

I have gone over this "final draft" negotiated with the states. Here are the major problems in this latest version and proposed solutions to these problems that will allow us to move forward with a proposed rule:

- **Problem 1:** In Tables 2 and 4 in this document, the mortality rate for independent females and dependent young when the population is below 764 is stated as less than or equal to ($\leq$) 7.6%. A continually applied mortality rate of 7.6% to populations below 674 will result continued population decline down to 600. This issue has been repeatedly pointed out in past drafts. This mortality rate is **not** what was in Dan Ashe's letter of 9/25/15, which states: "*for populations between 600-673, the mortality limits for adult (independent) females will be **less than 7.6%***", nor was this in the revised criterion 3, Table 2 that was developed at the WAFWA meeting. A mortality rate of less than or equal to 7.6% mortality for females below 674 will allow managed population decline post-delisting inside the DMA down to 600, which is 117 bears less than in 2015 (a 16% decline). That level of mortality is in addition to the unlimited mortalities that will occur outside the DMA since there are grizzly bears outside the DMA and their mortalities are unlimited under this management approach. The end result of this is no regulatory mechanisms until the population declines to 600, a 16% decline beyond current numbers.
- **Solution:** This is in violation of the agreement in Dan Ashe's letter of 9/15/15 and of what came out of the WAFWA meeting and should be fixed in the Draft Strategy sent out with the proposed rule.
- **Problem 2:** p. 16 - The biological fact that the grizzly bear is a conservation-reliant species (Scott et al. 2005, 2011)(note that Michael Bean is a coauthor on the 2005 paper) as stated in the scientific literature has been removed from this document. The fact that the grizzly is such a species is woven throughout the proposed rule and is fundamental to the threats analysis for Factors B and D. It is widely recognized in the scientific literature that conservation-reliant species require continuous careful management post-delisting. Recognition of this biological fact in the Conservation Strategy is cited in the proposed rule as evidence that the managing agency signatories are committed to maintain adequate regulatory mechanisms in the future. Removing this reference invalidates these aspects of the threats analysis conclusion in the proposed rule.
- **Solution:** Leave the references to the fact that the grizzly is a conservation-reliant species in the proposed rule and thereby maintain the validity of the threats analysis conclusion. Address this issue in the Strategy with comments received during the comment period.

- **Problem 3:** p. 44 - The critically important statements on regulatory mechanisms in Table 4 item #6 stating: *"Hunting seasons will be closed within 24 hours of meeting mortality limits and any mortality exceeding mortality limits in any year will be subtracted from that age/sex class mortality limit for the following year"* have been deleted. These specific regulatory mechanisms have been replaced by a reference to a state MOU document (yet to be finalized) that can be modified at any time by the states. These statements in item #6 are specific regulatory mechanisms to manage discretionary mortality. These specific regulatory mechanisms in Table 4, item #6 are the foundation of the threats analysis for Factors B and D related to discretionary mortality management in the proposed rule. The proposed rule refers to these statements in Table 4 as evidence for our conclusion that discretionary mortality management will be adequately regulated and therefore not a threat to the Yellowstone grizzly population. Without these specific regulatory mechanism statements in Table 4, item #6 in the post-delisting management plan (the Conservation Strategy), the threats analysis conclusion in the proposed rule is invalid and we cannot demonstrate the existence of adequate regulatory mechanisms.
- **Solution:** Leave the references to the application of these specific regulatory mechanisms in the proposed rule and thereby do not invalidate the threats analysis conclusion in the proposed rule that refers to these regulatory mechanisms. Address this issue in the Strategy with comments received during the comment period.
- **Problem 4:** P. 44 – In Table 4, items #11-13 have been removed. These are the actual numbers of bears in each sex/age class that are the mortality limits under the adjustable mortality rates. These numbers cannot be calculated by someone looking at the mortality percentages because they are applied to the numbers of bears in each age/sex class in the population. The numbers of animals in each age/sex class change as the population size changes. In order to manage as per the mortality limits, the actual number of animals that can be taken need to be displayed. Removal of these numbers invalidates the management system proposed in the Strategy. These mortality limit numbers are the most important information in the document. The public and the other agencies will want to know what these numbers are, and displaying them in the post-delisting management plan is important to transparency and accountability.
- **Solution:** Leave the references to the specific numbers of bears than can be removed under the sliding mortality scale in the proposed rule and thereby do not invalidate the threats analysis conclusion in the proposed rule that depends on these mortality limits. Address this issue in the Strategy with comments received during the comment period.

- **Problem 5:** p. 102 - The status review triggers when a part of demographic criterion 1 (less than 48 females with cubs seen for 3 consecutive years) and all of criterion 3 (exceeding of the total mortality limit for independent females as per Tables 1 and 2 for 3 consecutive years and the population estimate is less than 600) have been removed. These status review triggers are to occur if the Recovery Plan demographic criteria are exceeded. This is the appropriate regulatory response by the Service since the demographic recovery criteria establish what is necessary to maintain a recovered population. If these criteria are exceeded, there is a threat to the recovered population that must be addressed with a status review. These specific status review triggers are the foundation of the threats analysis conclusion in the proposed rule for Factor B - Overutilization for Commercial, Recreational, Scientific, or Educational Purposes.
- **Solution:** Leave the status review triggers specific to departures from the demographic criteria in the proposed rule and thereby do not invalidate the threats analysis conclusion in the proposed rule that depends on these status review triggers. Address this issue in the Strategy with comments received during the comment period.

Literature Cited

- Scott, J. M., Goble, D. D., Wiens, J. A., Wilcove, D. S., Bean, M. and Male, T. 2005. Recovery of imperiled species under the Endangered Species Act: the need for a new approach. *Frontiers in Ecology and the Environment*, 3: 383–389.
- Scott, J. M., Goble, D. D., Haines, A. M., Wiens, J. A. and Neel, M. C. 2010. Conservation-reliant species and the future of conservation. *Conservation Letters*, 3: 91–97.