

ESA Listing Actions Affecting Wyoming – July 22, 2014
Updated 9/30/14, 10/13/14, 3/31/15, 7/11/15, 9/25/15, 4/28/16, 5/20/16
9/19/2016 Update

CURRENTLY LISTED SPECIES IN WYOMING

AMPHIBIANS

- [Wyoming toad](#) – (WY FWS office species lead: Doug Keinath) – Listed as Endangered on January 17, 1984. Final [recovery plan](#) dated July 16, 2015.

BIRDS

- [Yellow-billed Cuckoo](#) (FWS lead: California; WY office lead: Trish Sweanor) – Listed as Threatened on November 3, 2014, final rule published October 4, 2014. Critical habitat proposed rule published August 15, 2014.
 - Proposed listing determination as threatened for the western DPS published on October 3, 2013.
 - Reopening of the comment period on the proposed determination on April 10. Comments due by April 25, 2014.
 - Proposed critical habitat rule became available August 15, 2014. Public comments accepted through October 14, 2014.
 - This rule was reopened for public comment November 12, 2014 for an additional 60 days, closing January 12, 2015.
 - Species petitioned for listing due to degradation and fragmentation of riparian habitats. The Department provided comments to the Service on 11/22/2013 (WER 9668.00). This species is an uncommon summer resident of WY with 65 individuals recorded in WOS over a 52-year period. Since being established in 1989, the Wyoming Bird Record Committee has confirmed five sightings of this species within that part of Wyoming in the western DPS. This species is not known to breed consistently in Wyoming and fewer than 5 breeding pairs are thought to occur here. Survey efforts, including, Breeding Bird Survey, Integrated Monitoring in Bird Conservation Regions, and a species-specific YBCU call playback survey in the Green River basin in 2006 have not resulted in any confirmed nesting within that portion of WY the Service considers to be part of the Western DPS (i.e. west of the Continental Divide). We recommended that no critical habitat be designated or any land use restrictions be put in place for this species in WY. We also recommended that tamarisk control not be impeded due to any listing action.
 - Revised critical habitat rule expected in 2016.
 - Federal Register Notice for Critical Habitat on 8/15/14.
 - 16,777 acres in WY centered on the Green River and Seedskadee NWR and the Henry's Fork of the Green River in WY and UT.

- October 4, 2014 the Service listed the western Distinct Population Segment of the Yellow-billed Cuckoo (*Coccyzus americanus*), as Threatened under the Endangered Species Act.
- Nongame Bird Biologist Andrea Orabona was trained to survey for Yellow-billed Cuckoo using the Service's protocol and plans to perform Wyoming surveys and train other biologists to conduct surveys in conjunction with other national efforts to monitor this species.
- **Final Critical Habitat Determination expected completion date FY17.**
- [Rufa Red Knot](#) (FWS lead: New Jersey; WY FWS lead: Nathan Darnall) – Listed as Threatened on January 12, 2015. No recovery information is available. Wyoming is not shown as part of the species range.
 - Proposed listing as threatened published in the Federal Register September 30, 2013.
 - Reopening of comment period on May 14, 2014, comment period closes June 15, 2014.
 - No critical habitat proposed at this time.
 - Final listing determination expected by September 30, 2014.
 - Service requested and was granted a 2-month extension so final decision expected by November 28, 2014.
 - Considered a rare migrant in Wyoming; suitable habitat extremely limited.
 - Consultation not required.
 - WGFD commented on the proposal to list this species on 10/24/2013 (WER 5792.01). This species is considered an accidental/vagrant in WY with only 10 observations in WOS and none since 2008. While we agreed that these data make showing WY within the range of this species technically correct, we pointed out that our contribution to the conservation of this species is ecologically insignificant. Consequently, we opposed designation of critical habitat and any land use restrictions based on this species in WY. We reiterated our comments on July 13, 2014. The fate of this species depends on what is done to halt the decline in horseshoe crabs along the east coast and particularly in Delaware Bay.
 - December 11, 2014, 12-month finding, species listed as Threatened, published in Federal Register in January 12, 2015.

CRUSTACEANS – None

FISH

- [Kendall Warm Springs Dace](#) (WY FWS office species lead: Doug Keinath) – Listed as Endangered on October 13, 1970. Final [recovery plan](#) signed October 14, 2015.

INSECTS – None

MAMMALS

- [Black-footed ferret](#) (WY FWS office species lead: Tyler Abbott) –
 - Listed as Endangered on March 11, 1967, all BFF in WY are Experimental Nonessential. Current [recovery plan](#) dated November 20, 2013.
 - Block Clearance – the USFWS issued a Block Clearance for Wyoming March 6, 2013. The Block Clearance states that there are no natural ferret populations remaining in Wyoming that are not the result of intentional releases.
 - Statewide 10(j) – In 2014, the WGFD and USFWS attended multiple meetings with ferret stakeholders notifying them of the proposed 10(j) rule. In 2015, four public meetings were held (Cheyenne 1/26/15, Gillette 2/3/15, Cody 2/10/15, Green River 2/24/15). The formal 60-day public comment period opened April 10, 2015 and closed June 10, 2015. A final 10(j) rule was published in October 30, 2015.
 - Conversations between the WGFD, landowners on the Pitchfork and Lazy BV Ranches and their neighbors, government agencies and the Meeteetse Community to discuss the possibility of releasing ferrets on the two ranches in July, 2016 have begun. A ferret allocation request has been submitted to the USFWS. We will hear back on this request in June, 2016. The WGFD is proceeding with prerelease plague control efforts and refined mapping of the prairie dog colony where ferrets may be released. Public information meeting scheduled for May 18 in Meeteetse.
 - USFWS Published a 10(j) rule to reintroduce ferrets in Wyoming on October 30, 2015.
 - 35 ferrets released on July 26, 2016
 - APHIS Biological Services dusted 5,021 acres of prairie dog colony in Meeteetse for plague control in ferret management areas.
 - Wyoming black-footed ferret working group has been reinstated. The committee consists of all signatories of the 10(j) MOU as well as a representative from the Wyoming Conservation Districts, and Weed and Pest Districts.
- [Canada lynx](#) (FWS lead: Montana; WY FWS lead: Lisa Solberg-Schwab) – Listed as Threatened on March 24, 2000. Critical habitat designated September 12, 2014. Current draft recovery outline dated September 14, 2005. Final Recovery Plan expected January 15, 2018. Service may not complete a Recovery Plan if they determine a plan would not promote lynx conservation.
 - Currently developing a revised draft critical habitat rule to include Wyoming.
 - Proposed revised designation of critical habitat rule completion September 26, 2013.
 - FWS is requesting comments on the proposed determination due by December 26, 2013.
 - Final revised Critical habitat rule published in Federal Register September 12, 2014.
 - As a result of a court ruling, the FWS will initiate development of a Recovery Plan late 2014 with a final Recovery Plan by January 15, 2018. During this process, FWS may not complete a Recovery Plan if they determine a Plan would not promote conservation of lynx.

- Commented through the Governor's Office on 1/12/2014 (WER 9074.05). The Service proposed to expand critical lynx habitat onto BLM lands adjacent to USFS lands already designated critical. This Service action is the result of a lawsuit the Service lost basically saying stopping critical habitat at a political boundary, i.e. USFS line, was arbitrary. The WGFD continued to oppose any critical habitat designation and the proposed expansion in particular, until such a designation could be evaluated in light of a quantifiable recovery plan for this species which has yet to be developed, 12 years after listing.
- On July 7, 2014 the WGFD again commented during the Services 6-month extension still opposing designation of additional critical habitat. The Department also supported a BLM proposal significantly reducing the size of the expansion only if the Service denied our request to not designate any.
- No reproductive individuals have been detected in Wyoming since the late 1990s.
- On September 12, 2014, the Service revised Endangered Species Act (ESA) protections for the contiguous United States distinct population segment (DPS) of Canada lynx (*Lynx canadensis*). This rule consists of: (1) Replacement of the existing State-boundary-based definition of the range of the lynx DPS with a definition that extends the Act's protections to lynx "where found" in the contiguous United States, and (2) a final designation of revised critical habitat for the contiguous United States DPS of the Canada lynx. Critical habitat is a subset of "mapped" habitat that the Service determined is essential to conservation and recovery of the DPS. The remainder of mapped habitat may have some or all of the features lynx need, but not in adequate quantity and/or spatial arrangement to support lynx over time – therefore such areas are not essential to conservation and recovery of the lynx DPS. The Service designated an additional 38,954 square miles (100,891 square kilometers (km²)) of critical habitat in five units in the states of Idaho, Maine, Minnesota, Montana, Washington, and Wyoming. In Wyoming these lands are found off National Forest in Grand Teton National Park and on BLM, State, and private lands in Sublette and Lincoln Counties.
- On May 5, 2015, the WGFD, BLM, and WY State Forestry met with the USFWS and USFS to discuss Canada lynx and implementation of forest management practices. No action items were assigned. We discussed how to work around critical and matrix habitat. Matrix habitat may provide movement corridors between patches of critical habitat. The USFWS and USFS were also concerned about potential lynx habitat which may further limit our ability to conduct habitat projects, particularly aspen treatments, in NW WY.
- Nongame Mammal Biologist Nichole Bjornlie attended an expert elicitation meeting in Minneapolis October 13-15, 2015. The meeting was held to discuss lynx status in regards to ongoing 5 year species status assessment.
- Workshop report was made available on April 18, 2016
- Following the species status assessment, Nichole Bjornlie will represent the WGFD on the lynx recovery team to develop a lynx recovery plan.

- Upcoming tentative deadlines for lynx:
 - The draft Species Status Assessment will be developed by April 15, 2016 and out for public comment on April 29, 2016. All comments will be due by May 15, 2016, with the final SSA completed by May 30, 2016. **See update below.**
 - The draft 5-year review will be completed by May 5, 2016 and finalized by May 30, 2016.
 - Draft recovery plan (if necessary) is planned for January 2017 to allow time for public comment and revision before the deadline for the final plan in January 2018.
- **USFWS currently developing a species status assessment (SSA); ongoing monthly calls with wildlife agencies. Nichole Bjornlie is WGFD lead.**
- **Gray Wolf** (FWS lead: National Coordinator, Montana, **WY Office lead: Tyler Abbott**) – Listed as Endangered on March 9, 1978. Experimental Population, Non-essential in Wyoming.
 - 1994 – Service completes a Congressionally-mandated EIS on the reintroduction of gray wolves in the Northern Rocky Mountains (NRM).
 - Wolves reintroduced to Yellowstone National Park and central Idaho in 1995 and 1996
 - NRM population met recovery goal of >300 wolves and >30 breeding pairs for at least 3 successive years in 2002.
 - February 27, 2008, Services designates the NRM DPS (MT, ID, WY + parts of eastern WA, eastern OR and northern UT) and delists.
 - Later that year Federal Court in MT relists wolves in part because of a lack of documented genetic exchange.
 - April 2, 2009, Service again delists the NRM population except for WY where federal protections remain in place.
 - August 5, 2010, MT court again relists wolves because WY could not be left out of the NRM DPS.
 - April 2011 – Congressional action delists wolves in MT, ID and portions of WA, OR and UT and excludes the resulting final Service rule from judicial review. Does not delist in WY.
 - FWS and Wyoming reached an agreement in principle on August 3, 2011.
 - A draft law was published in the Federal Register on October 5, 2011, delisting wolves in Wyoming and giving management responsibility back to the State of Wyoming.
 - Developed and passed wolf management legislation in WY.
 - Beginning September 30th, 2012, wolves in Wyoming are managed by the state under an approved management plan.
 - As of September 23, 2014, Judge Jackson's ruling on *Defenders of Wildlife v Jewel* vacated and set aside the final rule delisting wolves in Wyoming, and again reinstated the 2009 rule designating the gray wolf in Wyoming as a threatened DPS.
 - **ORDERED** that plaintiffs' motion for summary judgment is granted in part of denied in part; that the Final Rule: Removal of the Gray Wolf in Wyoming from

the Federal List of Endangered and Threatened Wildlife, 77 Fed. Reg. 55,530 (Sept. 10, 2012), is vacated and set aside; and that the administrative rule Endangered and Threatened Wildlife and Plants; Final Rule to Identify the Northern Rocky Mountain Population of Gray Wolf as a Distinct Population Segment and to Revise the List of Endangered and Threatened Wildlife, 74 Reg. 15,123 (Apr. 2, 2009), is reinstated to govern management of gray wolves in Wyoming pursuant to the ESA.

- From the Opinion:
 - The Court will...remand the matter back to the agency because it finds that the Service could not reasonably rely on unenforceable representations when it deemed Wyoming's regulatory mechanisms to be adequate. Given the level of genetic exchange reflected in the record, the Court will not disturb the finding that the species has recovered, and it will not overturn the agency's determination that the species is not endangered or threatened within a significant portion of its range. But the Court concludes that it was arbitrary and capricious for the Service to rely on the state's nonbinding promises to maintain a particular number of wolves when the availability of that specific numerical buffer was such a critical aspect of the delisting decision.
- Service appealed ruling. Filed briefing January 2016.
- State of Wyoming filed briefing on April 22, 2016.
- We have managed wolves as a game animal through 2 hunting seasons since delisting in the Trophy Game Management Area and the Seasonal Trophy Game Management Area and as predatory animals within the rest of WY. We are still above recovery criteria in the Trophy Game Zone in WY. Our hunting seasons have resulted in harvest at expected levels and population responses at expected levels as well.
- The Department continues to be responsible for damage compensation for livestock depredation that occurs within the Trophy Game Area. However, the Fish and Wildlife Service is the entity responsible for managing conflict resolution at this time. The Department has an extensive Information and Education program dealing with wolf ecology and management throughout the state.
- While under our jurisdiction, the Department monitored wolves through a variety of techniques to ensure we were accurately tracking population trajectory annually. These data are used to develop mortality quotas and to ensure we maintain recovery criteria through the post-delisting period.
- The Department continues to evaluate relationships between wolves and ungulate populations in northwestern Wyoming, as well as interactions and competition among other carnivores.

- On January 27, 2015 the Humane Society of the United States and 22 others petitioned the Service to list the gray wolf, excluding the Mexican wolf, as threatened throughout the conterminous United States.
- On June 22, 2015 the Service issued a 90-day finding, the basics of which said:
 - Conterminous U.S. is not a DPS and therefore not a listable entity
 - Due to the interest and controversy surrounding this species they also evaluated the 5 listing factors and found that the species is unlikely to become endangered in the foreseeable future (Threatened species), and
 - “The petitioner’s information with respect to unoccupied suitable habitat is based on a misinterpretation of the Act. Moreover, despite making allegations with respect to disease, and small population size, the petitioners provided no information to support their claim. Inadequate existing regulatory mechanisms are not an independent source of threat, but relate to amelioration of threats under the other factors. Therefore, the petition only provides information with respect to possible overutilization from recreational hunting and trapping, and the information is not substantial. Thus the petition provides no information to combine with the information regarding possible overutilization from recreational hunting and trapping. In any case, even if the petition had presented information with respect to other sources of mortality, the existing state plans regulating take of wolves only allow take above certain population thresholds, such that if the other causes of mortality increased above certain levels, hunting and trapping would be reduced to prevent the population from dipping below those thresholds. So those plans have a built-in response to possible concerns relating to cumulative impacts. Accordingly, we are not initiating a status review in response to this petition.”
- Mike Jimenez retires May 2016; currently Tyler Abbott is serving as the interim wolf recovery coordinator in Wyoming. The Department is responsible for damage compensation in the Wolf Trophy Game Management Area. The US Fish and Wildlife Service and USDA Wildlife Services are responsible for management actions regarding wolf damage in Wyoming.
- [Grizzly Bear](#) (FWS lead: National Coordinator, WY FWS lead: Lisa Solberg-Schwab) – Listed as Threatened on July 28, 1975.
 - Decision rendered in this case on November 22, 2011.
 - 9th circuit court upheld the district court on whitebark pine stating that FWS did not clearly describe how we decided that declines in whitebark pine would not be serious for grizzly bears.
 - Proposed USFWS delisting rule open for public comment period on March 3, 2016.
 - Chris Servheen retires April 2016.

- Public meetings and hearings held April 11-12 in Cody, WY and Bozeman, MT on the proposed delisting rule and supporting documents (Conservation Strategy and Recovery Plan Supplement).
 - FWS requesting public comments on the proposed rule by May 10, 2016
 - WGFD updating DRAFT Grizzly Bear Management Plan. Public meetings held throughout the state between March 30 and April 7, 2016 (8 total). Comment period now closed. 448 individuals or organizations commented. Synthesized comments and potential edits to the DRAFT Grizzly Bear Management Plan will be considered by the WGF Commission May 11, 2016 in Casper. **Commission unanimously approves Grizzly Bear Management Plan**
 - **WGFD develops Grizzly Bear Management Regulations (Chapter 67 – Grizzly Bear Management) that provide regulatory mechanisms regarding grizzly bear management by the Department if the population is delisted.**
 - **FWS reopens public comment period Sept 6, 2016 for 30 days.**
 - **Decision and published rule expected soon in 2016.**
- [Northern Long-eared Bat](#) (FWS lead: Region 3; WY FWS lead: Julie Reeves) – Listed as Threatened on April 2, 2015 with associated 4(d) rule.
 - Petition received January, 2010.
 - For northern long-eared bat (NLEB) and eastern small-footed bat, substantial 90-day finding published June 29, 2011.
 - Proceeded with one 12-month finding for both species.
 - Proposed listing determination completed October, 2013, proposed endangered for NLEB and not warranted for listing for ESF. Critical habitat not proposed at this time.
 - 6-month extension for additional public comment period.
 - Proposed Special 4(d) rule in Federal Register on January 16, 2015 with 60-day comment period.
 - Comment period on 4(d) rule closed March 17, 2015.
 - Listed as Threatened on April 2, 2015 with an associated 4(d) rule
 - This species was petitioned for listing due to apparent large scale die-offs in that part of eastern North American infected by the white-nosed syndrome virus (WNS). WNS is not known in Wyoming. Until recently, WNS was only known as far west as eastern Nebraska. However, in March, 2016 a little brown myotis (bat) was found with WNS in Washington State.
 - The Department, through the Governor's Office, commented on the proposal to list as Endangered on 12/31/2013 (WER 12357). In Wyoming this species is only known from the Black Hills. In our comments we questioned the statistical rigor of the count data the Service used to draw conclusions they used to base their listing decision on as these data are only from a portion of the range of the species and not at all from the western end of the distribution, i.e., the area outside where

WNS is known. We agreed with the Service and opposed designation of critical habitat in WY since the ecological and physical requirements for this species are not well enough known to designate critical habitat.

- Developed a Strategic Bat Conservation Plan for WY and a Strategic Plan for WNS in WY both in 2011. Both plans are scheduled for updates in either 2016 or 2017.
- Conducted surveys of eastern Wyoming forest habitats, including those in the Black Hills, for bats and are currently conducting surveys of eastern Wyoming cliff and canyon habitats for bats.
- Surveying roosts and hibernacula looking for WNS in WY, including where this species is found – none to date.
- GIS modeling was recently completed that used existing datasets to examine WNS threat to bat roosts in Wyoming.
- In 2014, WYNDD collaborated with the Wyoming BLM to begin defining the distribution of NLEB in Wyoming using acoustic surveys in forested areas of Crook and Weston Counties.
- Final 4(d) rule published January 14, 2016.
 - Projects in Wyoming can proceed without additional limitations as long as white-nose syndrome is not found within 150 miles of the species' occurrence in the state because these activities are excluded from incidental take prohibitions in the 4(d) rule.
 - A programmatic biological opinion was published by the Service on January 5, 2016, which allows for tiered, streamlined consultation under section 7 of ESA for projects that may affect the NLEB.
- In February 2016, the USFWS determined that a single sighting, unconfirmed, of a NLEB in the Laramie Peak unit of the Douglas Ranger District, USFS was sufficient to place all lands within the Congressional Boundary of this forest unit (public and private lands) under an Area of Influence (AOI) designation.
 - For projects, need to inventory for species and make an Affect determination based on projected project activity
 - No take prohibitions – Section 7 consultations voluntary not mandatory but if a positive Affect determination Service recommends should consult.
 - WYNDD will be doing survey work in the area of the reported citing this summer. Will report results.
- On April 27, 2016 the USFWS determined that the designation of Critical Habitat is Not Prudent for NLEB. Reasons include increased threats of vandalism and disturbance that could increase the risk of transmission of WNS as well as the fact that roost availability is likely not limiting throughout the range of the species.
- Survey work conducted in the Laramie Range by WYNDD and WGFD during summer 2016 resulted in no NLEB being physically captured. Survey sites included several sites

at or near where this species had been reported by the USFS. Western long-eared bat were captured. Finding Western long-eared bat is expected since the Laramie Range is within the known range for this species. While the two species are similar, ear length on all caught specimens was greater than the longest for NLEB confirming species ID. As of this report, acoustic data has not yet been analyzed.

- Via letter dated August 30, 2016 - The Service clarified their intent on how to use the results of these survey efforts to update the boundaries for the AOI in the following manner:
 - ✓ If no acoustic or capture results...consider removing Laramie Range portion of the AOI.
 - ✓ If only one or two acoustic results...evaluate location of detections in relation to habitat and potential hibernacula and consider additional survey effort.
 - ✓ If one male only captured...evaluate location of detections in relation to habitat and potential hibernacula and consider additional survey effort.
 - ✓ If more than one male and/or female captured...have meeting with WGFD, WYNDD, and Forest Service to discuss the AOI and potential range map expansion.
 - ✓ If several males and/or females are captured...keep the AOI as is and propose a range map expansion.
 - ✓ One lactating female identified...confirm range expansion.
- [Preble's meadow jumping mouse](#) (FWS lead: Colorado; WY FWS office species lead: Lynn Gemlo) – Listed as Threatened on May 13, 1998. No Critical Habitat in Wyoming. Draft Plan completed 9/15/2015. Recovery plan open for a 60-day public comment period April 8, 2016. Public comments due to Service June 10, 2016.
 - WGFD submitted recovery plan comments to the Service (WER 7970) on June 6, 2016.
 - Completion date no later than April 2017.
 - Significant portion of the range (SPR) was contested, withdrew SPR guidance.
 - FWS asked Judge to remand and vacate 2008 rule, reverting back to 1998 regulation.
 - On August 6, 2011, Preble's meadow jumping mouse was listed in WY again; no critical habitat in WY and the 4(d) rules are intact.
 - FWS initiated a status review in response to two petitions.
 - 12-month finding (78 FR31680; May 24, 2013) determined delisting is not warranted.
 - Species will continue to be listed as threatened in CO and WY throughout its range.
 - Since about 2010, the Department and WYNDD have been surveying for Preble's in southeastern Wyoming trying to focus in on the true distribution of this subspecies versus that of the sympatric western jumping mouse. Though the ranges do overlap, and the species are sympatric in some locations, Preble's seems to be found generally at lower elevations and mostly on the eastern slopes

of the Laramie Mountains. No jumping mice have been found east of I-25. Survey work was completed in August 2014. Management of this species is complicated due to the sympatric distribution of this subspecies and the Western jumping mouse and because there is no morphometric way to tell the two species apart in the field. The only way is via genetics and only one USGS lab can do this work. Once the genetic data are returned the Department will consider the implications of our survey work and move forward with the Service as appropriate. Also trying to quantify impacts from recent wildfires on this species.

- The figure below is based solely on work completed by the Department and WEST. It does not include work completed by WYNDD personnel. However, communications with WYNDD staff indicate that their data will only solidify the projected range for Preble's shown on this figure. Work completed in summer 2014 also indicates that Preble's have recolonized areas of the Laramie Range burned by wildfire in 2012. The Department will be working with WYNDD to develop a synthesis of what we have learned about this species over the past several years and to refine the predicted distribution map.
- WGFD personnel Zack Walker and Nichole Bjornlie attended a meeting with the Service during January 2015 to discuss recovery planning for this species. During this meeting they reviewed the existing DRAFT recovery plan and updated it with current Wyoming data. They also developed a list of ACTION items (develop an updated distribution map showing all positive and negative survey findings on a HUC8 scale, determine if there are any easements within the range of Preble's that may contribute towards recovery) that will be used to help define recovery goals for Wyoming.
- The Draft Recovery Plan was completed and submitted to the USFWS for review on 6/4/2015. Draft plan was finalized 9/15/2015. Plan opened for a 60-day public comment period on April 8, 2016 with all comments due by June 10. See draft plan at: <https://www.federalregister.gov/articles/2016/04/11/2016-08241/endangered-and-threatened-wildlife-and-plants-draft-recovery-plan-for-prebles-meadow-jumping-mouse>
 - For delisting, the draft Plan requires Wyoming to maintain (for 20 years) one medium population (population of 500 to 2,499 adult individuals with no long-term significant negative trend in percent occupancy) and three small populations within all Wyoming HUCs (approximately 150 adults, though no minimum population size is required).
 - The Recovery Team is currently working on addressing all public and peer-review comments, with the final recovery plan due to be published in April 2017.

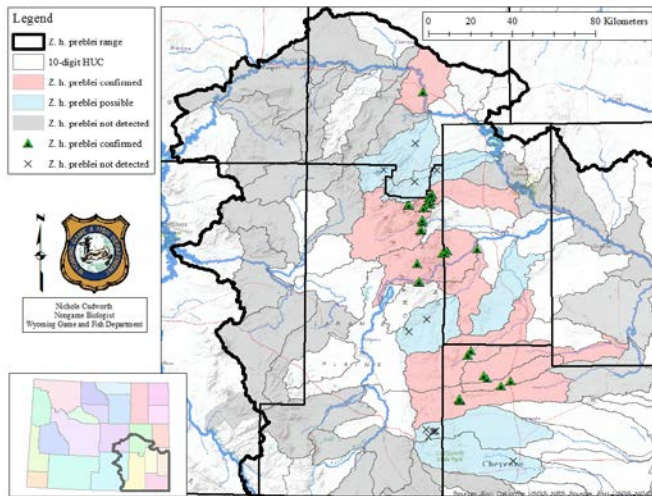


Figure taken from: Cudworth, N. 2015. Distribution and ecology of jumping mice (*Zapus spp.*) in Wyoming. Pages 5-20 in Wyoming Game and Fish Department Nongame Program Statewide Wildlife and Habitat Management Section Wildlife Division Annual Completion Report (A. C. Orabona and C. K. Rudd, editors). Wyoming Game and Fish Department, Lander.

MOLLUSKS – None

PLANTS

- [Blowout Penstemon](#) (WY FWS office lead: Julie Reeves) – Listed as Endangered on September 1, 1987. Final [recovery plan](#) dated July 17, 1992.
- [Ute Ladies' -tresses](#) (WY FWS office lead: Brad Rogers) – Listed as Threatened on January 17, 1992. Current draft [recovery plan](#) dated September 21, 1995.
- [Colorado Butterfly Plant](#) (WY FWS office lead: Julie Reeves) – Listed as Threatened on October 18, 2000. Current draft [recovery plan](#) dated May 25, 2010. Critical Habitat designated January 1, 2005.
- [Desert Yellowhead](#) (WY FWS office lead: Julie Reeves) – Listed as Threatened on March 14, 2002. Current draft [recovery plan](#) dated February 22, 2010.

ONGOING LISTING ACTIONS

AMPHIBIANS

[Boreal \(Western\) Toad](#) (FWS Lead: Colorado; WY FWS office lead: **Doug Keinath**)

- FWS received petition to list on May 25, 2011.
- Preliminary draft review due December 30, 2011.
- Substantial 90-day finding for the Eastern population published in Federal Register April 12, 2012. The Eastern population may qualify as a DPS, and that it may be threatened by chytrid fungus, isolation and small population size may make the species more vulnerable to habitat loss

or fragmentation, or other human or environmental factors (such as disease), random events, or genetic problems.

- Estimated completion FY 2017.
 - WGFD commented on USFWS 90-day finding on 5/29/2012 regarding the boreal toad Eastern Clade petition. Our response addressed the perceived threats for listing, and questioned the Eastern Clade designation for boreal toads outside of the Southern Rocky Mountains. We believe the listing of toads in Western Wyoming is unwarranted at this time. According to the USFWS, the 12-month finding has been delayed and is expected to be published in 2017.
 - WGFD has worked with WYNDD to develop an amphibian monitoring project across the Medicine Bow and Bridger-Teton National Forests. This project is designed to monitor all amphibians but can be used to monitor boreal toad populations within the currently proposed Eastern Clade.
 - Baseline amphibian surveys were conducted from 2012 - 2015 by WGFD, WYNDD and USFS to refine knowledge on amphibian ranges in the Bridger-Teton National Forest. During these surveys, genetic samples were collected from approximately 178 boreal toads. Genetic samples collected from this effort are scheduled to be analyzed by Dr. Anna Goebel. These samples will be compared to other boreal toads within and outside of the Eastern Clade. The genetic analysis will help delineate the boundary between the Eastern and Western Clades, and could provide evidence that toads within the Wyoming Range are Western Clade toads, and thus not subject to ESA listing under the current petition.
 - In 2014, the WGFD conducted stream surveys along the east side of the Wyoming Range within known boreal toad populations. Surveys were designed to map breeding locations along riparian habitats.
 - The WGFD is currently working with Colorado and New Mexico wildlife management agencies to draft a Southern Rocky Mountain boreal toad conservation plan. This plan will address threats identified in the 90-day finding, and provide conservation goals and strategies.
 - The WGFD and WYNDD have collected tissue samples from across much of the southern portions for the toads range in the state. A total of 8 tissue samples have been collected by WYNDD personnel from breeding sites in the Medicine Bow National Forest. A contract for analysis of these samples, as well as samples from the BTNF has been completed and work is underway with Dr. Anna Goebel at Florida Gulf Coast University. Results are critical to differentiating range of toads that could be involved in listing.
 - The WGFD provided a grant to the University of Wyoming Coop Unit to study potential impacts of cattle grazing and chytrid fungus on boreal toads in the upper Green River drainage. One field season has been completed by the graduate student with two more planned (2016-2017).

- The WGFD provided a grant to WYNDD to study the relationship between underlying geology and the presence and absence of amphibians including boreal toads in the Wyoming, Gros Ventre and Wind River Ranges.

BIRDS

Black-backed Woodpecker (FWS lead: South Dakota-Black Hills population and California-CA and OR western populations; WY FWS office lead: Julie Reeves)

- Petition received May 2012.
- Substantial 90-day finding published April 9, 2013 for both populations.
- FWS requesting any information for a status review for the 12-month finding.
- Work on the 12-month finding is delayed and unsure when that will begin.
- Estimated completion **FY 2017 (note: all estimated dates are subject to change)**.
- During ESA/MOU meeting on September 30, 2014, WGFD asked Service to consider asking for an extension on this date so that results of ongoing study (see below) will be completed and available for consideration.
 - Commented to USFWS on 6/5/2013 (WER 13139) basically stating listing not warranted because the species population in the Black Hills is in naturally low density and responds to irregular availability of favorable habitat. Genetic factors, in theory a concern but this experiment has played out over decades and currently this species responding positively to increased habitat. Species is also capable of dispersing over large distances. Regulatory protections contained within the BH Forest Plan also make listing unwarranted.
 - WGFD conducted surveys in 2013 in the Bighorn National Forest and WYNDD conducted surveys in the Laramie Peak Area in recently burned habitats. These are likely dispersal areas, i.e. close to the Black Hills and within the possible dispersal distance of this irruptive species – no evidence of Black-backed Woodpeckers found.
 - Working with Dr. Mark Rumble of the USFS Experiment Station in Rapid City along with SDGF&P, BBNF, SD State Forestry and possibly others to fund an updated population/distribution survey of this species. WY funding from Gov. ES Account.
 - Completion date December 2016.
 - Initial year of surveys resulted in 24 Black-backed Woodpecker detections in Wyoming.

Greater Sage-grouse (FWS lead: Wyoming; WY FWS office lead: Tyler Abbott)

- 12-month finding was published in Federal Register March 5, 2010, warranted but precluded.
 - Decision appealed by Western Watersheds. Settled in multi-district litigation settlement.
 - Judge's decision for this litigation ruled the sage-grouse should not be listed immediately. Continue with multi-district litigation settlement set September 30, 2015 for another proposed 12 month finding required to determine if listing is warranted with critical habitat and final listing/critical habitat rule to determine if listing is warranted due September 30, 2016.

- September 22, 2015 Service published a Not Warranted decision, species no longer a candidate species (80 FR 59858, October 2, 2015).
http://www.fws.gov/greatersagegrouse/PDFs/20150921_GRSF_FR_Signed.pdf
- Service will review status in 5 years (2020).
- Actions taken by the State of Wyoming to preclude the need to list greater sage-grouse include:
 - Governor Mead issued Executive Order 2015-4, Greater Sage-Grouse Core Area Protection, which updated and replaced past Executive Orders 2011-5 and 2013-3.
 - All 8 local working groups (LWG) continue to implement their plans via projects funded via Wyoming General Fund legislative appropriations.
 - WGFD works with multiple partners to enhance sage-grouse conservation in Wyoming (SGIT, LWG, etc.) and range-wide through WAFWA, the various states and the Service.
 - WGFD, along with agency and private partners, continues to collect, analyze and report sage-grouse population monitoring data.
 - Research projects have been completed, are ongoing or being planned mostly evaluating sage-grouse response to energy and mineral development, sage-grouse response to habitat treatment, and Core Area Protection Executive Order effectiveness.
 - The WGFD Habitat Protection Program continues to oversee or administer the application of the Density and Disturbance Calculation Tool for determining adherence to the Core Area Protection Executive Order as well as the statewide multi-agency database collecting both disturbance and conservation actions within core areas.
 - The WGF Sage-Grouse Coordinator is a member of the WAFWA Wildfire and Invasive Species Working Group contracted by the USFWS to compile information, analyze and provide recommendations on this important threat to greater sage-grouse. Several work products from this working group have been completed that have resulted in recent policy changes within the Department of Interior, e.g. Secretarial Order 3336: Rangeland Fire Prevention, Management and Restoration.

[Sprague's Pipit](#) (FWS Lead North Dakota; WY FWS lead: Amy Nicholas): September 15, 2010, Service publishes 12-month petition finding in the Federal Register (Vol. 75, No. 78, p. 56028) for the Sprague's Pipit as warranted for listing as Threatened or Endangered under the ESA but precluded by higher priority actions.

- Part of Multi-district Litigation (MDL) settlement (see below for more information).
- Service requests relevant information on July 20, 2012, WGFD responds on August 23, 2012 stating this species is an uncommon migrant of eastern Wyoming short- and mid-grass prairie habitats. Largest threat is fragmentation and habitat loss (WER 12793).
- Service requests any additional information on January 20, 2015.
- Final 2010 12 –month finding warranted precluded, currently a candidate species (LPN 11).
- Currently preparing a final rule to determine if listing is warranted.
- FWS is requesting any new information regarding the species status until February 20, 2015.
- April 5, 2016 Service publishes a Not Warranted decision, species no longer a candidate species.

Southern White-tailed Ptarmigan (FWS Lead: Colorado; WY FWS office lead: Nathan Darnall)

- August 24, 2010, FWS received petition on U.S. population or Rocky Mtn. population.
- For Colorado, ptarmigan currently persists on the Routt National Forest as documented from 2006.
- Substantial 90-day finding was published in Federal Register June 5, 2012.
- Initiating a review of the status of two subspecies to determine if listing is warranted.
- FWS requesting any information on ptarmigan for this status review.
 - Rare instances of this species were documented in the Snowy Range. This species is considered an accidental in Wyoming. No recent sightings of this bird in WY documented though it does exist in neighboring CO.
 - Laramie regional personnel planning surveys to investigate possible sightings within suitable habitat in the Snowy Range.
 - Estimated completion date is FY 2020

CRUSTACEANS – None

FISH

Plains Topminnow (FWS lead: Nebraska; WY FWS office lead: Nathan Darnall)

- Determined in 2013 to not meet the definition of a candidate species, therefore is not a listed species.
 - Extensive surveys of streams occupied by Plains Topminnow in eastern Wyoming were conducted in recent years. However, due to the unique and patchy habitats the species occupies, traditional point location surveys like these may or may not detect Plains Topminnow. To better address the distribution and abundance of Topminnow in eastern Wyoming, a study was initiated in 2014 to use aerial reconnaissance to pin point habitats where on the ground surveys are most likely to locate Topminnow.

Sturgeon Chub

- Petition to List submitted by WildEarth Guardians on August 11, 2016
 - Bighorn, Powder and North Platte Rivers in WY

INSECTS

Monarch Butterfly (FWS lead: Region 3, Bloomington, MN; WY FWS office lead: Amy Nicholas)

- August 26, 2014 the Center for Biological Diversity, Center for Food Safety, The Xerces Society and Dr. Lincoln Brower filed a petition to list the monarch butterfly as Threatened or Endangered under the ESA.
- December 31, 2014, USFWS issues 90-day finding which states that the petition presents substantial scientific or commercial information indicating that the petitioned actions may be warranted. 12-month status review began, comments requested by March 2, 2015.

- Service received a Notice of Intent on January 6, 2016 for failure to complete the status review and finish the 12-month finding.
- Service has initiated status review, estimated completion date FY 2019

Narrow-footed Hygrotus Diving Beetle (*Hygrotus diversipes*) (WY FWS lead: Amy Nicholas)

- Not listed. Working on 90-day finding. Need more information on hydrology needs.
- A petition to list 206 species, including *H. diversipes*, was received by USFWS in Jul 2007. USFWS issued a "Not Warranted" 90-day decision for 165 of the target species, including *H. diversipes*, in Feb 2009 (Federal Register 74 FR 6122-6128). The original petitioners filed suit to reverse this decision. A court decision issued Nov 2011 (District Court of Colorado) found the declarant had no standing, and thus upheld the 2009 "Not Warranted" status. The species was re-petitioned for listing in 2013, possibly by WildEarth Guardians via a petition dated 9 Jul 2013 (not confirmed as petition in question). WYNDD received a request for new information from USFWS on 6 Jan 2014, to assist that agency in addressing the new listing petition. The species appears to be restricted to only a few stream segments in the vicinity of Midwest, Wyoming. Extensive surveys performed by WYNDD in apparently suitable habitat across Wyoming from 2011 – 2013 have not documented occupation elsewhere in the state. Some 2014 field collections have not yet been analyzed.
- Substantial 90-day finding published January 12, 2016.
- FWS initiated status review. Requested additional information for status review by March 14, 2016. Status review to determine if listing is warranted.
- Estimate completion in FY2023.

Regal Fritillary (FWS lead: Region 5; WY FWS lead: Amy Nicholas)

- Substantial 90-day finding published in Federal Register on September 18, 2015.
- FWS is requesting further information for the status review.
- Estimate completion in FY 2022

Western Bumblebee (FWS lead: Wyoming, Amy Nicholas)

- New petition received on September 15, 2015.
- Substantial 90-day finding published March 16, 2016
- FWS preparing a status review to determine if listing is warranted. Requested any additional information by May 16, 2016.
- Preparing 12-month finding.
- Estimated completion date for status review FY 2023

Yellow-banded Bumblebee (FWS lead: Region 5, Krishana Gifford; WY FWS lead: Amy Nicholas)

- 2015 FWS receives a petition to list.
- March 16, 2016 – publishes Substantial 90-day finding in Federal Register.

- Requesting any additional information by May 16, 2016.
- Service initiating status review to determine if listing warranted.

MAMMALS

American Pika

- Petition to list pika rangewide as endangered due to climate change submitted April 14, 2016
- Service issued Not Substantial 90 day finding on 9/14/2016.

Little Brown Myotis (*Myotis lucifugus*) (FWS lead: Region 3; WY FWS office lead: Julie Reeves)

- In December 2010, the USFWS received a request to perform a formal status assessment for *M. lucifugus*. USFWS personnel describe such an assessment as analogous to a 90-day decision following a formal ESA listing petition. The process is still in the initial phase, with no documents issued or published to the Federal Register. The USFWS Region 3 office is completing the assessment, which is under no mandatory timeline for completion.
 - Discretionary Status Review expected completion date FY 2023

North American Distinct Population Segment of Wild Horse

- June 10, 2014, Friends of Animals and the Cloud Foundation filed a petition to list North American wild horses on all U.S. federal public lands as threatened or endangered under ESA.
- June 22, 2015, USFWS issues 90-day finding that petition does not present substantial scientific or commercial information. Service also did not consider this to be a valid listable entity.

Plains Subspecies of Eastern Spotted Skunk (*Spilogale putorius interrupta*, FWS lead: Missouri; WY FWS office lead: Brad Rogers)

- Substantial 90-day finding published in the Federal Register December 4, 2012.
- FWS is requesting further information for the status review.
 - The Department commented on Service's positive 90-day finding on February 4, 2013 (WER 13091). We opposed the positive 90-day finding because the taxonomy of this subspecies is uncertain at best (see Buskirk, S. W. 2016. Wild mammals of Wyoming and Yellowstone National Park. Pages 288-291. University of California Press).
 - Through the Governor's ES Account, we completed a project fall (work began October 1, 2014) and winter (2014/2015) looking at the distribution of spotted skunk in WY (See WGFD Nongame Annual Completion Report April 2014 – April 2015). We also collected and preserved genetic samples for use in future Wyoming work and any work dedicated to clarifying the taxonomy of this species and subspecies.
 - Additional funds were secured through WGBGLC – All Wildlife Fund to facilitate coordination with other state or local agencies in Wyoming to determine where they have seen/trapped spotted skunks. Some funding is also available to trap and collect genetic samples for future analysis. **Sixteen new records of spotted skunks were added from these efforts.**

- \$156,000 was secured from the Governor's ES Account for the FY17/18 biennium. Dr. Merav Ben-David of the University of Wyoming is heading our effort to collect genetic samples range wide and assess the taxonomy of this group using genomics. On March 22, 2016, a conference call was held with Dr. Ben-David and the states of TX, OK, KS, CO, Angelo State University, and Bill VanPelt from WAFWA. SD and NE unable to attend. There is considerable interest by these states to share data and develop markers to inform taxonomic issues. Dr. Ben-David has also searched museum specimens from across the country and will work with museum directors to obtain samples. She provided the states with her study plan and a funding request to help complete this work at a large geographic scale. Dr. Ben-David is also working to secure additional funds to help her complete this work range wide.
- Through the WAFWA ESA Working group, a cooperative group of western states and the Service, the States requested the Service delay any further action on this listing petition so that voluntary conservation measures can be considered and for the states to address the genetics questions surrounding this species/subspecies.
- Dr. Ben David has brought on graduate student Robert J Riotto, Jr. to do genetic work as part of an MS thesis. One specimen caught in a garage in Laramie and another has been collected from adjacent to Boysen Reservoir. Genetic samples taken August 28. Several other states are cooperating in this work as are trappers in WY.

Tricolored Bat

- Petition to list tricolored bat range wide as endangered or threatened due to WNS submitted on June 14, 2016.
- Considered peripheral in Wyoming with only 3 records from a single hibernaculum in eastern Wyoming.
- In 2016, one tricolored bat was discovered day roosting in a mine near Sunrise, WY. This observation was within the same county as the known hibernacula. It is expected to also be hibernacula. We will resurvey for confirmation.

White-tailed prairie dog (FWS lead: Wyoming; WY FWS office lead: Lynn Gemlo)

- May 6, 2008 Service initiated a status review for white tailed prairie dog (*Cynomys leucurus*) throughout their range.
- On June 1, 2010 the Service issued their 12-month finding, a not warranted decision.
- September 29, 2014 the U.S. Federal Court in Montana remanded the 12-month finding back to the Service stating the Service was unable to explain its analysis and conclusions to satisfy the requirements of the Endangered Species Act.
 - Decision rendered in this case on September 29, 2014. The Court remanded the matter back to Service because it finds the "Service failed to consider historical state range, its cursory disregard of individual threats without considering their potential for cumulative impacts, its unreasonable conclusion regarding regulatory

mechanisms for oil and gas development, and its failure to rely on the best available science when such data was in fact available.”

- The Service is currently working on a species status assessment and will use input from an expert elicitation panel. They will delay their finding until after the 2016 range-wide assessment for this species is completed (see below). **Status review completion date September 30, 2017.**
- About 75% of the range is in western Wyoming with the remainder in Colorado, Utah, and a small portion in Montana (see figure below).
- Department has funded a Wyoming range occupancy survey for this species which will be performed in conjunction with CO and UT in order to provide a standardized estimate for WTPD occupancy range wide. Surveys took place summer of 2016.
 - **Survey work has been completed by WYNDD for this project. All data will be analyzed and provided to the Service to address the listing petition. Data will additionally be compiled with Colorado and Utah to provide range wide occupancy for this species.**
- **The WGFD received a request for all new information pertaining to white-tailed prairie dog in Wyoming. All data and comments are due to the Service by the end of 2016.**

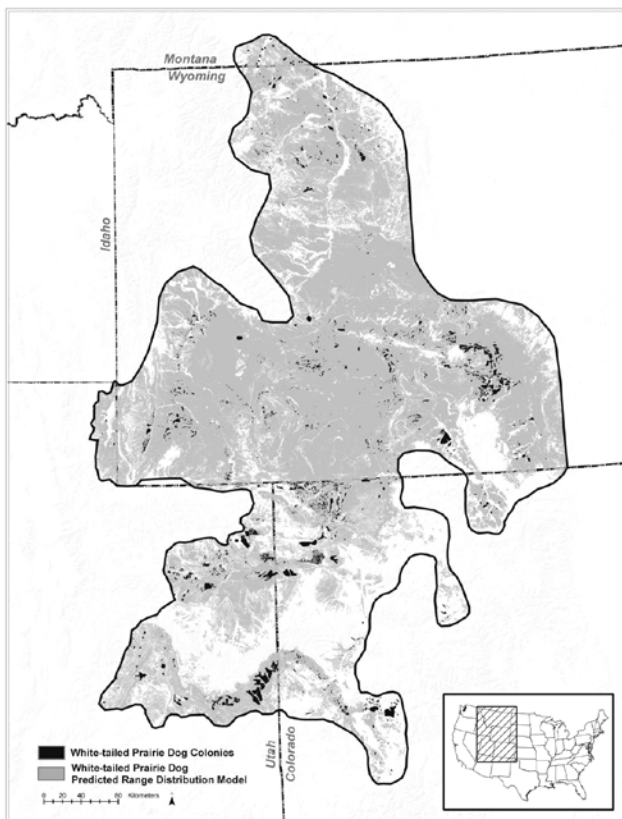


Figure taken from: Seglund, A.E., A.E. Ernst, M. Grenier, B. Luce, A. Puchniak and P. Schurr. 2004. White-tailed prairie dog conservation assessment.

Wolverine (FWS Lead: Montana; WY FWS office lead: Lisa Solberg-Schwab)

- 12-month finding for the Rocky Mountain population was warranted but precluded for listing published December 10, 2010.
- Proposed listing as threatened and 10(j) rule published in Federal Register February 1, 2013. Wolverine is now a proposed species.
- The reopening of the comment period on the proposed rule to list the DPS of wolverine on October 31, 2013. Comments accepted until December 2, 2013.
- Six month decision extension and reopening of comment period February 5 through May 6, 2014. Final listing/critical habitat/10(j) rule expected completion August 4, 2014.
- The Service determined on August 12, 2014 the wolverine does not warrant protection as a listed species under the ESA.
- The Service recognizes climate change is a reality, with clear and tangible impacts to many species. However, in the case of the wolverine, there is uncertainty about how and when the effects of climate change might affect this population of wolverine.
 - The Department has been commenting on proposals to list wolverine since at least August, 2007. In the latest iteration of this on again/off again listing process the Service proposed to list wolverine in the Distinct Population Segment including the western states of WY, MT, ID, WA, OR, CA, CO, NM (I may have missed one here) as Threatened because of potential future impacts to wolverine habitat resulting from climate change. The Department, through the Governor's Office, provided comments to the Service on 5/6/2013 (WER 9792.00b). In our comments we opposed listing this species that currently appears to be at its highest population level in the past 100 years and increasing for something that might happen in 30-80 years. This is a gross simplification but gets the larger point across. The states, primarily WY, MT and ID, asked the Service to delay their listing decision for 6 months and during the interim period convene an independent science panel comprised of wildlife biologists/ecologists and climate change specialists. The states helped the Service in an advisory capacity to select panel members and frame the discussion. The panel met in Spokane, WA on April 3-4, 2014 and presented the results of their discussion to the Service for its consideration. Subsequent to that meeting the Department again submitted comments to the Service on 5/1/2014.
 - As part of the original listing process the Service also proposed to develop a 10(j) rule for the state of CO west of I-25, northern NM and Albany and Carbon Counties in WY to facilitate introduction of wolverine into suitable habitat in CO. During this process WY asked for the entire state except the contiguous NW WY mountain ranges be included in the 10(j) area due to the ability of wolverine to disperse over long distances. The Service did not agree because of uncertainties associated with the ESA status of dispersing individuals from either western WY or CO ending up in a part of WY outside that part of the state that is contiguous with wolverine habitat in adjacent states and can support wolverine the Department opposed the 10(j) rule as did NM. To clarify, if a wolverine showed up in the Bighorns or the Laramie Range with no identifiable markings indicating

source population, did that individual come from CO or western WY? And consequently does it require full ESA protections or is it part of the 10(j) population?

- On August 13, 2014 the Service withdrew the proposed rule to list the distinct population segment of the North American wolverine (*Gulo gulo luscus*) occurring in the contiguous United States as a threatened species under the Endangered Species Act. This withdrawal was based on their conclusion that the factors affecting the DPS as identified in the proposed rule are not as significant as believed at the time of the proposed rule's publication (February 4, 2013).
 - Three petitions filed in October, 2014 from Center for Biological Diversity (and others), Defenders of Wildlife, and WildEarth Guardians (and others) challenging the FWS decision in August, 2014 to withdraw its proposed rule to list the wolverine.
 - On April 4, 2016, Judge Dana Christiansen of the U.S. District Court in Montana vacated the USFWS Rule of August 2014 declaring the wolverine not warranted and remanded that decision to the Service for them to reconsider: A) "threat posed to wolverine by the effects of climate change at the reproductive denning scale," B) "the threat posed to wolverine by small population size and lack of genetic diversity," and C) application of the SPR policy to wolverine.
 - Current status is once again formally proposed threatened.
 - Court ordered Service to prepare another status assessment to determine if listing is warranted.
 - Estimated completion date FY 2018
- On March 12, 2015, the states of WY, ID, MT and WA submitted two proposals through WAFWA. Both proposals, one through the Competitive State Wildlife Grant process and the other through the Great Northern Landscape Conservation Cooperative, were designed to help initiate a multi-state monitoring program for wolverine throughout the suspected area of occupancy within these states. The only information currently available is a modeling approach which indicates that certain landscape features throughout many western states are suitable for wolverine. Based on that modeling effort, densities seen in several studies and a biological interpretation of where wolverine are currently thought to exist a population estimate of ~300 wolverine was derived. If the proposals are funded, this state led conservation effort will for the first time take a systematic range-wide look at wolverine occupancy (180 cells in the 4-state area, 51 in Wyoming) using consistent methods throughout the four states. These results would then serve as a baseline for future surveys. Two other project ideas were contained within the proposals. The first would use more robust data sets to refine connectivity models for wolverine in order to prioritize possible future conservation actions. The second would promote cooperative discussions between the states and Service to determine or devise protections for states that engage in proactive conservation for rare or sensitive species. Specifically, if any state were to reintroduce wolverine to suitable but currently unoccupied habitat and wolverine became listed at some date after reintroduction these reintroduced animals would receive full protection under ESA. Currently there is no process in place that would allow states to engage in proactive

conservation efforts, even when those efforts are widely recognized as beneficial, with protections in place in the event of a future listing.

- Both funding applications were partially successful. We received \$199,520 from C-SWG and \$75,000 from the GNLCC. With only partial funding the states decided the monitoring portion of the proposal will be addressed first. The states met with the USFWS, NPS, USFS, Confederated Salish and Kootenai Tribes, statistical consultants, and some private research groups with specific expertise in wolverine in Salmon, ID on July 8-9 to discuss how best to spend these funds (methods and sampling procedures), potential for other funding and to discuss statistical methods other needs. This meeting was important as well in order to have multiple partners at the table providing input and feedback which resulted in significant improvements to how things will be done. The NPS was also invited but their representative was unable to attend.
- The states have received a second \$75,000 grant from GNLCC for this work.
- Montana Fish, Wildlife and Parks provided \$40,000 in unallocated Federal Aid dollars along with a waived overhead match from the University of Montana to contract for statistical expertise to analyze data from all 4 states and determine probability of occupancy
- The states also submitted a proposal to the National Fish and Wildlife Foundation in the amount of \$384,960 and were successful (12/7/15) in obtaining these funds. \$120,000 of these funds will be granted to Montana State University to address Project 1 of the C-SWG proposal which is basically to improve our understanding of connectivity issues for this metapopulation. This improvement will help prioritize habitat conservation work for wolverine. The University of Montana is also considering pursuing a NASA grant to augment this work by better addressing genetic questions raised in the listing document and working with other willing wolverine researchers to combine data sets to better understand wolverine movements across the landscape. The remainder of the NFWF funds will be used for state surveys.
- The Department used nearly \$160,000 in FY 15-16 legislative sensitive species project funds plus funds from the CWCS and M&O budgets to begin wolverine work in Wyoming. The Wolverine monitoring pilot study occurred during the winter of 2014-2015 to determine the distribution of female wolverines in Wyoming. A final report was completed for this work. During this effort 18 infrared cameras were deployed. These were distributed within the Northern Absaroka (n=3), Southern Absaroka (n=3), Wind (n=7), Gros Ventre (n=1), and Salt/Wyoming (n=4) mountain ranges. Stations were established between 9 Feb–20 Mar and visited an average of three times (range = 2–5) from 9 Feb–28 Jun. Wolverine presence was detected at five stations in Wyoming, including one station in the Southern Absaroka Range, one station in the Gros Ventre Range, and three stations in the Wind River Range. There was one other “possible” wolverine detection in the Salt/Wyoming Range, but the night photos were too dark to determine the species with confidence. During the winter of 2015-2016 the WGFD completed Year 1 of wolverine monitoring in Wyoming related to the 4-state monitoring effort. 25 cells in the southern portion of NW Wyoming mountains were surveyed between December 1, 2015 and March 31, 2016. As of this writing equipment at all but 5 stations has been retrieved. Project results will be summarized in the 2015-2016 Nongame Bird and Mammal ACR.

- Wyoming acquired another \$94,042 in 2017-2018 legislative sensitive species project funds to conduct year 2 of Wyoming's portion of the 4-state monitoring program. Another \$40,000 will be coming to Wyoming from project funds mentioned above to complete this work during the winter of 2016-2017. During this same winter, all survey work will be conducted in ID, MT and WA. Final project results should be available in 2018.
- The first year of the 2-year survey effort in Wyoming documented ≥ 2 unique wolverines at 3 of 25 survey stations. Future genetic analyses will allow for a better understanding of population structure and number of individuals.

Wyoming Pocket Gopher (FWS lead: Wyoming; WY FWS lead: Amy Nicholas)

- Petitioned for listing by Wild Earth Guardians on April 6, 2016.
- FWS is preparing a 90-day finding based on information provided in the petition. Likely to publish in August 2016
- Service issued Not Substantial 90 day finding on 9/14/2016.

Yellowstone National Park Bison (WY office lead: Tyler Abbott)

- On November 13, 2014 and March 2, 2015, the FWS received two petitions to list the bison as threatened or endangered.
- Not substantial 90 day finding published January 12, 2016.

MOLLUSKS – None

PLANTS

Fremont County (Small) Rockcress (FWS lead: Wyoming; WY FWS lead: Julie Reeves)

- Published warranted but precluded 12-month finding in 2011 (LPN 8).
- Completed species assessment for 2015 CNOR (12/25/15 in Federal Register); working on 2016 CNOR.
- BLM is planning additional population data collection in 2016.
- Status Review estimated completion no later than FY 2018

Whitebark Pine (FWS Lead: Wyoming; WY FWS office lead: Amy Nicholas)

- December 9, 2008, FWS received petition for listing.
- 90-day finding published in Federal Register on July 20, 2010 (75 FR 42033) and the information collection period ended on September 20, 2010.
- 12-month finding was published in Federal Register July 18, 2011, warranted but precluded (LPN 2). Whitebark pine is now a candidate species.
 - Suit filed in 2013 by The WildWest Institute and The Alliance for the Wild Rockies, disputing the “precluded” portion of Services’ 12-month finding in 2011 of warranted for listing but precluded by higher priority listing work.
 - On April 25, 2014 the U.S. District Court ruled in favor of the Service.

- The U.S. Fish and Wildlife Service satisfied its obligations under 16 U.S.C. § 1533(b)(3)(B)(iii).
- The 12-Month finding that concludes listing of the whitebark pine is warranted but “precluded by court-ordered and court-approved settlement agreements, and listing actions with absolute statutory deadlines, and work on proposed listing determinations for those candidate species with a higher listing priority,” is sufficiently detailed and supported.
- The finding is not arbitrary and capricious, an abuse of discretion, nor otherwise not in accordance with the law.
- Completed whitebark pine species assessment for the 2015 CNOR, [published December 2015](#). Listing priority changed from 2 to 8. Working on 2016 CNOR.
 - The Large Carnivore Section has been heavily involved in looking at the effects the whitebark pine decline in may have on grizzly bears but I am unaware of any formal comments by the Department on the actual proposal to list WBP.
- [Estimated completion date FY 2019](#)

206 SPECIES PETITIONED FOR LISTING (FWS LEAD: MULTIPLE OFFICES)

- 12-month finding for 5 plants published in the Federal Register June 8, 2011, only [Fremont County rockcress](#) (FWS lead: WY; WY FWS office lead: Julie Reeves) is warranted for listing, but precluded by higher priorities. It is now a candidate species.
- Completed rockcress species assessment for the 2015 CNOR.

SETTLEMENTS

Multi-district Litigation (MDL) settlement with WildEarth Guardians and Center for Biological Diversity is final. MDL settlement establishes the following dates for final listing decisions on candidate species:

- Fiscal Year 2015 – Yellow-billed cuckoo final listing rule October 4, 2014; Greater sage-grouse determined not warranted for listing September 22, 2015 (80 FR 59858, October 2, 1025). Sprague’s Pipit determined to continue as a candidate (FWS lead: North Dakota).
- Fiscal year 2016 – Yellow-billed cuckoo proposed critical habitat decision expected in 2016 (FWS lead: California). Sprague’s Pipit determined not warranted for listing and species is no longer a candidate (FWS lead: North Dakota).

RESPONSES TO THE SERVICE'S FEDERAL REGISTER NOTICES

- WGFD supported The Governor's Office in responding to the FR Vol. 76. Not 237 Significant Portion of the Range (WER 12484)
- WGFD is reviewing the proposed policy regarding voluntary pre-listing conservation actions (WER 8548.06)
- WGFD is reviewing the Federal Register Notice which makes minor edits to clarify procedures for designating and revising critical habitat (WER 9518.05)
- WGFD reviewed and commented on proposed revisions to ESA made by the Joint Task Force (WER 9518.06, November 16, 2015 and again on November 24, 2015). In this document the Department strongly supported direction that voluntary conservation actions prior to listing may preclude the need to list.
- WGFD is reviewing the Federal Register Notice which includes a draft policy on exclusions from critical habitat under the ESA section 4(b)(2).
- WGFD is reviewing the Federal Register Notice which changes the definition of destruction or adverse modification of critical habitat (WER 9518.04)
- WGFD reviewed the Federal Register Notice of May 21, 2015 proposing to revise regulations regarding ESA petitions (WER 13667). The two most positive results from the changes, if adopted, would be that petitioners would be required to submit listing petitions for individual species. Currently some petitions are received that include many species. The second change would require petitioners to run draft petitions by State Wildlife Agencies for any review and comment the states would choose to make. USFWS has revised this proposal based on comment. If revised proposal goes through couple changes. First, petitioners could petition an entire species rather than just a part. So if several subspecies, could petition all or if several DPS within a species could petition all. Second, no longer required to run drafts by State Wildlife Agencies but would need to notify 30-days before submitting a petition of their intent to do so. States could during that time choose to provide additional info to the Service that would then be available to them during their 90-day review.
- WGFD reviewed a Service proposal to revise methods for prioritizing Status Reviews and 12-month findings (WER 13780.00, February 9, 2016). The proposal was essentially the same as what the WAFWA ESA working group has been proposing so the WGFD supported.
- WGFD is reviewing the proposed delisting rule for the Greater Yellowstone Ecosystem distinct population segment of grizzly bears (Docket No. FWS-R6-ES-2016-0042). The Department supports delisting based on the merits of demonstrated population recovery.