The railroad which traverses the Middle Fork Flathead River corridor is a portion of the original Great Northern Railway which began operations 1878. The mainline, from Minneapolis to Seattle, was completed in 1893. Through subsequent mergers, the Great Northern became part of the Burlington Northern Railroad and, eventually part of BNSF.

The HCP encompasses the railroad right-of-way that extends from Browning (Milepost 1123.9) west to Conkelly (Milepost 1208.7). This portion of the right-of-way occurs within the Middle Fork Flathead River Corridor which forms the southern boundary of Glacier National Park and lies immediately north of the Great Bear Wilderness. From Browning

west to approximately East Glacier, the railroad traverses the Blackfeet Indian Reservation. From East Glacier west to Marias Pass, the railroad is bounded by Glacier National Park to the north and the Lewis and Clark National Forest to the south. From Marias Pass west to Con Kelly, the railroad is bounded on the south by the Flathead National Forest.

The HCP is specific to railroad operations activities that may directly or indirectly impact grizzly bears.

4. DECISION-MAKING

An EA is being prepared by the Service, with the assistance of Consulting for Creative Solutions, llc in Helena, Montana, to satisfy the requirements of NEPA for this Plan. The EA will contain an analysis of alternatives and will outline information to be used by decision-makers in determining whether to issue the permit. The environmental review of this project will be conducted in accordance with the requirements of NEPA, 42 U.S.C., §4321, *et seq.*, other appropriate Federal and State regulations, and the Service's policies for compliance with those regulations. After completion of the EA, responsible officials for the Service will prepare a Decision Memo. The Service will decide whether to issue or deny a permit based on the Plan submitted by BNSF and whether that Plan meets all of the issuance criteria for an incidental take permit.

5. PUBLIC INVOLVEMENT PROCESS

The process for developing an HCP is described in the Endangered Species Habitat Conservation Planning Handbook that was prepared by USFWS. The program is described on the USFWS website at <http://endangered.fws.gov/hcp/index.html>. A copy of the HCP handbook is available on the internet at <http://endangered.fws.gov/hcp/index.html>.

USFWS published a Notice of Intent (NOI) to prepare an EA regarding the proposed issuance of an Incidental Take Permit to BNSF on February 11, 2004. Publication of the NOI in the Federal Register (FR Vol. 69, No. 28, pg. 6683-6685) initiated the public scoping period, which extended through April 15, 2004. In advance of the Federal Register NOI, a press release was prepared and distributed to a variety of Montana media. In addition, announcement of the NOI and the scoping meetings was noticed in several local newspapers and as public service announcements on local radio stations. A copy of the public scoping notice brochure is attached.

Public scoping meetings were scheduled in Kalispell on February 10, at Essex on February 11 and in Browning on February 12, 2004. The scoping meetings were structured according to the open house format.

Through the scoping notice and the scoping meetings, BNSF and USFWS invited public comment for the purpose of identifying the scope of issues and potential alternatives that are pertinent to the HCP and EA. The scoping fact sheet (attached) encouraged responses to the following:

1. Perspectives regarding the overall scope of the project.
2. Perspectives regarding railroad operation and maintenance activities that may affect grizzly bears in the Middle Fork Flathead River corridor.

3. Suggestions to reduce the effects of railroad operation and maintenance on grizzly bears.
4. Perspectives regarding other activities in the Middle Fork Flathead River corridor that may contribute to human-caused mortality of grizzly bears.
5. Suggestions to reduce the risk of human-caused mortality of grizzly bears.
6. Specific information sources that you think would strengthen the analysis.

5A. AD HOC TECHNICAL COMMITTEE

BNSF has formed an ad hoc Technical Committee to assist with several aspects of the HCP and EA, including the identification of pertinent issues; compilation and analysis of information; evaluation of factors that contribute to the risk of human caused grizzly bear mortality; and, the evaluation of all reasonable strategies to reduce grizzly bear mortality risk factors. The ad hoc Technical Committee will also provide advice regarding the coordination of the HCP with other management activities in the Middle Fork Flathead River corridor and facilitate communication with the public.

The ad hoc Technical Committee is comprised of representatives from Montana Fish, Wildlife and Parks, Glacier National Park, the Northern Region U.S. Forest Service and the Blackfeet Indian Nation. As used in the HCP process, the ad hoc Technical Committee is advisory to BNSF, not advisory to USFWS. It is also important to note that agency participation in the ad hoc Technical Committee does not imply agency endorsement of the completed HCP and EA.

5B. ISSUES, CONCERNS, AND RECOMMENDATIONS IDENTIFIED THROUGH SCOPING

The EA will analyze the effects that are expected to result from implementing the HCP. Because of the nature of the HCP and the expected effects, the EA will focus primarily on the potential human-caused grizzly bear mortality, with an emphasis on mortality that is directly and indirectly related to railroad operations.

5C. FACTORS THAT CAUSE RISK OF HUMAN-CAUSED GRIZZLY BEAR MORTALITY

The ad hoc Technical Committee identified all of the factors that cause risk of human-caused grizzly bear mortality in the Middle Fork Flathead River corridor.

Railroad Operations

For much of its length from Columbia Falls east to Browning, the railroad right of way is contiguous with the highest density grizzly bear habitats in the Northern Continental Divide Ecosystem. Factors that affect the potential for railroad – bear collisions include railroad operations, attractants and features that inhibit the ability of bears to escape on-coming trains.

Factors related to railroad operations include the design of the railroad and the potential for derailments; train speed; train traffic; and train schedules.

Factors that attract bears to the right of way include major grain spills, grain resulting from leaking cars, livestock carrion, wildlife carrion, disposal of garbage and human waste on the right of way and the presence of succulent vegetation growing on or near the railroad right of way.

Train derailments in the past have occurred which resulted in the spillage of large amounts of grain (corn, wheat and barley). Grizzly bears were attracted to these locations and on the freshly spilled grain. Following the initial clean-ups, bears continued to be attracted to the spill sites by fermenting grain. Some bears became food conditioned to the grain and were killed by trains. In addition, some of the bears have been involved in conflict situations and were removed in management actions.

Minor grain spills caused by leaking grain cars is a critical, unresolved issue. Older cars and cars that are improperly loaded may leak grain onto the tracks. Load shifting and jostling of the cars while the train is in motion may contribute to the potential for individual cars to leak grain. Larger accumulations of grain may occur when a train with a leaking car is parked on the siding, while waiting for passing trains. Grain from leaking cars also may accumulate on the right-of-way over the winter. Grizzly bears will walk the tracks, apparently looking for spilled grain. Grizzly bears have been hit and killed by trains while walking the tracks.

Legally permitted livestock may trespass within the railroad right of way in the vicinity of Nyak Flats, west of Marias Pass, and in the vicinity of the Blackfeet Reservation, east of Marias Pass. Free-ranging livestock have been hit and killed by trains. Livestock killed by the trains have attracted grizzly bears to the tracks and bears routinely feed on cattle carcasses on the right-of-way. However, to date, there apparently have been no bear deaths directly attributable to livestock carrion. Wildlife has been hit and killed by the trains along the tracks. Moose, elk, and deer are common in the region and these train killed animals attract grizzly bears. Numbers of train killed bears, directly attributable to wildlife carrion, are not known. Train collisions with other wildlife can occur at anytime, but tends to be most prevalent during the winter months when wildlife moves along the plowed right of way.

Vegetation that sprouts within or near the railroad right of way is a potential food source, especially during the spring. Some seed mixtures that are commonly used to re-vegetate disturbed sites also may include plants that are used by bears as food sources, especially clover, dandelions and orchard grass.

On some portions of the right of way, bears will attempt to avoid danger by running down the track rather than running off to the side. This typically happens in places where the track is elevated relative to the adjacent landscape; on trestles; and, in the vicinity of steep cuts.

Food Conditioning

Most of the reported incidents with problem bears in the Middle Fork Flathead corridor involve grizzly bears and bears that have become habituated to humans and are seeking unnatural foods. Garbage, improperly stored food stuffs, pet food and bird feeders are the primary attractants related to bear-human conflicts. Conflicts often are resolved by removing or destroying offending bears.

Livestock Operations

Legally permitted sheep and cattle graze within occupied grizzly bear habitat. Bears also are attracted to sites where dead livestock are disposed. Conflicts with marauding bears often are resolved by removing or destroying offending bears.

Vehicle Traffic

U.S. Highway 2 parallels the railroad right of way. Bears that live in the vicinity of the right of way may cross the highway, but the frequency of highway crossings is negatively affected by highway traffic volume. Grizzly bears avoid the area within 500 meters of the highway. Most highway crossings occurred at night when traffic volume was lower.

Illegal Harvest

The grizzly bear hunting season has been closed since 1991. However, illegal harvest of bears, both intentional and accidental, continues to occur.

Habitat Issues

Loss of grizzly bear habitat to human development in the Middle Fork Flathead River corridor can be direct loss (open land built into subdivisions, bears killed in defense of life, and management removal of conflict bears) and indirect loss through displacement due to human activities. Bears also avoid areas adjacent to open roads.

An important issue related to grizzly bear recovery is the maintenance of linkage zones. These are large areas of seasonal habitats in which bears are able to find food and security and that allow bears to move between the larger blocks of suitable habitat. Maintaining connectivity or “linkage” between small isolated populations could prevent many of the detrimental consequences of habitat fragmentation

5D. PUBLIC SCOPING COMMENTS

A total of 15 people attended the three public scoping meetings. Letters were received from Glacier National Park; Montana Fish, Wildlife and Parks; The Great Bear Foundation and from two private individuals. Defenders of Wildlife and four private individuals submitted comments via email. A summary of scoping comments follows.

GNESEA Agreement and Cooperative Bear Management in the Middle Fork Corridor

- BNSF is doing a great job to mitigate bear mortality.
- Standardize procedures for food storage.
- Install electric fence around food storage areas.
- Implement cooperative bear conservation projects with Defenders of Wildlife.
- Cooperation among the GNESEA partners to protect important parcels of grizzly bear habitat in the corridor, including additional support for the GNESEA trust fund.

- Mitigate continued bear mortality through increased support for GNESEA. Working through GNESEA, support habitat protection, sanitation in the corridor and improved communications.
- Formation of GNESEA has promoted a productive relationship between BNSF and the agencies. Priorities and coordination through GNESEA should continue.
- Mitigate continue bear mortality through operational support for bear management in the corridor.
- Support educational programs for landowners in the corridor.
- Support cooperative projects with the agencies and with local government to make refuse disposal sites bear proof.
- BNSF should coordinate with Montana Fish, Wildlife and Parks to address attractant sites that might contribute to railroad mortality.

Track Maintenance and Cleanup

- Thoroughly cleanup carcasses on the right-of-way to avoid attracting bears.
- Standardize procedures for track sanitation and carcass removal.
- Standardize sanitation procedures for all crews, not just railroad crews, that work in the railroad corridor.
- Regular track maintenance and inspection to reduce the potential for derailments.
- Regular track cleaning to remove incidental spilled grain and identification, reporting and cleanup of grain accumulations.
- Develop a formal protocol for identifying, reporting and removing carcasses in the right-of-way.
- The corridor should be fenced to reduce the potential for livestock collisions but the fencing should not disrupt wildlife linkage zones.
- Investment in technology that facilitates removal of attractants from the railroad right-of-way.

Railroad Operations

- The railroad should implement a 15 MPH speed limit on trains in the corridor.
- Provide bear safety training for BNSF work crews and contract crews.

Wildlife Passageways

- Construct wildlife passages, similar to those developed in Banff, Alberta.
- Identify traditional wildlife crossing areas and install structures that facilitate safe crossing.
- Examine past collision sites to look for patterns.
- Use the results of the recent bear-highway study to identify locations for the potential of constructing wildlife passages.

Modifications to Engines and Cars

- Evaluate whether bears are being killed by the engine or when bears try to run under passing cars. If most of the bears are being hit by the engine, cow catchers or other devices should be installed on the engines to reduce injuries and deaths when collisions do occur.

- Evaluate the use of high frequency sound devices mounted on trains.
- Install Long Range Acoustic Devices (American Technology Corporation) on all engines to scare bears off of the track or other devices similar to deer whistles.
- Develop whistles that emit other aversive sounds, e.g. the sound of barking dogs.
- Evaluate whether cubs are hit by cars, rather than the engine, as they try to run under passing cars.
- Install barrier fabric to the sides of cars to deter cubs from trying to run under the cars.
- Retro-fit grain cars with discharge chutes that do not dribble grain and condemn cars with chutes that dribble.
- Design and develop an air bag system which, when triggered by a bear breaking a laser beam, would throw the bear off the track before it was struck by the engine.
- Research to develop technology to minimize the physical danger of train/wildlife impacts and technology to warn bears from on-coming trains.

Grain Cars

- The problem with leaking grain cars continues.
- BNSF should document the process for replacing older grain cars with newer cars that are less prone to leak grain.
- BNSF should explore all avenues to ensure that every car, including those owned by other parties, meet minimum standards regarding leaking grain.
- Reduce the potential for leaking grain cars through a protocol of regular inspections prior to and following loading; upgrading deficient cars; cleaning grain that accumulates on the cars and research to improve grain car function and durability.

Major Grain Spills

- Compliance with GNESEA protocols for rapid response to major spills.
- The Great Bear Foundation estimated that upwards of 60 bears would die, over time, as a result of bad behaviors learned at the old grain spill sites and, as of 2003, the number is close to 40. This is a consequence of learned behavior, a “cultural inheritance” passed from mother to young.
- BNSF must be up front about past lapses in judgment in the manner in which they responded to grain spills.

HCP Process

- If the Incidental Take Permit is issued for a 25-year period, the period should be broken into three periods to allow for formal consultation and incorporation of new science into the Habitat Conservation Plan.
- Formal consultation between USFWS and BNSF should be required any time railroad cause bear mortality exceeds three per year. The Incidental Take Permit should not permit mortality levels that prevent grizzly recover in the Northern Continental Divide Ecosystem.
- An application for an Incidental Take Permit is hollow because it is a request to legally break the law. The request should be denied.
- Previous bear mortalities occurred without an Incidental Take Permit and were subject to penalties for violation of Section 10 of the Endangered Species Act.

- Massive fines should be levied on BNSF for each bear death instead of issuing an Incidental Take Permit.

6. ANTICIPATED RANGE OF ALTERNATIVES TO BE CONSIDERED

6A. ALTERNATIVE 1: NO ACTION ALTERNATIVE

The no action alternative will include all of the current management activities that are intended to reduce the risk of railroad caused grizzly bear mortality. Strategies include:

1. GNESEA agreement
2. Coordination with grizzly bear management in the corridor
3. Clean up of previous grain spills
4. Operating procedures within the corridor
5. Work crew protocols
6. Track design and maintenance
7. Right-of-way vegetation management
8. Rapid response protocol
9. Track inspection protocol
10. Grain car inspection and documentation protocol
11. Routine track inspection and detail vac-trucks to clean up the accumulations of grain, e.g. grain piles on railroad sidings
12. Spring carcass clean-up
13. Carcass cleanup
14. Critter Getters
15. Right-of-way fencing
16. Road closures
17. Amtrak disposal of garbage and human waste
18. Employee training
 - a. Operating procedures/awareness/GNESEA
 - b. Grain car loading and cleaning

6B. ALTERNATIVE 2: HABITAT CONSERVATION PLAN (PROPOSED ACTION)

The proposed HCP builds upon the current management activities to reduce the risk of grizzly bear mortality. The proposed HCP also will include additional strategies to avoid railroad impacts:

1. Reclamation protocol, developed in consultation with USFS
2. Expanded information and education including training programs for inspectors at Havre and Great Falls, and railroad personnel who perform roll-by inspections
3. Evaluate options for temporary plugs on leaking cars
4. Schedule two major track clean ups per year – early spring and late fall
5. Maintain (or contract for) on-site track cleaning equipment
6. Determine the current state of the art for track cleaning technology and evaluate for application or adaptation in the corridor
7. Fence the entire right-of-way from False Summit to Midvale Creek, include gates and cattle guards at appropriate locations

8. Expanded use of Critter Getters

The proposed HCP includes additional coordination with other grizzly bear management in cooperation with GNESEA:

1. Annual funding commitment to GNESEA for administration, operations and trust fund with allocation of funds determined by GNESEA
2. Encourage GNESEA activities to minimize mortality risk (with the understanding that BNSF is a cooperator, but not the lead) including, but not limited to:
 - Bear-proof refuse collection in the corridor
 - Public education
 - Coordination with Defenders of Wildlife bear/livestock program
 - Conservation easements

The proposed HCP includes additional reporting:

1. Bear observation forms
2. Grizzly bear mortality event reports
3. Track inspection reports

The proposed HCP includes strategies to monitor and evaluate effectiveness of HCP, implemented in cooperation with GNESEA:

1. Coordination with FWP Grizzly Bear Management Specialists
2. Annual ad hoc technical committee meeting
3. Annual HCP implementation report

The proposed HCP includes a framework for adaptive management, implemented in cooperation with GNESEA

1. Grizzly bear mortality reports; developed in coordination with IGBC
2. Railroad mortality incident evaluation
3. On-site necropsy of train killed bears to determine whether those bears had recently eaten grain
4. Discussions with railroad personnel, during normally scheduled training meetings, to obtain their knowledge about bear use in the corridor
5. Bear manager participation in the spring sweep
6. Periodic corridor walk-throughs by bear management specialists to identify site specific situations
7. Evaluation of efforts to reduce other human-caused bear mortalities

6C. STRATEGIES IDENTIFIED DURING SCOPING THAT WILL NOT BE INCLUDED IN THE HCP

- Train speed
- Train schedule
- Leaking grain car studies
- Special regulations for leaking grain cars
- Grizzly bear research

U.S. Fish and Wildlife Service and Burlington Northern/Santa Fe Railroad HCP Project Scoping Notice Brochure



Introduction

This scoping brochure is to provide information to you and request public comment on the environmental assessment (EA) that is being prepared for a habitat conservation plan (HCP) that concerns the operation and maintenance of the Burlington Northern/Santa Fe railroad (BNSF) on lands in the Middle Fork Flathead River Corridor in the State of Montana.

An HCP is a voluntary legal agreement between a landowner and the United States Fish and Wildlife Service (USFWS). The purpose of an HCP is to provide conservation for fish and wildlife species listed under the Endangered Species Act (ESA) and their habitats, while at the same time allowing regulatory certainty for the landowners and incidental take of these species.

An approved HCP results in the issuance of an Incidental Take Permit (ITP). The issuance of an ITP is a federal action requiring National Environmental Policy Act (NEPA) compliance. A draft EA will be prepared to address the BNSF HCP.

You Are Invited - Public Scoping Meetings

KALISPELL
FEBRUARY 10, 2004 4:00 – 8:00 P.M.
MONTANA FISH, WILDLIFE AND PARKS
REGION 1 HEADQUARTERS
490 NORTH MERIDIAN ROAD

ESSEX
FEBRUARY 11, 2004 4:00 – 8:00 P.M.
MIDDLEFORK QUICK RESPONSE
BUILDING
HIGHWAY 2

BROWNING
FEBRUARY 12, 2004 4:00 – 8:00 P.M.
BLACKFEET TRIBAL COMPLEX
GOVERNMENT SQUARE,
TRIBAL CONFERENCE ROOM

Background Information

The Burlington Northern and Santa Fe Railway Company (BNSF), in consultation with the U.S. Fish and Wildlife Service (USFWS), proposes to prepare an application for an Incidental Take Permit (ITP), pursuant to Section 10 for the Endangered Species Act, to request authorization for the incidental take of grizzly bears that may result from the operation and maintenance of the

railroad within the Middle Fork Flathead River corridor between Hungry Horse and Browning Montana. The ITP application will include a draft Habitat Conservation Plan (HCP), draft Implementation Agreement and a draft Environmental Assessment (EA). The HCP and EA will clarify the activities associated with the operation and maintenance of the railroad which may affect grizzly bears; In 1991, BNSF entered into an agreement with the state and federal agencies who have relevant jurisdiction in the Middle Fork Flathead River Corridor to form the Great Northern Environmental Stewardship Area (GNESA). GNESA fosters a positive working relationship among industry, government and conservation interests. The cooperators recognize that the Middle Fork Flathead River corridor is an area with unique natural values. They also recognize that commerce has an important place in the area. Accordingly, they seek to promote proper stewardship so that these two aspects are compatible. In addition to BNSF, the GNESA cooperators include the Flathead National Forest; Lewis and Clark National Forest; Glacier National Park; U.S. Fish and Wildlife Service; Blackfeet Indian Nation; Montana Fish, Wildlife and Parks; Montana Department of Natural Resources and Conservation; Montana Department of Transportation; Flathead County; Glacier County; the Great Bear Foundation; the Flathead Land Trust; The Nature Conservancy; and, two citizen members.

In cooperation with GNESA, BNSF has implemented an operating protocol that includes several railroad operation and maintenance procedures intended to minimize train/bear incidents and ensure a rapid response and removal of attractants from the railroad right of way. BNSF has implemented and continues to operate according to the GNESA protocol because the company is interested and motivated to operate the railroad in a manner that promotes good

evaluate other factors that contribute to human caused mortality of grizzly bears in the Middle Fork Flathead River corridor; evaluate alternative strategies to minimize the effects of railroad operations on grizzly bears; and, develop an adaptive management framework for grizzly bear conservation in the corridor.

stewardship and conservation of grizzly bears in the Middle Fork Flathead River corridor. BNSF also expects to implement the HCP in close cooperation with GNESA.

The Scope of the Agreement

BNSF proposes to develop the HCP to achieve conservation of the grizzly bear by minimizing the potential for grizzly bear/train collisions and mitigating for the consequences of unavoidable grizzly/bear train collisions.

As currently envisioned, the HCP would involve a multi-year Permit covering approximately 85 miles of railroad right-of-way through the Middle Fork Flathead River Corridor from Conkelley east to Browning, Montana. BNSF is currently considering a term of 25 years.

Conservation Measures

For the proposed HCP, BNSF would develop specific conservation measures to be implemented within the framework of existing railroad operations and/or in cooperation with conservation programs for which another GNEESA member agency has primary responsibility.

In cooperation with GNEESA, BNSF has implemented an operating protocol that includes several railroad operation and maintenance procedures intended to minimize train/bear incidents and ensure a rapid response and removal of attractants from the railroad right of way. In addition to the protocol, the GNEESA agreement includes the provision for developing a \$1 million conservation trust fund for the purpose of assisting the GNEESA cooperators to implement a variety of grizzly bear conservation activities in the Middle Fork Flathead River corridor. BNSF anticipates that the HCP will update and build upon this existing agreement

the proposal as well as a full range of reasonable alternatives and the associated impacts of each. The USFWS and BNSF are currently in the process of developing alternatives for analysis. The scoping process will be used to identify reasonable alternatives in addition to the No Action alternative.

Monitoring and Adaptive Management

As currently envisioned, the HCP would incorporate active adaptive management features, with an emphasis on documenting all human-caused grizzly bear mortality in the corridor, evaluating factors that contribute to each mortality and evaluating methods to reduce the potential for human-caused mortality. Applied research and monitoring would help determine the effectiveness of the HCP, validate models used to develop the HCP, and provide the basic information used to implement "mid-course corrections" if necessary.

Who is Preparing the EA?

The USFWS will conduct an environmental review of the proposed HCP and prepare an EA. The environmental review will analyze

The environmental review of this project will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 et seq.), Council of Environmental Quality regulations (40 CFR parts 1500-1508), other appropriate Federal laws and regulations, and policies and procedures of the USFWS for compliance with those regulations. It is estimated that the draft EA will be available for public review during the third quarter of calendar year 2004.

Scoping Period

We will be accepting scoping comments for 45 days from the publishing of the Notice of Intent (NOI) to prepare an EA in the Federal Register. The NOI should be published on or near February 6, 2004. Scoping input received prior to the publishing of the NOI will be considered as part of the scoping process. The exact dates of the scoping period will be posted on the HCP page of the Montana Field Office website <http://montanafieldoffice@fws.gov>.

Where Do You Send Comments?

Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to the proposed action are addressed and that all significant issues are identified. Comments or questions concerning this proposed action and the environmental review should be directed to:

Tim Bodurtha
U.S. Fish and Wildlife Service
780 Creston Hatchery Road
Kalispell, Montana 59901
Phone: (406) 758-6882
Fax: (406) 758-6877
E-mail: FW6_BNSF_ScopingHCP@fws.gov



FACT SHEET

BNSF HABITAT CONSERVATION PLAN for GRIZZLY BEARS

PROJECT STATEMENT

The Burlington Northern and Santa Fe Railway Company (BNSF), in consultation with the U.S. Fish and Wildlife Service (USFWS), proposes to prepare an application for an Incidental Take Permit (ITP), pursuant to Section 10 for the Endangered Species Act, to request authorization for the incidental take of grizzly bears that may result from the operation and maintenance of the railroad within the Middle Fork Flathead River corridor between Hungry Horse and Browning Montana. The ITP application will include a draft Habitat Conservation Plan (HCP), draft Implementation Agreement and a draft Environmental Assessment (EA). The HCP and EA will clarify the activities associated with the operation and maintenance of the railroad which may affect grizzly bears; evaluate other factors that contribute to human caused mortality of grizzly bears in the Middle Fork Flathead River corridor; evaluate alternative strategies to minimize the effects of railroad operations on grizzly bears; and, develop an adaptive management framework for grizzly bear conservation in the corridor.

In 1991, BNSF entered into an agreement with the state and federal agencies who have relevant jurisdiction in the Middle Fork Flathead River Corridor to form the Great Northern Environmental Stewardship Area (GNESA). GNESA fosters a positive working relationship among industry, government and conservation interests. The cooperators recognize that the Middle Fork Flathead River corridor is an area with unique natural values. They also recognize that commerce has an important place in the area. Accordingly, they seek to promote proper stewardship so that these two aspects are compatible. In addition to BNSF, the GNESA cooperators include the Flathead National Forest; Lewis and Clark National Forest; Glacier National Park; U.S. Fish and Wildlife Service; Blackfoot Indian Nation; Montana Fish, Wildlife and Parks; Montana Department of Natural Resources and Conservation; Montana Department of Transportation; Flathead County; Glacier County; the Great Bear Foundation; the Flathead Land Trust; The Nature Conservancy; and, two citizen members.

In cooperation with GNESA, BNSF has implemented an operating protocol that includes several railroad operations and maintenance procedures intended to minimize train/bear incidents and ensure a rapid response and removal of attractants from the railroad right of

way. BNSF has implemented and continues to operate according to the GNESEA protocol because the company is interested and motivated to operate the railroad in a manner that promotes good stewardship and conservation of grizzly bears in the Middle Fork Flathead River corridor. BNSF also expects to implement the HCP in close cooperation with GNESEA.

PROCESS INFORMATION AND SCHEDULE

The process for developing an HCP is described in the Endangered Species Habitat Conservation Planning Handbook that was prepared by USFWS. The program is described on the USFWS website at <http://endangered.fws.gov/hcp/index.html>. A copy of the HCP handbook is available on the internet at <http://endangered.fws.gov/hcp/index.html>.

USFWS will publish a Notice of Intent (NOI) to prepare an EA regarding the proposed issuance of an Incidental Take Permit to BNSF on or about February 6, 2004. Publication of the NOI will initiate the public scoping period, which will extend 45 days from the effective date of the Federal Register notice. BNSF expects to complete a draft HCP and draft EA by fall, 2004, at which time BNSF and USFWS will distribute the documents for public review and schedule public meetings to receive comment on the draft HCP and EA. BNSF expects to submit completed documents to USFWS early in 2005. Thereafter, USFWS will make a decision whether to approve the application for an Incidental Take Permit.

AD HOC TECHNICAL COMMITTEE

BNSF has formed an ad hoc Technical Committee to assist with several aspects of the HCP and EA, including the compilation and analysis of information; evaluation of factors that contribute to the risk of human caused grizzly bear mortality; and, the evaluation of all reasonable strategies to reduce grizzly bear mortality risk factors. The ad hoc Technical Committee will also provide advice regarding the coordination of the HCP with other management activities in the Middle Fork Flathead River corridor and facilitate communication with the public.

The ad hoc Technical Committee is comprised of representatives from Montana Fish, Wildlife and Parks, Glacier National Park, the Northern Region U.S. Forest Service and the Blackfeet Indian Nation. As used in the HCP process, the ad hoc Technical Committee is advisory to BNSF, not advisory to USFWS. It is also important to note that agency participation in the ad hoc Technical Committee does not imply agency endorsement of the completed HCP and EA.

SCOPING ISSUES

BNSF and USFWS invite public comment for the purpose of identifying issues that are pertinent to the HCP and EA. Responses to the following would be especially helpful:

7. Please share perspectives regarding the overall scope of the project.

8. Please share perspectives regarding railroad operation and maintenance activities that may affect grizzly bears in the Middle Fork Flathead River corridor.
9. Please offer suggestions to reduce the effects of railroad operation and maintenance on grizzly bears.
10. Please share perspectives regarding other activities in the Middle Fork Flathead River corridor that may contribute to human-caused mortality of grizzly bears.
11. Please offer suggestions to reduce the risk of human-caused mortality of grizzly bears.
12. Please share specific information sources that you think would strengthen the analysis.

CONTACT INFORMATION

Scoping comments are due 45 days after the NOI is published in the Federal Register. Comments may be submitted prior to and during the public scoping meetings or may be mailed to:

Tim Bodurtha
U.S. Fish and Wildlife Service
Ecological Services Field Office
780 Creston Hatchery Road
Kalispell, Montana 59901

FAX comments may be sent to (406) 758-6877

Comments may be submitted via e-mail to: FW6_BNSF_ScopingHCP@fws.gov

Project information is available from Tim Bodurtha, U.S. Fish and Wildlife Service, Ecological Services Field Office, 780 Creston Hatchery Road, Kalispell, Montana 59901, (406) 758-6882, facsimile (406) 758-6877; or, Michael Perrodin, BNSF Environmental Operations Manager, 235 Main, Havre, Montana, 59501, (406) 265-0483, facsimile (406) 265-0356. Project information is also available on the internet at: <http://montanafieldoffice@fws.gov>