

[Insert Date Due/Submitted to Department]

INFORMATION MEMORANDUM FOR THE DIRECTOR

FROM: Gary Frazer, Assistant Director, Ecological Services

CC: Mike Thabault, Assistant Regional Director, Ecological Services

SUBJECT: Proposed Delisting Rule for the Greater Yellowstone Ecosystem (GYE) Grizzly Bear DPS

I. INTRODUCTION

The U.S. Fish and Wildlife Service is recommending a proposed rule to establish the Greater Yellowstone Ecosystem grizzly bear (*Ursus arctos horribilis*) as a Distinct Population Segment (DPS) and remove (delist) the Greater Yellowstone Ecosystem (GYE) population of grizzly bears from the Federal List of Endangered and Threatened Wildlife, under the Endangered Species Act.

II. BACKGROUND

- On July 28, 1975, the grizzly bear was designated as threatened in the conterminous (lower 48) United States. We developed a grizzly bear recovery plan in 1982 and updated the plan as necessary; last updated in 2007.
- On November 17, 2005, we proposed to designate the GYE population of grizzly bears as a DPS and to remove this DPS from the Federal List of Endangered and Threatened Wildlife. On March 29, 2007, we finalized this proposed action and removed grizzly bears in the GYE from the List. This final determination was overturned by the District Court of Montana on September 21, 2009.
- In compliance with this order, the GYE grizzly bear population was once again made a threatened population under the Act in 2010. On November 15, 2011, the 9th Circuit Court of Appeals issued an opinion affirming in part and reversing in part the district court's decision vacating the final rule delisting grizzly bears in the GYE. In compliance with this order, the GYE population of grizzly bears remained federally listed as "threatened" under the Act.
- The best available scientific and commercial data indicate that the GYE population of grizzly bears, which qualifies as a DPS, has recovered. The best scientific and commercial data available, including our reevaluation of information related to the population's trend and structure, indicate that threats have been reduced such that removal of this population from the Federal List of Endangered and Threatened Wildlife is appropriate.

- Based on a thorough review of all available information, the Service has determined: the GYE grizzly bear population has increased in size and more than ~~doubled~~^{tripled}^[CS1] its occupied range since being listed in 1975; threats to the population are sufficiently minimized; a post-delisting monitoring and management framework has been developed and will be incorporated into regulatory documents; and post-delisting monitoring plans adequately ensure population stability by prescribing management responses based on objective and reliable data.
- To ensure consistency in management approaches regardless of listed status, concurrent with publication of this proposed rule, we are releasing a draft supplement to the 1993 Recovery Plan's demographic recovery criteria for this population of grizzly bears and a draft of the 2016 Conservation Strategy for public comment.
- We are also seeking public review and comment on two supporting documents to this proposal: the Draft 2016 Conservation Strategy for the Grizzly Bear in the Greater Yellowstone Ecosystem and a Supplement to the Grizzly Bear Recovery Plan with Revised Demographic Criteria for the Greater Yellowstone Ecosystem.
- ^[CS2]The proposed action, if finalized, would only apply to the GYE DPS and would not change the threatened status of the remaining grizzly bears in the lower 48 States.

III. POSITION of INTERESTED PARTIES

The information contained in this memorandum is for informational and outreach purposes only and has not been used as the basis for any potential Agency decision.

Federal Agencies:

Briefly list and describe parties with particular interest on the issue and any public positions they have taken. Briefly describe the coordination that has occurred thus far, with whom, which agencies, and what, if any, outstanding issues remain. What level of interest do you anticipate (local, regional, National)? Include responses to each of the categories listed below. If there are others, please add as necessary.

Federal agencies have generally expressed support for delisting the GYE grizzly bear population as long as adequate regulatory demographic management mechanisms are in place in state statutes to adequately protect grizzly bears once the protections of the Act are removed.

Federal Agencies involved include: National Park Service - Yellowstone and Grand Teton National Parks, Forest Service – Custer-Gallatin NF, Beaverhead-Deerlodge NF, Caribou-Targhee NF, Bridger-Teton NF, and Shoshone NF, and the Bureau of Land Management.

State and Local Agencies:

State agencies are in support of delisting the GYE grizzly bear population; however, in order for us to move forward with delisting, we need the States to include necessary demographic

~~management details conservation measures~~ in their statutes, laws, and regulations in order to provide enough assurance that grizzly bears will receive adequate protection post-delisting. To date the states have not implemented these necessary statutes, laws, and regulations. State agencies involved include: Wyoming Game and Fish Department (WGFD); Montana Department of Fish, Wildlife, and Parks (MTFWP); and Idaho Department of Fish and Game (IDFG).

Park County, WY, Board of Commissioners sent a resolution encouraging the Service to move forward with a delisting rule for the GYE grizzly bear.

Government to Government (Tribal):

Almost all Tribes contacted have expressed strong opposition to delisting based on their opposition to trophy grizzly bear hunting that the states are expected to implement once delisting is in place. Beginning in April 2014, the Grizzly Bear Recovery Program sent consultation invitation letters to the four Tribes having treaty interests in the proposed GYE grizzly bear delisting area: Northern Arapaho, Eastern Shoshone, Northwestern Band of the Shoshone Nation, and Shoshone-Bannock Tribes. Over the next year the Service was made aware of many more Tribes having an interest in the GYE grizzly bear and expanded our efforts in explaining the status of the bear and offering government-to-government consultation to Tribes. On February 17, 2015, the Service sent letters offering government-to-government consultation to 26 Tribes. On June 15, 2015, the Service sent out a second round of letters to 48 tribes, offering another opportunity for consultation, followed by personal phone calls or emails from Service leadership to the 48 tribes, personally inviting them to engage in government-to-government consultation. On August 13, 2015, the Service met with the Rocky Mountain Tribal Leaders Council in Billings, Montana and invited tribal representatives to engage in consultation concerning the bear. On October 29, 2015, the Service sent letters to 53 tribes, which included all tribes, Tribal Councils, and First Nations in Canada that have contacted the Service regarding the GYE grizzly bear population. The letters invited Federal Tribes to engage in government-to-government consultation, and invited all tribes to participate in a Tribal webinar and conference call. To date, the Service has conducted five government-to-government Tribal consultations; ~~with additional consultations being scheduled.~~

Other Entities:

We received a letter in support of a proposed delisting of the GYE grizzly bear from the Wildlife and Hunting Heritage Conservation Council. They also offered to have a workgroup from the council meet with the Service to discuss grizzly delisting and conservation.

Several environmental groups, including Center for Biological Diversity, Wild Earth Guardians, Earthjustice, and Sierra Club ~~Greater Yellowstone Coalition~~, have been outspoken in their opposition to delisting.

IV. POTENTIAL ISSUES

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Earthjustice has previously given a NOI to sue over the conflicts resulting from livestock grazing allotments in the Upper Green River area of northwest Wyoming.

We were litigated on the 2007 delisting of the GYE grizzly bear by the Greater Yellowstone Coalition, and we will likely be challenged again by other litigants if we finalize this proposed delisting.

There were several public commenters at the Yellowstone Ecosystem Subcommittee meeting (November 3–4, 2015) that stated their intent to challenge a proposed delisting on the basis of the Western Great Lakes wolf DPS ruling that is currently being appealed.

V. COMMUNICATIONS AND OUTREACH

Outreach Lead: Region [X]

Media POC: Press release to be issued by Region [X]: Contact [Name] (xxx-xxx-xxxx) *[for Media POC, either the above line, or the info below]*
FWS Washington Office External Affairs has lead and is coordinating w/DOI OCO, DOI OCL and DOI OEA: Contact [Name] (xxx-xxx-xxxx)

Congressional: Region [X] will provide press release (and other materials) to Congressional District Offices. FWS CLA, in coordination with DOI OCL, will distribute press release (and other materials) to Members Offices on Hill.

State Contacts: Regional Director will contact *[fill in Governor's offices, COS, or appropriate offices in your matrix]*. Regional Director will call [Chief, Director, etc.] of [State Agency: Fish and Game or DNR]

Other outreach: Press release will be sent to [FS, NPS, partner groups, local government communities, etc. *(in future, social media venues might be utilized)*]