



**Memorandum of Agreement
between
Montana Fish, Wildlife & Parks
and
U.S. Fish & Wildlife Service
regarding**



Grizzly Bear Management in Relation to Montana Senate Bill 337

Senate Bill 337, Section 1. (3)(b) The department may respond to a grizzly bear listed under the federal Endangered Species Act (ESA), 25 16 U.S.C. 1531, et seq., that is causing conflict outside of a federal recovery zone. If the bear is to be relocated, the department may not relocate the bear.

Purpose. The purpose of this Memorandum of Agreement (MOA) is to document the agency response process for Montana Fish, Wildlife & Parks (MTFWP), the U.S. Fish & Wildlife Service (FWS) and Wildlife Services (WS), including agency roles and coordination, for grizzly bears causing conflict outside of a federal recovery zone in light of Senate Bill 337 which will become effective date on March 1, 2022.

For purposes of this MOA, grizzly bear conflicts are defined as: incidents in which bears either do or attempt to: injure or kill people; damage property; kill or injure lawfully present livestock or poultry; damage beehives; obtain reasonably secured anthropogenic foods and other attractants; or damage agricultural crops.

This MOA relies on the collaborative relationship that already exists between MTFWP, FWS and WS. All efforts to manage grizzly bear conflicts will be conducted in collaboration with the FWS Grizzly Bear Recovery Program (GBRP) Coordinator and will be consistent with the conditions of the agency's 4(d) authorization letter (under 50 CFR § 1740) to MTFWP.

MTFWP and FWS agree that when managing grizzly bears in conflict:

- 1) For grizzly bears causing conflicts inside a federal recovery zone:
 - a) MTFWP and WS will handle all aspects of the response, including trapping, processing, and carrying out the agreed upon management action, including removal and relocation to Montana Fish and Wildlife Commission-approved release sites. WS will respond to livestock conflicts according to the Memorandum of Understanding between MTFWP and WS.
- 2) For grizzly bears causing conflicts outside a federal recovery zone:
 - a) MTFWP and/or WS (livestock) will respond to conflicts. MTFWP and WS will recommend management approach to FWS. If FWS approves trapping, MTFWP or WS will set traps. Traps will not be set until and unless approved by FWS.
 - b) When a bear is trapped, MTFWP and/or WS (livestock) will process (tranquilize, mark, collar, collect biological data) bear. Processing the bear is needed to confirm sex, conflict history, and whether bear is the target bear. This information will inform a management decision.
 - c) If the bear is determined to be in conflict:
 - i) If, after consultation with USFWS, a decision is made to remove the bear, MTFWP or WS will carry out the removal.

- ii) If, after consultation with FWS, a decision is made to relocate the bear, MTFWP or WS will place bear in trap for transport and hold the bear in a secure location as close to the capture site as possible. FWS will take possession of the bear within 6 hours and will relocate, unless otherwise explicitly agreed upon by agencies (bears are often held overnight to allow full recovery prior to relocating). MTFWP and WS agrees to ensure health and safety of bear until USFWS can take possession, including moving bear to protected area if/when needed due to exposure. FWS will notify MTFWP of the location where they relocated a bear within 12 hours of release.
- d) If the bear is determined to NOT be in conflict (incidental catch), MTFWP will maintain possession of bear and will relocate bear to an agreed upon Fish and Wildlife Commission-approved site or release on site.

Potential Scenarios

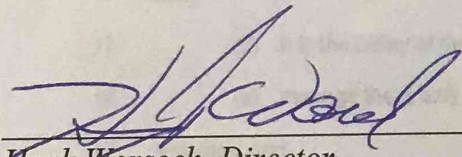
-conducted in collaboration with the FWS GBRP Coordinator and consistent with the conditions of the agency's 4(d) authorization letter (under 50 CFR § 1740) to MTFWP.

- 1) Livestock depredation near Augusta (outside recovery zone)
WS responds and sets traps. Grizzly bear is trapped. WS and/or MTFWP processes bear.
 - a. If there is no information to confirm this bear is the target bear (or if it is known that this is not the target bear) and decision is made to relocate bear, MTFWP will relocate bear.
 - b. If bear is target bear and decision is made to remove bear, MTFWP or WS will remove bear.
 - c. If bear is target bear and decision is made to relocate bear, FWS will relocate bear.
- 2) Chicken conflict near Whitefish (outside recovery zone).
MTFWP responds and sets traps. Grizzly bear is trapped. MTFWP processes bear.
 - a. If bear is non-target bear and decision is made to relocate bear, MTFWP will relocate bear.
 - b. If bear is target bear and decision is made to remove bear due to conflict history, MTFWP will remove bear.
 - c. If bear is target bear and decision is made to relocate bear, FWS will relocate bear.
- 3) Site conflict outside Condon (inside recovery zone).
MTFWP responds and sets traps. Grizzly bear is trapped. MTFWP processes bear.
 - a. If bear is non-target bear and decision is made to relocate bear, MTFWP will relocate bear.
 - b. If bear is target bear and decision is made to remove bear due to conflict history, MTFWP will remove bear.
 - c. If bear is target bear and decision is made to relocate bear, MTFWP will relocate bear.

- 4) Dead cow being fed on by grizzly bears is reported (outside recovery zone).
Upon investigation, four bears are identified. It is unknown, which, if any, were involved in a depredation. Feeding on dead livestock is not a conflict, however WS sets traps because of recent depredations in the area.
- a. If bear(s) are captured and there is no information to determine whether these bears were involved in previous depredations, MTFWP may relocate.
 - b. If bear(s) are captured and there is information to suggest the bears were not involved in a depredation, MTFWP may relocate.
 - c. If bear(s) are captured and there is information to suggest the bears were involved in killing this cow or in recent depredations in the area, and the decision is made to relocate bear, FWS will relocate.

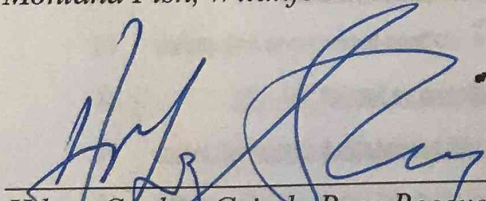
Effective Dates: This MOA is effective upon signature by both parties through October 31, 2023 and may be renewed annually.

Signatures



Hank Worsch, Director
Montana Fish, Wildlife and Parks

12/3/21
Date



Hilary Cooley, Grizzly Bear Recovery Coordinator
U.S. Fish and Wildlife Service

12/13/21
Date

SENATE BILL NO. 337
INTRODUCED BY M. LANG

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO RELOCATION OF GRIZZLY BEARS; REVISING RULEMAKING AUTHORITY; AMENDING SECTION 87-5-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-5-301, MCA, is amended to read:

"87-5-301. Grizzly bear -- findings -- policy. (1) The legislature finds that:

(a) grizzly bears are a recovered population and thrive under responsive cooperative management;

(b) grizzly bear conservation is best served under state management and the local, state, tribal, and federal partnerships that fostered recovery; and

(c) successful conflict management is key to maintaining public support for conservation of the grizzly bear.

(2) It is the policy of the state to:

(a) manage the grizzly bear as a species in need of management to avoid conflicts with humans and livestock; and

(b) subject to the provisions of subsection (3), use proactive management to control grizzly bear distribution and prevent conflicts, including trapping and lethal measures.

(3) (a) Except as provided in subsection (3)(b), the department may not relocate a grizzly bear listed under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., except to a release site previously approved by the commission for relocation of grizzly bears.

(b) The department may respond to a grizzly bear listed under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., that is causing conflict outside of a federal recovery zone. If the bear is to be relocated, the department may not relocate the bear."