

TRIBAL MEETING

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U.S. FISH and WILDLIFE SERVICE  
MOUNTAIN-PRAIRIE REGION

YELLOWSTONE GRIZZLY BEAR  
POPULATION PROPOSED DELISTING

APRIL 28, 2016

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TRIBAL MEETING

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Homewood Suites by Hilton  
1023 E. Baxter Lane  
Bozeman, Montana 59715  
11:30 a.m. - 3:30 p.m. MT

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APPEARANCES

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Continued -

1                   A P P E A R A N C E S - Continued  
2  
3                   Dennis Alex  
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1           WHEREUPON, the following proceedings were  
2    had:

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4                               \*   \*   \*   \*   \*

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6           MR. FISHER: This is such a huge, huge issue  
7    for Indian tribes, for lack of a better term. You  
8    know, I don't think we can stress enough the  
9    importance of the grizzly bear from a cultural  
10   perspective. I don't think we could list the  
11   importance of the grizzly bear in the English  
12   language, and I don't think we can tell you the  
13   importance of the grizzly bear at this level. I  
14   think you would probably need to go to and live  
15   that cultural experience. To be able to tell you  
16   how important grizzly bear is to the Cheyenne  
17   tribe. We could say it in English but that  
18   particular dialogue would lose its intensity once  
19   it gets to your level and up the chain. And so  
20   each tribe has their own way of viewing the grizzly  
21   bear and each tribe has their own way of viewing  
22   how sacred this animal is and their collective  
23   memories and also in their current perspective  
24   about this animal. You know, for the Cheyenne, we  
25   can go back and talk about the twin tooth buffalo,

1    which would have been the short-faced bear in our  
2    histories because we remember that bear.  We  
3    remember stories about how powerful it was.  That's  
4    why we named it the twin, because it -- it had the  
5    resemblance of a buffalo.  It ran like a buffalo  
6    and a very ferocious animal.  And today if you look  
7    at that short-faced bear, it's no longer in  
8    existence.  It's been gone for -- in the  
9    archeological record it's been gone for at least  
10   8,000 years, but we remember that.  We remember  
11   this animal.  So, we have different ways of looking  
12   at animals and certainly the bear is one of them.  
13   The reason I bring that up is that through these  
14   contacts, through the collective memories, we have  
15   our own special way of knowing, our own special way  
16   of seeing this animal.  And so the tribes have a  
17   unique perspective of sharing and this is only one  
18   way.  This is only one way of talking to you about  
19   that animal.  So to sit here and say no, we agree  
20   with the delisting or we don't agree with the  
21   delisting does a disservice to even starting this  
22   dialogue at this level.  And it's really incumbent  
23   on the Forest Service to respect the decisions of  
24   the tribes present and listen to what they have to  
25   say.  I think if we look at this document that we

1 all signed today that we were here and it says  
2 government-to-government consultation meeting, we  
3 don't know where that came from. Who said it was a  
4 government-to-government consultation? Who made  
5 that determination that today here that you would  
6 consult with the tribes? Was that something that  
7 was agreed upon previously to have this meeting  
8 here and that the tribes agreed that they would  
9 have a government-to-government meeting here? If  
10 so, where's the document that says that the tribes  
11 agree to a formal government-to-government meeting  
12 here today? Was the tribal government notified  
13 that this would be a government-to-government  
14 meeting or G to G, as you mentioned? That  
15 particular statement is really quite, for lack of a  
16 better term, I think, a concern to the tribes. It  
17 makes us nervous when we hear stuff like that  
18 because I mentioned earlier the two tier type of a  
19 consultation system. If you're looking at this as  
20 being something where your leader and my leader sit  
21 down together and they talk about this, then we  
22 don't see it here. We don't see it. Your leader  
23 and my leader should meet somewhere where we come  
24 from and talk about this, so -- and I can't speak  
25 for the tribes here. But I think that we're kind

1 of a little concerned about calling this  
2 government-to-government consultation meeting.  
3 It's not really what we think of as. And we  
4 don't want to be shortchanged. We don't want  
5 to go home and say -- and have Forest Service or  
6 Fish Wildlife and Parks say, yes, we had a  
7 government-to-government consultation meeting.

8 MS. CHANDLER: Is it important -- I hear what  
9 you're saying from -- this is a strange role that  
10 I'm in. Is it important to -- is there a time  
11 when Northern Cheyenne has said yes, this is  
12 government-to-government, we're having this  
13 government-to-government consultation now about a  
14 decision? And I ask that really just curiously  
15 and then I'd like to ask Matt the same thing,  
16 Matt Hogan or Mike, a time that your government  
17 has said, now we're having a formal  
18 government-to-government consultation and we both  
19 agree our governments are Sovereigns. We agree  
20 that that is what's happening. I'm asking that  
21 really honestly. I'm not trying to bait anybody.

22 MR. FISHER: No. As I mentioned, I'm up here  
23 to determine what's going on.

24 MS. CHANDLER: Right. Who's making the  
25 decision and where is it and how does it fit?

1           MR. FISHER: Yes, that's the question, who  
2     made -- who termed -- who officially said, we're  
3     going to have a government-to-government meeting  
4     with these tribes here?

5           MS. CHANDLER: Could you tell that story?  
6     Who among Fish and Wildlife Service could tell  
7     that story of how that came about? You understand  
8     the question, I think, right? The question is how  
9     did -- how did this get this label of  
10    government-to-government consultation on this day  
11    and on next Thursday rather than a listening  
12    session or a public meeting, which is also  
13    different?

14          MR. HOGAN: This is an awkward way to have  
15    the table set up. So, sorry.

16          MS. CHANDLER: I know, it is awkward. Now I  
17    wished we'd stayed in a circle.

18          MR. HOGAN: So I'll look to Mike and Anna to  
19    help out with this. But I think we've done some  
20    different things to -- and I certainly recognize as  
21    I said earlier, it's not -- we're not anywhere near  
22    perfect on how we do government-to-government.

23                 To your first question, I think I can  
24    only remember one instance where I think both  
25    the -- that I was part of that both the tribes and



1 the service both agreed it was  
2 government-to-government. We wrote several -- in  
3 this instance though, we wrote several letters to  
4 tribes offering government-to-government  
5 consultation, asking for recommendations on when,  
6 where, and we got some response back, but not a  
7 significant response. That was before we got to  
8 the point of doing the proposed rule. What -- why  
9 we got to this point now is because we had a  
10 proposed rule on the street and we had -- in  
11 essence, a clock has started for us. There's not a  
12 formal clock that says we have to have an answer by  
13 such and such a day, but in our mind we've begun a  
14 role making process, and so there's things that we  
15 need to do before for that role making process, and  
16 one of them is government-to-government  
17 consultation. So that's why we set these two  
18 dates, albeit, and recognizing they're arbitrary,  
19 both in terms of the date and the location, but we  
20 tried to pick dates far enough in the future that  
21 tribal members could get to and then also locations  
22 that we felt were a little bit more centrally  
23 located than doing it in Denver, for example.  
24 Again, notwithstanding your comments, Conrad, and  
25 others about government-to-government is where we

1 send our official to sit down with your Tribal  
 2 Council. So that's how we got to this point.  
 3 There were several instances where we did send our  
 4 specialist, our expert on grizzly bears to several  
 5 tribes and he did sit down with -- I believe with  
 6 the Northern Cheyenne, with the Shoshone-Bannock  
 7 and several others. And I recognize that -- I  
 8 believe every one of those tribes said that there  
 9 was not consultation. But it was an effort on our  
 10 part long before we had a proposed delisting on the  
 11 street to impart information and so that's how we  
 12 got to this point. Again, recognizing that there  
 13 was not -- you're correct, Conrad, there was not a  
 14 point where we'd reach mutual agreement that said  
 15 the Northern Cheyenne and the Fish Wildlife  
 16 Service both agree that on -- what's the date  
 17 today -- April 28th, 2016 in Bozeman, Montana will  
 18 formally be government-to-government. But it was  
 19 our maybe somewhat clumsy effort, but well meaning  
 20 effort to get something on the docket, on the  
 21 schedule where we could sit down with tribes and  
 22 continue the dialogue. I won't say begin the  
 23 dialogue because I think we have offered some  
 24 different opportunities through the process, again  
 25 haven't been wildly successful to be candid. We've

1 had a couple different phone calls, one before we  
 2 proposed delisting and another one on the day that  
 3 the rule came out to explain our thinking to  
 4 tribes. And again, we didn't get a lot of  
 5 participation. So clearly that was not a  
 6 good -- it was a poor mechanism. So, as I said  
 7 earlier, one of our hopes out of this is to see if  
 8 there's not some better way to establish a process  
 9 by which we will do -- can do consultation on other  
 10 issues as we go forward. But in terms of grizzly  
 11 bears and the proposal on this ecosystem, we kind  
 12 of are where we are and so that's how we got here  
 13 today.

14 MS. CHANDLER: Does that clarify or are there  
 15 continuing --

16 MR. FISHER: Well, I think a better term  
 17 would be -- I don't think we should call it a  
 18 consultation meeting. I think it should be a  
 19 listening session. And I think that should be a  
 20 matter of record, that the tribes all agree that  
 21 this isn't a consultation meeting in our opinion  
 22 and that we would rather just hear what you have to  
 23 say about this and that -- that you start formal  
 24 consultation. And let me just go back to it, to  
 25 your earlier statement. That yes -- yes, they did.

1 I can't remember who came to the Tribal Council  
2 from Fish --

3 MR. ROOT: Chris Servheen from Fish Wildlife.

4 MR. FISHER: Yeah. And we talked about  
5 consultation at that level also, that if they're  
6 going to consult with us, then they need to come  
7 over and talk to us about the consultation at the  
8 Tribal Council level. So we thought we had a clear  
9 understanding that that was going to be the  
10 process. You want to consult, come to the Tribal  
11 Council on the delisting or any other consultation  
12 concerning the grizzly bear in that disputed area.

13 As far as your comments on sending out  
14 letters, you know, that really -- consultation  
15 isn't about sending out letters, it's about  
16 communication and -- because -- just because a  
17 tribe doesn't respond doesn't mean that they  
18 actually -- the letter actually got to them.  
19 Consultation is about giving phone calls, is about  
20 going down there and talking to the Tribal Council  
21 themselves. It's about having a relationship.  
22 It's about going beyond compliance. Compliance is  
23 one thing and I understand people have limitations,  
24 in terms of how much time and effort they have.  
25 But that's kind of what it's all about, is you have

1 to do writing, you have to have follow-up phone  
2 calls, you have to go down there and meet somebody  
3 that -- a face that you can contact. And we feel  
4 like this hasn't been established, that somebody  
5 arbitrarily, stealing your own words, made the  
6 decision to call this a consultation meeting. And  
7 we feel that that's not -- that's not what it is.  
8 And not to put any pressure on you, I know you're  
9 under the gun also in terms of having that  
10 miscommunication, but I think it's important that  
11 you respect the tribes' wishes and not call this a  
12 consultation meeting. And the tribes may have a  
13 few comments to make, but I think based on our  
14 earlier conversation, that that's kind of how we  
15 view this meeting today. And I don't want to take  
16 up a whole lot of time for everybody else. There  
17 may be a few other comments by -- by the tribes  
18 here today.

19 MR. HOGAN: If I could go, just for a second,  
20 Conrad -- I appreciate that. I will make the  
21 commitment that we will absolutely go back through  
22 our leadership, all the way to our director and let  
23 him know that the tribes assembled, assuming the  
24 other tribes don't have a different perspective,  
25 but --

1 MS. MC ADAMS: We've all agreed that, as the  
2 tribes here, we're not considering this a  
3 consultation, a government-to-government  
4 consultation.

5 MR. HOGAN: Okay. So I will commit to you  
6 that we will share that with our director and  
7 say that the tribes assembled on this day in  
8 Bozeman, Montana do not consider the meeting  
9 government-to-government consultation.

10 To your earlier comment -- and I'm truly  
11 not saying this to try and say -- it's not tit for  
12 tat, but I did make phone calls back in the summer.  
13 We sent a letter back in the summer and I did call  
14 every single tribal leader in -- or I tried to and  
15 followed up with an e-mail. And candidly, Conrad,  
16 I didn't get a lot of response. So I agree with  
17 you wholeheartedly, consultation is not we get  
18 together in a hotel conference room for four hours  
19 and -- it should be a relationship. It should be a  
20 dialogue. It should be a continuing process and  
21 not a date on the calendar. But I do think in the  
22 grizzly bear effort, because we've known for quite  
23 some time how important this is to tribal nations  
24 that -- I think we've done -- albeit not perfect,  
25 but I think we've done more than we have

1 historically done on a lot of other issues in terms  
2 of trying to begin that dialogue. So again, I just  
3 want to just note that for the record, is that  
4 we've -- this is good feedback and it will help us  
5 going forward, but we have made efforts to have a  
6 dialogue on this issue.

7 MR. FISHER: I appreciate it, thank you.

8 MR. HOGAN: You're welcome.

9 MS. MC ADAMS: I would like to make a  
10 comment. On the Wind River Reservation, out of  
11 the Indian tribes here, we're the only tribe  
12 that does have grizzly bears on our reservation  
13 now. And because of that we would like a  
14 face-to-face because we're -- you know, we're not  
15 so much -- we're opposed to the delisting. We  
16 would like to talk about management rather than  
17 delisting. And because we do have grizzlies on our  
18 reservation, we would strongly like to have a  
19 face-to-face, so if you could carry that message.

20 MR. HOGAN: Absolutely.

21 MR. CHINGMAN: And I guess I would like to  
22 state is, you know, we would like to just be  
23 reassured that, you know, what we're saying here  
24 today is going to make it up to the next level.  
25 Because to me the worst thing as a leader is your

1 word saying it just dies where you're -- like, say,  
 2 it don't make it past this room. And as an elected  
 3 official, we would like to reassure our tribe, yes,  
 4 our voices will be heard, it is going to go up to  
 5 the next level and that's -- you know, that just  
 6 irks me sometimes, we go to meetings and it's  
 7 just -- you know, it just dies at the room and you  
 8 leave. So I mean, just a reassurance of, you know,  
 9 making it to your director and then, you know,  
 10 whatever happens from there. But I think it would  
 11 be, you know, reassuring for the tribes that this  
 12 conversation makes it up to the next level.

13 MR. HOGAN: And I can assure you it will. In  
 14 fact, just -- we reported as we do, you know, we  
 15 report every week back up to the headquarters,  
 16 which goes all the way up to the secretary,  
 17 different significant things that are occurring in  
 18 our region. We know that this meeting and the  
 19 upcoming one -- even as we've been sitting here, I  
 20 had a note from our director's office asking for  
 21 just a general update and I said, well, here's  
 22 something to share with the secretary, that we're  
 23 meeting with tribes today and we're meeting with  
 24 tribes again next week. So on this issue, I can  
 25 assure you that there is interest all the way up



1 to -- I certainly can't speak for the president,  
2 but I know there's interest all the way up to the  
3 secretary and tier on this issue. And I can  
4 guarantee that even if we did not voluntarily bring  
5 it forward, which we will, we will be asked what  
6 was the outcome of your conversations with the  
7 tribes.

8 Now, I would say tribes have  
9 relationships of any levels of the government and  
10 Congress, I would encourage you to -- you know, and  
11 I'm not suggesting you're not going to do that, but  
12 encourage you to share your perspectives through  
13 those other vehicles as well because I think that,  
14 just again, ensures that it is a part of the  
15 process. But by all means, we will share the  
16 outcome of this meeting and our meeting next week  
17 with our boss and our boss's boss and our boss's  
18 boss's boss.

19 MR. FISHER: Well, that's good to know, Matt.  
20 That's good to know. But I think we want you to  
21 raise your right hand and say that.

22 MR. HOGAN: Swear on a stack of granola bars.

23 MS. CHANDLER: As facilitator, I just want to  
24 say one thing, just as disclosure, I caught Marla's  
25 eye, who did not get everything you said, Conrad,

1 at the beginning, until about the moment that you  
 2 said we don't want to consider this government to  
 3 government. And I think you were waiting to hear  
 4 from somebody around the table, I'm not sure who.  
 5 But you did that you would start. So when that  
 6 goes up to your boss's boss's boss and you all get  
 7 copies of it, I just didn't want you to be  
 8 surprised that that's missing. That it will be  
 9 missing from just the transcript, unless --

10 MR. HOGAN: Did you get the part about --  
 11 when Conrad said I was the nicest Fish and Wildlife  
 12 Service person he ever met?

13 MS. CHANDLER: So, was there more before you  
 14 launch in -- I mean, I think what I hear you saying  
 15 is you've come to the commitment that this will not  
 16 be considered that way, that it was -- it's not  
 17 formal government to government, it's not  
 18 considered that today, and that you made a  
 19 commitment to get the word up in your hierarchy at  
 20 Fish Wildlife Service, and the commitment from your  
 21 tribal governments that are here, the three  
 22 today -- two -- three, I'm sorry. Is there -- I  
 23 guess I didn't hear, but it was that -- oh, it was  
 24 you saying that use all your avenues of influence.  
 25 I mean, recognizing the other avenues that you have

1 as sovereigns, just that recognition.

2 Because I think that was your main  
3 question, Conrad, and others about where does it  
4 fit, how does fit? And maybe that's a good segue  
5 for you to just describe the proposal and where  
6 the -- the services in it. Unless you have  
7 another idea about where you want to take your  
8 conversation.

9 MR. HOGAN: So if I can --

10 MS. CHANDLER: Yeah.

11 MR. HOGAN: I just kind of want to make sure,  
12 there may be a slight tweak. So I said we could  
13 guarantee that we will pass this up the chain of  
14 command. It's not -- the decision to me -- it  
15 doesn't rest solely with me to say we have or have  
16 not met our responsibilities under consultations.  
17 I just wanted to be clear that I can't, for the  
18 U.S. Fish Wildlife Service, say, yes, we agree this  
19 is not consultation. I can absolutely agree that  
20 we will share that with our director, that all of  
21 the tribes assembled said that they do not consider  
22 this government-to-government consultation. I just  
23 don't have the ability to commit from the  
24 government's side; that's farther up the food  
25 chain. But I just wanted to make that clear

1 because I thought I heard you say something --

2 MS. CHANDLER: I understand the distinction,  
3 yeah, that you've made. Right.

4 MR. FISHER: Well, I think we understand now,  
5 you know, that you're going to tell that to your  
6 higher-ups. And so thank you for being honest  
7 about that because a lot of times we don't hear  
8 that type of dialogue that you just mentioned. So  
9 being that you've done a lot of work, I know that  
10 you've asked over meetings and all that and I think  
11 it's at that level now to where Fish Wildlife, your  
12 office, Matt, they need to go to the tribes. I  
13 think it's imperative that they start going to  
14 the tribes. And I think we all make that  
15 recommendation, that you start going to the tribes  
16 for government-to-government consultation on the  
17 delisting of the grizzly bear. So we can be here  
18 today and listen to what -- what you have to say.  
19 We're here to listen and take back, just as you  
20 have, whatever we create today. We'll listen and  
21 we'll take it back and -- but then, again, you  
22 know, we don't want to be lost in the shuffle. I  
23 think there's other questions that we have about  
24 where we stand in this, the different groups that  
25 are in the Yellowstone, Greater Yellowstone area

1 and their role. It seems like there's some other  
2 institutionalized subcommittees that are in place  
3 and what is their role?

4 Like, for example, YES, Y-E-S. It's  
5 very simple. And then the other one was -- what  
6 was it, the GCC?

7 MR. HOGAN: IGBC.

8 MR. FISHER: IGBC.

9 MR. HOGAN: Interagency Grizzly Bear  
10 Committee. Lots of acronyms.

11 MR. FISHER: Yeah. And what's their role  
12 that they -- the arm of the tribal governments, you  
13 know, how do they -- how do we view those, you  
14 know? There's just a lot of things that we don't  
15 know that are in place. And then the state tribal  
16 relations, if the states are going to run it, you  
17 know, are we at the mercy of the states? You know,  
18 those are questions that I think you probably need  
19 to be prepared to answer when you talk to tribes  
20 about that.

21 I think Wind River is wanting to talk  
22 about management issues. So that's one -- one  
23 perspective. Other tribes may have their own  
24 questions about how this is going to occur. And I  
25 think you should be prepared when you talk to -- go

1 to the tribes and I think you should -- I think  
2 it's a strong recommendation from everybody, all  
3 the tribes here, to go meet with tribal government  
4 and -- on this issue.

5 MR. HOGAN: Conrad, can I ask a question?  
6 And I'm not trying to put you or any of the other  
7 tribal members on the spot. But maybe this is the  
8 wrong way to even look at the world, but as I try  
9 to put things in like buckets that I can deal with  
10 intellectually. So there's -- Jodie mentioned the  
11 Wind River Tribe is I think the only tribe right  
12 now, or two tribes, one reservation, two tribes  
13 that have grizzly bears on them right now. There's  
14 tribes like the Northern Cheyenne and the  
15 Shoshone-Bannock that have tribal lands right now  
16 that exist within the Greater Yellowstone  
17 Ecosystem. There are other tribes that have  
18 ancestral lands, if that's the right terminology,  
19 in the Greater Yellowstone Ecosystem, but are not  
20 there right now. And then there are also tribes  
21 that have -- I wouldn't put them in any of those  
22 three categories either, have bears now, have lands  
23 in the ecosystem, have ancestral lands in the  
24 ecosystem, but who have a cultural or spiritual  
25 connection with the bear because of where the bear

1 used to be, outside of this ecosystem.

2 Again, recognizing that I can't make the  
3 final decision on what the next steps will be in  
4 the Fish and Wildlife Services consultation  
5 strategy. If you had to, and I don't want to put  
6 you on the spot, and if you say I don't feel  
7 comfortable, I certainly understand. But if we  
8 were going to direct our efforts in certain places,  
9 would you separate the tribes out? And I'm not  
10 saying to do that, but if we were going to spend  
11 our time going to have face-to-face meetings with  
12 certain tribes, recognizing that, as I said earlier  
13 this morning, getting the 50 tribes probably going  
14 to be pretty difficult. Getting to a smaller  
15 subset might be possible. How would you -- would  
16 you -- does that question make sense?

17 MR. FISHER: I think it's up to the  
18 individual tribes. I think you just have to go  
19 down the list and see. Because some of them you'll  
20 hear it, you'll hear what they have to say as far  
21 as the grizzly bear delisting is concerned. It may  
22 be one or two paragraphs, it may be one or two  
23 days. I think it's that important that you  
24 consider and not start categorizing anybody, but  
25 rather look at individual tribes as being federally

1 recognized and having their own unique perspective  
2 on this delisting.

3 MR. HOGAN: Okay. Well, that's helpful.

4 MR. CHINGMAN: And I'd like to say that  
5 exactly -- councilman said down there too, is that,  
6 you know, as tribes we don't even do that to each  
7 other, like we don't categorize each other. You  
8 know, even, like, you know, the Sho-ban and others  
9 here, but still, we're still separate in a way.  
10 You know, our land forms ain't the same and our  
11 communities ain't the same. You know, we're still  
12 all Native American, but we don't even group  
13 ourselves like that. And I think the federal  
14 government should also do the same, you know. I  
15 think the federal government is an old system where  
16 you're just an Indian. But I mean, as time is  
17 going, we're all individual tribes. And, you know,  
18 we don't have the same man base, we don't have the  
19 same community problems and it's -- there should  
20 be -- you know, even to the environmental stuff  
21 with the bear and the eagles and stuff like that,  
22 we're all individual tribes. And I think to show  
23 more respect to some tribes, I think a face-to-face  
24 with council would show a lot of respect and stuff  
25 also.



1           MS. MC ADAMS: I would agree with the  
2 councilman. A lot of times we're all lumped  
3 together and that's really disrespectful to each  
4 and every tribe because we're all sovereign  
5 nations, every individual tribe. And we'd like to  
6 be respected as such.

7           I think the one thing we could all be  
8 united in as tribes, Indian tribes, is that we view  
9 the grizzly bear as a spiritual being. There's  
10 medicine in the bears. And I think we could all  
11 agree on that point that it's -- it's not -- it's a  
12 lot of things, but the thing that I think we could  
13 all agree on is that the grizzly bear is a part of  
14 our spiritual being. I don't really -- I was asked  
15 once to explain it. I know, but I don't know how  
16 to interpret that and that's something that's, you  
17 know -- I don't know. Maybe sometime in the middle  
18 of the night when I'm thinking about a bajillion  
19 other things, it will come to me. But right now I  
20 can't. It's just a spiritual thing, so...

21           But yes, the main point that I wanted to  
22 bring apart was that each and every tribe is  
23 sovereign and we'd like to be treated as such and  
24 not lumped together.

25           MR. HOGAN: I'll give you Mike Thabault's

1 home phone number if it comes to you at about 2:00  
2 a.m., if you want to give him a call.

3 MS. CHANDLER: You keep your phone on in the  
4 middle of the night, right?

5 MR. FISHER: It might not be the response you  
6 want, but...

7 MR. HOGAN: It's helpful, though. You know,  
8 it makes sense, I understand. I understand the  
9 answer.

10 MS. CHANDLER: Just from an outsider's  
11 perspective, I really want to honor the way you  
12 just spoke to each other, honestly, about those  
13 several pieces that you made clear to each other,  
14 clarifying things together.

15 So is it true that you would like to  
16 hear from Mike and Matt about more -- you know, the  
17 details of the three main -- yeah? Does that make  
18 sense?

19 MS. MC ADAMS: Yeah.

20 MS. CHANDLER: Okay. You're on.

21 MR. THABAULT: Thank you.

22 I anticipate questions and answers. I'm  
23 going to give you an overview, as I was discussing  
24 with Conrad. I have in my head a lot of the  
25 questions you asked this morning, so I'm going to

1 try and touch on those. If I don't, just feel free  
2 to break in. I'm a pretty flexible presenter.

3 I would like to start out me with just a  
4 snippet of context of where we were and kind of how  
5 we got to where we are.

6 So back in 2003/2004 the Fish and  
7 Wildlife Service had determined that we thought the  
8 grizzly bear in the Greater Yellowstone Ecosystem  
9 had reached the point of recovery. At that point  
10 in time we had put out a proposed rule and we had  
11 finalized the proposed rule in 2007. The grizzly  
12 bear was officially off -- in the Greater  
13 Yellowstone Ecosystem, was officially off the  
14 endangered species list for two years. We were  
15 litigated. We were litigated in the Montana court.  
16 The Montana court ruled against us on a number of  
17 issues. We went to the Ninth Circuit Court of  
18 Appeals and we appealed that decision. And that  
19 court upheld us on three of four counts, but we  
20 lost on the fourth count, which was essentially we  
21 had not evaluated the white bark pine as a food  
22 source for the grizzly bear adequately enough in  
23 the Court's eyes.

24 So we went back. And we, with our USGS  
25 partners, our scientific partners, did what we

1     called a food synthesis study. We looked at all  
2     food. We looked at white bark pine, we looked at  
3     fish, we looked at the moth, we looked at  
4     everything to determine if -- because, as you'll  
5     see on one of our slides, the population had been  
6     increasing and it took a little dip. Was that dip  
7     the result of food or was it a result of the bears  
8     have gotten to the point where they've stabilized  
9     their population within the ecosystem? The results  
10    of that study was the latter, the food was not a  
11    limiting factor, any of the food sources was not a  
12    limiting factor for the bear in the Greater  
13    Yellowstone and it, in fact -- it's what we call  
14    density dependance, the bears had reached a  
15    capacity within the suitable habitat. Conrad, you  
16    brought up suitable habitat. We'll have some maps  
17    for that. So that they were controlling their own  
18    population numbers. And there was still stable  
19    population. And we believe the bear is still at  
20    the point where it's sustaining itself within the  
21    ecosystem.

22                 Under the Endangered Species Act, we  
23    have a singular obligation within the Act when we  
24    determine whether to put a species on the list or  
25    take it off the list and that's using the best

1 available science. That is the standard for us to  
2 evaluate whether a species warrants protection or  
3 not. In doing that, we look at what the population  
4 is doing and what are the things -- we call them  
5 threats, what are the threats that are acting upon  
6 the species?

7 In this case, the grizzly bear was  
8 originally listed because of largely human  
9 persecution; poaching, hunting, other forms of  
10 mortality, human-caused mortality.

11 What we're at now is, is that stressor,  
12 is that threat going to be sufficiently controlled  
13 into the future, that the bear can maintain itself  
14 in a recovered state. That's a very quick synopsis  
15 of kind of the lens that we look through. So what  
16 I'm going to present to you here -- so you brought  
17 up MEPA this morning. We do not have an  
18 obligation, under the Endangered Species Act, to  
19 conduct MEPA on our rules to list a species or to  
20 delist a species. It is based solely on the best  
21 available science. So we are not obligated to  
22 evaluate economics and those sorts of things when  
23 we're listing and delisting a species. That's an  
24 important fact when it comes to how does the  
25 service -- what's the lens that the service looks

1 at, its responsibilities and jurisdictions under  
2 that Endangered Species Act.

3 I was going to stop there. Again, feel  
4 free to break in for questions if you want.

5 So this is the graph I was telling you  
6 about. So we listed -- the bear made it on the  
7 list originally way back here when there was only  
8 about 136 bears in the Continental United States.  
9 We listed the bear. The current listing of the  
10 grizzly bear is within the Continental United  
11 States. So if a grizzly bear by chance just  
12 happened to show up in Florida, it would still be  
13 protected, even though Florida was never within the  
14 historic range of the grizzly bear. But in  
15 essence, the grizzly bear is listed throughout the  
16 entire Continental United States.

17 And when it was originally listed, we  
18 began looking at where the bears reside now,  
19 where's the potential for them to reside, and how  
20 can we basically get that species to the point that  
21 it's achieved a sustainable population level in the  
22 Continental United States. And so we divided the  
23 population into the various ecosystems that I  
24 talked about this morning. Dennis, you asked about  
25 population numbers. You got the Greater

1 Yellowstone. There's the Bitterroot. There's  
2 Northern Continental Divide. There's the  
3 Cabinet-Yaak Ecosystem and the North Cascades. So  
4 those are our principal focus areas for the grizzly  
5 bear.

6 And there's several different ways to  
7 count bears. So that's why there's a bunch of  
8 lines on this. But all the lines generally  
9 increase. The current method we're using, you'll  
10 see in the papers for the Greater Yellowstone  
11 Ecosystem, the last count was 717 bears. We know  
12 that that method is about -- it underestimates  
13 bears by about 30 to 40 percent. There's another  
14 method that is more accurate that shows there's  
15 about a thousand to 1100. So that's why I gave you  
16 a thousand to 1100. Either way you look at it, you  
17 add 30 percent to 700 or you go with the other  
18 method, which is about 1100 plus or minus bears in  
19 the Greater Yellowstone Ecosystem.

20 And the population has essentially been  
21 more or less stable since 2002. There's all those  
22 fluctuations, but the bear has been around 640 to  
23 700 and something bears using that methodology. So  
24 it's been a relatively stable population since  
25 2002, in the Greater Yellowstone Ecosystem. So

1 from purely a biological perspective, we think the  
2 bear is doing well in the Greater Yellowstone  
3 Ecosystem; it's thriving, it's surviving, it's  
4 breeding, it's having cubs. It's doing well. It's  
5 regulating itself as a population.

6 So this is where we get to where we are.  
7 The proposal we have in front of us is only  
8 associated with the Greater Yellowstone Ecosystem.  
9 If we go to those other ecosystems, there is still  
10 a lot of work to do there. There's still a lot of  
11 work to do in the Northern Continental Divide, the  
12 Cabinet-Yaak, all those other ecosystems. So  
13 nothing we're doing here affects any of the bears  
14 in the other ecosystems. They will remain as a  
15 threatened species under the Endangered Species Act  
16 outside of Yellowstone. So I just want to make  
17 that point.

18 MR. FISHER: Could I ask a question?

19 MR. THABAULT: Yes, sir.

20 MR. FISHER: Is it because they haven't  
21 reached that capacity to thrive within that  
22 suitable habitat?

23 MR. THABAULT: So I'm going to get to that in  
24 just a minute.

25 MR. FISHER: Okay, perfect.



1           MR. THABAULT: But just to get to that real  
2 quickly, not only do we look at what the population  
3 is doing, but have the threats, have the things  
4 that brought us to protect the species to begin  
5 with, have they been addressed? It's what we call  
6 regulatory mechanisms. Are there sufficient  
7 regulations and other factors that are in place  
8 that are taking the things that brought it to be  
9 listed to begin with, are they taking those things  
10 off the table so that that species isn't facing  
11 those threats any longer?

12                   In the Greater Yellowstone Ecosystem,  
13 that's why we're working with the states on their  
14 regulatory mechanisms. We have not done that with  
15 the State of Montana for the Northern Continental  
16 Divide, the Selkirk. Cabinet-Yaak has not achieved  
17 a population where we think it's adequate to even  
18 have that conversation yet. And some of the other  
19 ecosystems, there's clearly not enough bears that  
20 we believe they could sustain themselves, even if  
21 the regulatory mechanisms were in place. So it's a  
22 bit of a combination of things --

23           MR. FISHER: Okay.

24           MR. THABAULT: -- from the other ecosystems.

25                   Just a little bit of process stuff. So

1 this is just kind of going over a little bit about  
2 what I just went over. The purpose of the Act is  
3 to make sure that the species no longer needs the  
4 purposes of the Act. So you list species, you  
5 protect them to the point that they don't need the  
6 federal government to protect them any longer.  
7 They don't need the protections of the Act. That's  
8 how we define recovery.

9 We had recovery goals back in 2004.  
10 That original delisting, we thought the population  
11 had not achieved its apex yet. So the recovery  
12 criteria in 2004, in 2007 delisting was to maintain  
13 a population that was stable or increasing.  
14 Subsequent to the food synthesis study and some of  
15 the information we know about grizzly bears and  
16 their biology, we believe that population is stable  
17 and really can't increase any more. So the  
18 criteria that we're operating under now, and I'll  
19 talk with you a little bit about this in a minute,  
20 is to maintain a stable population around a certain  
21 population level. We think it is fully occupying  
22 the ecosystem.

23 Again, it's been healthy since 2002 to  
24 2015. There's been a lot of factors that have been  
25 involved in that. The Forest Service has done a

1 lot of work on their land to, you know, keep  
2 food -- food storage orders and keep campgrounds  
3 safe. Park Service has done a lot of work. The  
4 tribes have done work. The principal focus for  
5 grizzly bear management has been to reduce the  
6 human-bear interactions. If you reduce human-bear  
7 interactions, you reduce bear mortality. And if  
8 you reduce bear mortality, you basically ensure  
9 that you're going to have a stable population  
10 that's healthy and can continue to exist on the  
11 lands. That's the focus.

12 So again, there's the trends. So the  
13 Greater Yellowstone Ecosystem, the Endangered  
14 Species Act allows us to list or delist species,  
15 subspecies, or what we call Distinct Population  
16 Segments. We've determined that the Greater  
17 Yellowstone Ecosystem is a Distinct Population  
18 Segment. It's an entity that we can delist under  
19 the Endangered Species Act. And the boundary of  
20 the DPS, the Distinct Population Segment, the piece  
21 of ground that is currently in the proposed rule is  
22 basically bounded by this highway system. So the  
23 proposed rule is effective within that whole  
24 geography.

25 Now, it treats bears differently

1 depending on where you're at in that geography.  
2 But that is the piece of ground that this proposal  
3 addresses.

4 MR. FISHER: Say it one more time. I fell  
5 asleep.

6 MR. THABAULT: Some people like need a Ph.D.  
7 in the interspecies act, so I get it.

8 So we are allowed -- we are allowed to  
9 protect three different kinds of things under the  
10 Act; a species, a whole species, a subspecies or a  
11 Distinct Population Segment. We have determined  
12 that the Greater Yellowstone Ecosystem satisfies  
13 the criteria of a Distinct Population Segment.  
14 It's relatively isolated from the other bears. It  
15 has meaning in and of itself. It has its own  
16 genetic diversity. If you lost it altogether, it  
17 would be a great loss to the whole species as -- so  
18 we have defined -- we have defined the Distinct  
19 Population Segment in the proposed rule, the thing  
20 that we are proposing to delist, are the bears that  
21 reside basically in that circle.

22 And I'll -- the next slide will show you  
23 what these lines are, so I won't go there right  
24 now.

25 So are we good there?

1 MR. FISHER: Yeah.

2 MS. CHANDLER: Clarified?

3 MR. THABAULT: So what this slide -- so this  
 4 is zooming in. So all those highways are out  
 5 there. The gray represents basically the current  
 6 range of the grizzly bears within the Greater  
 7 Yellowstone Ecosystem, these colors here. This,  
 8 when we wrote the original recovery plan was the  
 9 core primary conservation area for the grizzly  
 10 bear, the red line. That's where we've been  
 11 focusing most of our grizzly bear management,  
 12 within the red line. Yellow is parks and Wind  
 13 River Reservation, appropriately noted within the  
 14 range of the grizzly bear. This black line is what  
 15 we call the demographic monitoring area. This is  
 16 where the proposed delisting rule is focusing.  
 17 When I talk population numbers, when I talk  
 18 mortality, when I talk about the things we're going  
 19 to count for grizzly bears, it's within the black  
 20 line because that embraces almost all of where the  
 21 grizzly bears currently live within the ecosystem.

22 There are some places outside. For  
 23 those of you that are familiar with this country,  
 24 as you well know, if you get out into here, you're  
 25 getting out into sheep country. Get out here,

1 you're getting out on the plains, you're getting  
2 close to towns and other things and some of the  
3 habitat out here, some of the ability for the bears  
4 to thrive outside of the black line becomes more  
5 and more limited due to human interactions, not as  
6 much prey, those sorts of things. So we have  
7 focused our management and the survivability of the  
8 bear within the black line.

9 MR. CHINGMAN: I have a question.

10 MR. THABAULT: Yes, sir.

11 MR. CHINGMAN: Is the pressure coming from  
12 the township, say of Jackson, or is it coming from  
13 the Park Service or from the people being in the  
14 park, from the mortalities and the maulings? Where  
15 is the pressure coming from to make this decision?

16 MR. THABAULT: I think it's a combination.  
17 It's not so much the park bears. I think -- and,  
18 Matt, feel free to weigh in here. I think from a  
19 societal standpoint, most of the conflict is  
20 occurring in the ranching and agricultural  
21 community. Depredation, sheep, cows is  
22 actually -- in some years there's more cattle and  
23 sheep depredation from grizzly bears than there is  
24 from wolves, which is the other species I get to  
25 work with. I have all the charismatic macrofauna

1 in the region I believe, so.

2 MR. HOGAN: That's why his beard is white.

3 MR. THABAULT: That's why my beard is white.

4 I think there is -- in say, for  
 5 instance, the town of Cody, there is some conflict  
 6 there around some of the urban areas from bears.  
 7 So last year I think was the largest -- maybe it  
 8 was the year before last, the largest translocation  
 9 of problem bears by Wyoming Game and Fish. They  
 10 had to move 65 bears because of human conflict  
 11 interactions, either in and around the park or  
 12 in other places within the ecosystem. So the  
 13 bear -- the bear numbers have been growing and/or  
 14 stabilized over that 10 or 15 years. And their  
 15 range -- you know, back when we first listed the  
 16 bear, all the bears were like right here. And so  
 17 their range has been expanding over time as the  
 18 population has grown and it's distributing itself  
 19 into areas that now we have human development and  
 20 those types of things. So it's a bit of a  
 21 combination of things, Mike, if I can -- it's not  
 22 just the interactions in the park.

23 MR. HOGAN: Maybe to say it slightly  
 24 different, the reason we're -- we're not proposing  
 25 to delist because people are telling us there's

1 bears that are creating conflicts. What we're  
2 really reacting to is -- and Mike will talk about  
3 it here in a little bit, is we have recovery  
4 criteria. We have three criteria in which we said  
5 if we meet these three criteria, we believe the  
6 bear is recovered, and to Mike's point earlier, and  
7 no longer needs protection of the Act. We've  
8 basically met those recovered criteria since 2002,  
9 roughly, 2002/2003. As Mike said, we delisted it  
10 once, that got overturned in court. It's -- the  
11 species has continued to meet all those recovered  
12 criteria. So that's what's prompting us to again  
13 propose delisting. Not that any town or any group  
14 of people are saying we're having more conflicts,  
15 you have to delist. What we're reacting to is we  
16 believe the species is recovered per our recovery  
17 criteria and that's what -- that's what's prompting  
18 us to move.

19 Now, to your point, Mike, I think that  
20 has certainly become what some folks have said.  
21 You know, that because of increased conflicts  
22 between people and bears that, you know, give  
23 management back to -- take it away from the federal  
24 government and give it back to states and tribes so  
25 they can address that. But you'll see later in



1 Mike's presentation, it's pretty limited to what  
2 flexibility there will be to actually do that. So  
3 it's --

4 MR. THABAULT: So I'm just going to go back  
5 one slide just for context, Leander. So that black  
6 line right there is the same as that green line  
7 right here. So just so you know, just in terms of  
8 scale, how much that represents of the Distinct  
9 Population Segment.

10 MS. SPANG: When did the Court overturn the  
11 first proposal to delist?

12 MR. HOGAN: So I think, Marissa, you were  
13 gone when Mike covered that part. So, Mike, why  
14 don't you do that again, cover all four points  
15 again.

16 MR. THABAULT: There was a challenge to the  
17 Distinct Population Segment. There was a challenge  
18 to the regulatory mechanisms. There was a  
19 challenge to one thing that I always forget. And  
20 there's a challenge to the white bark pine and  
21 climate change. And so the Montana court, the  
22 District Court of Montana ruled against us on all  
23 four of those counts. When it went to the Ninth  
24 Circuit on appeal, the federal government appealed,  
25 they reversed the lower court on three of those,

1 but upheld the white bark pine. So that's the part  
2 that we've -- from 2009 to approximately about two  
3 years ago when we finished that food study, that's  
4 what we've been working on.

5 Leander, you had a question?

6 MR. WATSON: Yeah. How come right there, on  
7 I-15, just above where it says Idaho, what is that  
8 right there?

9 MR. THABAULT: There?

10 MR. WATSON: There going over to the west?

11 MR. THABAULT: This line here?

12 MR. WATSON: Up above that.

13 MR. THABAULT: Here?

14 MR. WATSON: Yeah, that thing there that  
15 shoots out to the west. Why does it stop right at  
16 the interstate when --

17 MR. THABAULT: Yeah. That's a great  
18 question. So I might not have the exact reason. I  
19 know the line was drawn to encompass what we  
20 understood to be suitable habitat where most of the  
21 bears were.

22 MR. WATSON: It doesn't allow for more  
23 disbursal, though, I mean protection management?

24 MR. THABAULT: Yeah. So the underlying  
25 premise of this, from where we're at, is the bears

1 are basically stabilized in their most suitable  
2 habitat as a population. As they leave that black  
3 line, the habitat becomes less and less suitable,  
4 and it becomes more and more exposed to human  
5 conflict. And as the bears leave that area, they  
6 effectively become lost to the population; they  
7 don't go back. So we believe that kind of within  
8 that black line and within the current range of the  
9 species, that's where our highest and best  
10 opportunity to sustain and maintain this population  
11 will be in those places. It doesn't mean that  
12 bears can't go up to the northern Continental  
13 Divide or come back down. I don't have a blowup.  
14 Again, and we've had a bear show up somewhere down  
15 here, about 90 miles from the Colorado border a  
16 couple years ago. So they are expanding. We've  
17 had bears show up on Charles M. Russell National  
18 Wildlife Refuge out on the plains. So they are  
19 leaving the area.

20 But the potential for them to be lost to  
21 the population is very, very great. And we don't  
22 think they'll continue to contribute to the core of  
23 the population.

24 MS. MC ADAMS: So I have a question on the  
25 problem bears that are placed in other areas. Do

1 you collar them so you can kind of have an idea of  
2 where they're at, if they're going back?

3 MR. THABAULT: We collar a lot of them. I  
4 don't think we collar all of them, because  
5 collaring is very, very expensive. But we do  
6 collar a significant number of bears in the  
7 ecosystem so we know where they're going. And I  
8 think problem bears are collared if they're  
9 captured.

10 MR. HOGAN: We tag them. So if we don't put  
11 an actual collar on them, we put an ear tag in so  
12 they can at least -- if the bear shows up, they can  
13 get a good idea if they come back.

14 MS. CHANDLER: Is there more there, too?  
15 Another question or is that answered?

16 MS. MC ADAMS: No, that's --

17 MS. CHANDLER: I'm just curious because I  
18 know that we -- I think I told you I'd let you know  
19 about the time. I think it's 3:10, which I'm fine  
20 about. But why don't you just make sure you're  
21 having the meeting you want and we're moving at the  
22 pace you want and getting the questions answered  
23 that you wanted to explore.

24 MR. THABAULT: I think I only have about six  
25 more slides, so.

1 MR. WATSON: As long as we're out before the  
2 NFL draft starts.

3 MS. MC ADAMS: When does that start?

4 MS. MUNOZ: I think it's 6:00 or 7:00.

5 MR. WATSON: 6:00 I think.

6 MS. MUNOZ: Yeah, 6:00.

7 MS. CHANDLER: The pace seems good. I'm not  
8 judging, I'm just asking.

9 MS. SPANG: What are you guys talking about?  
10 The NFL, what is it?

11 MR. WATSON: The NFL draft.

12 MS. SPANG: For football?

13 MS. CHANDLER: That's excellent.

14 MR. HOGAN: We'll be hanging out with you  
15 tonight.

16 MR. WATSON: Right.

17 MR. THABAULT: So, as we talked about this  
18 morning, there's three things that are out there  
19 for review; the actual proposed rule itself and  
20 then there's two underlying guiding documents,  
21 conservation strategy, a draft conservation  
22 strategy, and the revised amendment to the recovery  
23 plan, which is specific to the Greater Yellowstone  
24 Ecosystem.

25 The conservation strategy was developed.

1 We had a conservation strategy in 2007 when we  
 2 originally delisted. It is that conservation  
 3 strategy that the Ninth Circuit Court of Appeals  
 4 upheld as an adequate regulatory mechanism. The  
 5 draft conservation strategy we have now is largely  
 6 the same as it was in 2007, with the exception of  
 7 the mortality limits, the how we're managing the  
 8 actual bears, mostly how the states will manage  
 9 bears and the mortality associated with bears.  
 10 That's the principal difference between 2007 and  
 11 now.

12 A lot of the other aspects, such as how  
 13 the Park Service is going to manage habitat and  
 14 bears within the park, has not changed at all. How  
 15 the Forest Service is going to manage habitat  
 16 within Forest Service lands, road densities. You  
 17 know, one of the big issues for bears is roads and  
 18 interactions with people through roads and roads to  
 19 campgrounds. So the Forest Service has committed  
 20 to closing roads and doing road management and  
 21 reducing road density and reducing the number of  
 22 campgrounds in certain areas and creating food  
 23 storage protocols. And I can't remember who was  
 24 talking about that, I think it was you, Jodie, a  
 25 public education program. There's a huge public

1 education program regarding people going into the  
2 back country and how to minimize bear interactions  
3 and creating -- you know, bringing your bear spray  
4 and those types of things. So there has been a  
5 very, very significant public education program  
6 almost since the inception of the bear being put on  
7 the list because we knew that was a critical  
8 component of reducing conflict, was educating  
9 people for how to be smart around bears. So those  
10 are the types of things that are in the  
11 conservation strategy. It is a guiding document  
12 that should guide, does guide, all of the agencies  
13 and entities that have management authority within  
14 the range of the Greater Yellowstone grizzly bear.

15 I don't know, Leander, if you want to  
16 talk about the -- if you're going to bring up the  
17 YES Committee. And I know there's some questions  
18 about tribal involvement in that and I'm not all  
19 that familiar with it, but...

20 We -- my understanding is there's no  
21 tribal management in the conservation strategy per  
22 se. There was some commitments to do some  
23 monitoring. But it wasn't up to the members that  
24 developed the conservation strategy to dictate to  
25 the tribes what tribal management should be doing.

1 So I believe largely there's not a lot of -- the  
2 Wind River has a bear management plan, which the  
3 service deems is an adequate bear management plan  
4 from our perspective. And that's factored into our  
5 consideration of how bears are managed.

6 I don't know, Leander, did you want to  
7 add anything to do that or?

8 MR. WATSON: Well, the one thing that I was  
9 mentioning to the tribes here earlier was the YES  
10 Committee. I mean, I sit on the technical staff --

11 MR. THABAULT: Right.

12 MR. WATSON: -- but that's as far as that  
13 is -- as far as that goes. And I don't speak --  
14 like Jodie had mentioned, we all have our own  
15 treaties and our own sovereigns and we have to  
16 protect that right. And I can't speak on behalf  
17 of anybody else other than my own tribes and  
18 so -- because I got to protect our treaty. And I  
19 can just speak in general terms. I think the YES  
20 Committee, these guys I mentioned to them, they may  
21 want to get involved in that a little more and help  
22 with the conservation strategy plan right now since  
23 it's in draft form.

24 MR. THABAULT: Right. Clearly, since the  
25 conservation strategy is in draft form, if -- I



1 would say, one, if we have not characterized the  
2 tribal component of grizzly bear and grizzly bear  
3 management in that conservation strategy, now is a  
4 very, very important time to get that addressed.  
5 Certainly, Wind River, as having bears, if there's  
6 something there that we need to get in there, now  
7 is our opportunity to do that.

8 The conservation strategy does not  
9 impart any authority on an agency that it doesn't  
10 already have. So I know there's concern about  
11 whether the states will come in and manage on Wind  
12 River Reservation lands and the answer to that is  
13 no.

14 MS. MC ADAMS: No, they won't.

15 MR. THABAULT: No, they won't. They don't  
16 have the authority to set quotas. They don't have  
17 the authority to issue licenses. They don't have  
18 the authority to manage on your land. So, clearly,  
19 the conservation strategy was meant to guide  
20 agencies within their own authorities to manage  
21 whatever component they have of grizzly bears. So  
22 the Forest Service and the Park Service, they don't  
23 actually manage the bear. They manage the land.  
24 The same --

25 MR. WATSON: That's kind of where the

1 Shoshone-Bannock tribes are coming from. We look  
 2 to U.S. Fish and Wildlife Service, as well as all  
 3 the other entities, the Park Service, Forest  
 4 Service, BLM, they have a trust responsibility.  
 5 And that's where, you know, as far as management  
 6 plans are concerned, we look to you guys for that  
 7 management, that trust. That's where we're coming  
 8 from. But we do -- we do appreciate that we can  
 9 comment and hopefully our comments are heard.

10 And as far as management is concerned,  
 11 we are -- we are willing to cooperate and help  
 12 manage for the grizzly bear, and all the other  
 13 species as well.

14 And I just wanted to mention, too, that  
 15 we're not the general public, that we're --

16 MR. THABAULT: Absolutely.

17 MR. WATSON: -- we're a tier above the  
 18 general public, so. That's where all this  
 19 consultation and where our tribe will be in the  
 20 future.

21 MR. THABAULT: So, you know, like, I guess  
 22 the core question is will the grizzly bear still be  
 23 protected in the Fish and Wildlife Service's  
 24 opinion. And yes, it will be protected to the  
 25 point it doesn't need the protection of the Greater

1 Species Act.

2 The principal underlying piece of the  
3 proposed rule is in order to maintain a stable  
4 population, that population can only sustain so  
5 much mortality. And we got a lot of really good  
6 scientific minds that have told us if you want to  
7 maintain a population of a certain level, here's  
8 the level of mortality that you cannot go above or  
9 can't go above very often if you're going to  
10 maintain that stable population. So the whole core  
11 of the proposal and everything moving forward is  
12 that we do not exceed mortality from all sources.

13 There's a lot of sources of mortality  
14 for grizzly bears. There's vehicular strikes,  
15 there's poaching, there's control actions from  
16 problem bears, there's all sorts of forms of  
17 mortality. The only new form of mortality that  
18 will be before us now that was not before us in  
19 2007 was the state's potential to establish a  
20 hunting season. So we have to look at now the  
21 level of mortality that might result from that and  
22 does what the management entities have put before  
23 us. Do we believe that will continue to sustain  
24 the bear population within the ecosystem?

25 So a lot of the conversations that we've

1 had with the states is here's the cap, and can you  
 2 manage within the cap? And if other forms of  
 3 mortality, like vehicular strikes and poaching, all  
 4 those other sort of things get up to the level that  
 5 the population can't sustain, then the states don't  
 6 have a hunting season. They can only manage  
 7 hunting within what the bear population can  
 8 sustain. That's the basic fundamental principal of  
 9 what the proposal is about. And all of the other  
 10 land management agencies, like the Forest Service  
 11 and the Park Service are there to manage the  
 12 habitat and the other human interactions that are  
 13 going on within their land basis. Most of that  
 14 DMA, not all of it, but most of it is either  
 15 wilderness, national park or National Forest  
 16 Service lands. Not all of it, but...

17 MS. CHANDLER: DMA, again, stands for?

18 MR. THABAULT: Demographic monitoring area.  
 19 It's that black line.

20 And this describes what the DMA is and  
 21 why it is what it is. And so I just talked about  
 22 all of those.

23 MS. CHANDLER: This is your second to last  
 24 slide or so?

25 MR. THABAULT: It's getting pretty close,

1     yeah.

2             MS. CHANDLER:   It's valuable.   I'm just  
3     asking.

4             MR. THABAULT:   Yeah.

5             MR. FISHER:   Not to change the subject about  
6     what we talked about, here it says on page 11 of  
7     this proposal, we cannot accept verbal testimony at  
8     any of the public informational meetings.   Verbal  
9     testimony is not -- it can only be accepted at the  
10    public hearings.   Anyone wishing to make an oral  
11    history or oral statement at a public hearing for  
12    this record is encouraged to provide a written copy  
13    of their statement to us at the hearing.   And then  
14    it goes on, if there's a large attendance, oral  
15    statements may be limited to, blah, blah, blah.

16            MS. CHANDLER:   Conrad, where are you reading?

17            MR. THABAULT:   He's reading from the draft,  
18    the proposed rule.

19            MS. CHANDLER:   Oh, gotcha.

20            MR. THABAULT:   So I can tell you.   So when we  
21    have a public hearing, which is a very formalized,  
22    very unsatisfactory venue, we always have a public  
23    meeting, an informational meeting ahead of that.  
24    That's not the -- in how we conduct our business is  
25    not the place where we get the public comments

1 orally. We get -- we do accept oral comments, oral  
2 information at the public hearing. But typically,  
3 you know, we have cards and we have other forms of  
4 communication at the public information meeting to  
5 set up folks for -- with some background so when  
6 they go into the hearing, they'll have that  
7 context. So a little bit of it is language. We  
8 have public information meetings and we have public  
9 hearings. And public hearings are very formalized,  
10 very unsatisfactory meetings.

11 Part of -- this would be my personal  
12 opinion that I'm sharing right now. Part of the  
13 purpose of a government-to-government consultation  
14 is to obtain those oral traditions and oral  
15 histories from the tribes in that form because  
16 that's where our special relationship is. And  
17 public hearings are, I'm just going to say, really  
18 not conducive to -- for tribes to express that kind  
19 of opinion. I think you probably agree with me on  
20 that, but...

21 So we do accept oral testimony. It's  
22 accepted in a public hearing. It is recorded by a  
23 court reporter.

24 MR. FISHER: Where does it say that? Where  
25 does it define public information meetings?

1           MR. THABAULT: I think in that paragraph you  
2 just read. We -- it talks about information  
3 meetings and public hearings.

4           MR. FISHER: All it says is we cannot accept  
5 verbal testimony at any public informational  
6 hearings. But you're -- so you define public  
7 informational hearings. But where does it say in  
8 this document what you just said?

9           MR. THABAULT: Well, it might not say it as  
10 clearly as I said it, but the reason is --

11          MR. FISHER: But it's not clear in here. I  
12 guess that's why I was a little confused.

13          MR. THABAULT: Yeah, the reason we take oral  
14 testimony at public hearings is just that, some  
15 people don't want to write it down, some people  
16 don't want to write us a letter so we do take  
17 testimony. We encourage people to submit their  
18 information in writing as well. But if they don't  
19 want to send a letter, we have their testimony on  
20 record and we accept that testimony.

21          MR. FISHER: Where does it say -- where does  
22 it define public hearings as opposed to public  
23 informational meetings?

24          MR. THABAULT: It might not, Conrad. It  
25 might not define it in that.

1 MS. CHANDLER: As a -- just -- here's your  
2 facilitator chiming in. I'm looking from this  
3 piece up here, a piece I took off of that was how  
4 tribal government written consultation comments  
5 will be treated. So if any sovereign tribal  
6 government writes their -- writes about the  
7 proposed rule and the draft plan, how is that  
8 submitted and how is it treated? Is that part of  
9 what the question is or am I not getting it?

10 MR. FISHER: Well, earlier when you were over  
11 there I had asked -- I wasn't as explicit as this,  
12 but I said my understanding is that there wouldn't  
13 be any written -- oral testimony taken. And then  
14 you said, no, we do take oral testimony, but... So  
15 it wasn't clear.

16 So in this language, it says we don't  
17 take any public -- we don't take verbal testimony  
18 in a public informational meeting. So it's a  
19 little confusing to -- for me. So if somebody that  
20 doesn't know about this would misinterpret that as  
21 being, well, you can't -- you have to have written  
22 testimony. And that's, I think, another thing that  
23 just -- I mean, I'm glad we clarified it. And it  
24 talks a little bit in here about it, but it still  
25 is to me -- doesn't define what a public



1 informational hearing is. I mean, I understand.

2 MR. THABAULT: Yeah, there's a meeting and a  
3 hearing.

4 MS. MUNOZ: I don't want to interrupt, but  
5 when we -- just -- and I think this is a good  
6 lesson for us in terms of how we frame this in our  
7 documents, but we did have, like, in our press  
8 release and on what we posted on the website, I  
9 think getting at what you're saying. And so I just  
10 wanted to share that with you. So there's that  
11 clarification on the difference and then we can  
12 take that back with us as one of those lessons  
13 learned about how we might better clarify this  
14 across all of the documents where we talk about it.

15 But it says, what we posted in our press  
16 release and the announcements of these meetings, it  
17 says, "Informal open house meetings will be held  
18 from 2:00 to 4:00 where you will be able to ask  
19 service employees questions and learn from  
20 educational posters." So that purpose of the  
21 informal meeting is really education. And then  
22 public hearings are held right after that from 5:00  
23 to 8:00 p.m., where you will have an opportunity to  
24 make public comments. And this is getting to what  
25 I think Mike was saying, is sometimes, you know,

1     unsatisfactory, you will be able to make public  
2     comments limited to three minutes per person. You  
3     are invited to attend either or both sessions, and  
4     then, you know, here are the locations.

5                     And so maybe in the future, I think  
6     we'll take it under advisement to kind of clarify  
7     in the rule itself what the difference is between  
8     an informational meeting and a public meeting. But  
9     just to clarify for you in this moment about what  
10    our objective is for an informal meeting, which is  
11    really education and learning.

12            MR. FISHER: Uh-huh.

13            MS. MUNOZ: And then the public hearing,  
14    which is actually people giving formal comments.  
15    As Mike said, you can submit a letter or you can,  
16    you know, come up to a microphone and give your  
17    oral comments that would be recorded by a court  
18    reporter. So that's kind of the difference between  
19    the two.

20            MR. FISHER: Thank you.

21            MR. THABAULT: This is a 30-second deviation.  
22    But I'll only say it because I've been in this  
23    business so long. We used to do public hearings  
24    with no information meetings, and they were even  
25    less satisfactory because public hearings don't

1 have an exchange of dialogue. So we, nationally,  
 2 as a national program, a decade ago started doing  
 3 these information meetings where people could  
 4 dialogue and exchange and get an understanding of  
 5 information ahead of that more formalized process  
 6 where there's really no exchange. It's the person  
 7 steps up to the microphone and gives their peace.  
 8 It's not a dialogue, so...

9 MR. HOGAN: I just want to jump in a second.  
 10 Jodie asked a question earlier, and I think it's  
 11 probably a good time to answer it. Jodie, you  
 12 asked about, you know, why we picked the locations  
 13 we picked. And I can tell you that the reason we  
 14 picked Cody and Bozeman for our public hearings is  
 15 because that's where we did them seven years ago,  
 16 whenever it was. So it was not -- certainly when  
 17 we did it -- your question was specific to -- I  
 18 think to Cody. Cody may not be the friendliest  
 19 town for tribal members to come up and make a  
 20 comment.

21 It wasn't even on our radar screen, to  
 22 be honest with you, that that wasn't a suitable  
 23 venue because I really wasn't thinking -- or we  
 24 weren't thinking about tribes coming and making  
 25 presentations at the public hearings because we

1 envisioned having this dialogue at a later date.

2 But that's a good point for us to remember.

3           My understanding is because I talked to  
4 Bear Standslast before the hearing and he told me  
5 about the comment -- the State of Wyoming had a  
6 meeting a week before we did in Cody and apparently  
7 someone made some ignorant comments about if we  
8 can't delist the bear, maybe we should just give  
9 this country back to the Indians and get back on  
10 the boat. Some really dumb comment.

11           MR. FISHER: Yeah. Did you get that?

12           MR. HOGAN: In bold.

13           MR. FISHER: In bold.

14           MR. HOGAN: I didn't even realize that had  
15 occurred. And Bear Standslast told me that right  
16 before we went into the hearing and so if -- as  
17 part of our ongoing dialogue, if you think there's  
18 going to be an interest in where -- in tribes also  
19 coming to public meetings and if you think there  
20 are certain venues that are not friendly to tribes  
21 participating, we'd certainly like to know that.  
22 Because the last thing we want to do is set up a  
23 venue in which people don't feel welcome. So  
24 that --

25           MS. MC ADAMS: We can do that.

1           MR. HOGAN: But the real reason we picked  
2 Cody and Bozeman is because that's what we did in  
3 2007. So we just replicated what we did.

4           MR. FISHER: I wish somebody would have said  
5 that to Custer before he came over to Little Big  
6 Horn, maybe he would have lived to tell his story.

7           MR. THABAULT: So cut to the quick --

8           MR. FISHER: That was off the record, by the  
9 way.

10          MR. THABAULT: I've mentioned that we're  
11 managing to a population level. This was  
12 effectively using that one methodology to estimate  
13 the population of bears. This is roughly -- 674 is  
14 the population that's been roughly stable in the  
15 ecosystem from 2002 to 2014. The actual number in  
16 2007 when we delisted was 683. So it's been kind  
17 of bouncing around in the 670 to 685 range, using  
18 this methodology and it's kind of peeked up. Like  
19 I said, it's about 717 now using that methodology.

20                 But the underlying premise of the  
21 proposal is that we can manage a population stable,  
22 and it will continue to exist and thrive in the  
23 ecosystem at a stable population. And in order to  
24 do that, the states principally, because they have  
25 management authority for the vast majority of that

1 geography, need to develop some regulations within  
2 their state jurisdictions to manage mortality.

3 And so there are certain safety gaps,  
4 safety gaps -- not safety gaps, safety ramps,  
5 maybe, in the proposal that says if populations  
6 get to certain levels that the states would not  
7 be able to have a hunting season. If mortality  
8 limits -- and they're divided by males and cubs and  
9 females, if any of those mortality limits are met  
10 in a given year, that triggers certain actions on  
11 the state or would not allow the state to continue  
12 to have a hunting season. If by chance -- because  
13 we recognize that if the States do have a hunting  
14 season and you got three hunters out in the woods,  
15 each one of them might come back the next day with  
16 a bear, they might go over, that they will take  
17 that extra -- that excess mortality that they just  
18 exceeded off the following years so that they have  
19 more conservative management in the following year,  
20 if they go over.

21 Females with young, there's a strict  
22 prohibition on females with young, hunting females  
23 with young.

24 The driver, the biological driver for  
25 grizzly bear sustainability is female mortality.

1 They are the controlling factor for the population  
 2 level. If you overharvest females, you will  
 3 automatically begin to have a decline with -- if  
 4 you overharvest them at a high enough rate, you  
 5 will automatically start having the population  
 6 decline. So the main focus and most conservative  
 7 management around grizzly bears is going to be  
 8 around female mortality.

9 And that was it. That's my last slide.

10 MR. FISHER: So it would be -- but here it  
 11 says the primary factor affecting grizzly bears,  
 12 both individual and population levels excessive  
 13 human caused mortality.

14 MR. THABAULT: Correct. And within that,  
 15 mortality on female bears has a greater population  
 16 level effect than male bears.

17 MR. FISHER: Okay. So which are we talking  
 18 about male or female --

19 MR. THABAULT: Most biological systems, males  
 20 are irrelevant in most biological systems.

21 MR. FISHER: Protect the female, in other  
 22 words?

23 MR. THABAULT: Right.

24 MR. FISHER: So I want to go back to that  
 25 slide where you have the Greater Yellowstone

1 Ecoregion. And when I see that, I see -- it kind  
2 of reminds me of reservations.

3 MR. THABAULT: This one?

4 MR. FISHER: Yeah. No, let's see. The next  
5 one.

6 MR. THABAULT: It's a blowup version.

7 MR. FISHER: That one. And, you know, you  
8 look at that over time and the grizzly bear had all  
9 this land, went down to Yellowstone, eastern  
10 Montana. It was all over the plains. You could  
11 find grizzly bear everywhere. And then their  
12 habitat was shrinking and shrinking and shrinking.  
13 Now they're confined to a new -- they've had to  
14 adapt to a new area, and that is the Greater  
15 Yellowstone area, which now has its own homozygous  
16 genome, if you will. And because of its unique  
17 status in being in sort of this island now and  
18 different from other genetic -- genetically related  
19 bears, from what you're telling me. And that might  
20 not be the accurate words. However, we see an  
21 island here that is going to be managed.

22 And Marissa brought up a good point  
23 about nutritional ecology and that with all  
24 the -- you see that in the arctic region, where the  
25 polar bear is interbreeding with the grizzly bear



1 because of the changing environment. And they've  
 2 had to -- they're in the process of adapting to  
 3 their environment because of all the -- what's  
 4 going on up there and the de-icing of the arctic,  
 5 if you will. And so things are changing there, as  
 6 we speak. It's happening right in front of our  
 7 eyes, the climate change. And so how is that going  
 8 to affect the Greater Yellowstone area? We don't  
 9 know, but certainly, it's affecting polar bears up  
 10 in the arctic area.

11 So my question is this: If there is  
 12 dramatic climate change in the Greater Yellowstone  
 13 area and there's really the listing of the grizzly  
 14 as an endangered species hasn't been more than,  
 15 what, 30 years?

16 MR. THABAULT: 1983.

17 MR. FISHER: '93 to 2003.

18 MR. THABAULT: So 34 years.

19 MR. FISHER: 34 years. So it's come to  
 20 fruition, if you will, that it's reached its  
 21 optimum level. So now the Acts as well, we've got  
 22 to delist them. But how do we know that -- why  
 23 isn't it that we take another 30 years to see  
 24 whether or not they overpopulate. I mean, are we  
 25 rushing into an area? You spoke about rushing

1 things. How come we can't see this optimum state  
 2 of sustainability and suitable habitat and leave it  
 3 at that, not delist them at this time, but wait?  
 4 You know, the government, the system, bureaucratic  
 5 system is such that it takes a long time for things  
 6 to occur. But right now we're like boom, boom,  
 7 boom, let's delist them, let's -- why can't  
 8 we -- let's wait until -- see what the consequence  
 9 is of having an overpopulation for the next 30  
 10 years and then start to see what we can do about  
 11 management.

12 Before I forget -- so that reminds me,  
 13 how does this -- so that's one question. By the  
 14 way, I used to teach tribal college so I know a  
 15 little bit about standing up here.

16 MR. THABAULT: How have I been doing?

17 MR. FISHER: Huh?

18 MR. THABAULT: How have I been doing?

19 MR. FISHER: Wonderful.

20 So you have this area here, which is --

21 MR. THABAULT: That's the current  
 22 distribution. Basically the current distribution.

23 MR. FISHER: So, you know, this is the area  
 24 that is going to be the monitoring area right  
 25 there.

1 MR. THABAULT: Correct.

2 MR. FISHER: But you're not going to monitor  
3 this area. You've got a little bit out here and a  
4 little bit out here and some over there. But,  
5 primarily, a lot of it is area that wouldn't be  
6 suitable because there's conflict there, seasonal.  
7 It wouldn't -- they wouldn't be suitable for  
8 grizzly bear habitat. But why not monitor that  
9 area also? Because what you're really doing is  
10 you're giving this up, these areas up right there.  
11 You're giving that up and you're not monitoring the  
12 whole distribution.

13 In essence, you're saying we're not --  
14 we're not going to monitor this, we're really just  
15 going to let that go to sheep and cattle and  
16 whatever is going to happen in that area. Because  
17 you're not monitoring that area. So what's going  
18 to happen to the grizzly bears that are up in those  
19 areas?

20 MR. THABAULT: So I think, you know, that  
21 demographic monitoring area might be a little bit  
22 of a misnomer. People are going to be looking at  
23 the bears outside of that. It's -- I may not be  
24 very articulate in this, but it's what counts. And  
25 we think we can -- we think we can manage a stable

1 population within the black line. And so we want  
 2 to make sure that we absolutely count and track all  
 3 the mortality within the black line because that's  
 4 the core of the habitat, that's where the best  
 5 habitat is, that's where the least amount of  
 6 conflict is, that's where we believe we can manage  
 7 the bear to a sustainable level within that area.  
 8 And, you know, there's going to be bears that are  
 9 coming out here. I suspect that bears that don't  
 10 get in trouble will be left alone.

11 But the bears that do get in trouble,  
 12 there's going to be more flexibility to manage  
 13 those bears outside.

14 MS. CHANDLER: So, excuse me, I really  
 15 apologize for interrupting. I see -- see, I'm  
 16 seeing what's happening. This is the nonverbal  
 17 communication of fatigue. We are all human species  
 18 and there's fatigue. And it is -- and I told you I  
 19 wasn't a clock watcher, but here you have a choice  
 20 to make. Out of respect for everybody who did make  
 21 the trip that may need to take this moment to  
 22 leave, I mean you need to leave soon and you need  
 23 to -- no, you don't. Should we -- and you may need  
 24 a break because it's typical to have a break more  
 25 often, right? So the question is: Do you want to

1 take a break and come back or would you like to --

2 MS. MC ADAMS: What do we have left?

3 MS. CHANDLER: What do you have left? It's  
4 really up to you. This is your meeting, but you've  
5 handled where the plan is, where you are in  
6 decision making, where the service is in decision  
7 making, and you've clarified some things about  
8 your -- the collective piece --

9 MR. THABAULT: Well, I think there's one very  
10 important point that I do think I want to get  
11 across.

12 MS. CHANDLER: Okay.

13 MR. THABAULT: And the rule, the draft rule  
14 was very specific in that the states need to  
15 finalize their regulations for us to go final. So  
16 part of, you know, is this a plea, is it a done  
17 deal? Well, it's not a done deal because there's  
18 still a lot of people that have a lot to do in  
19 order for this to work. And so the regulations  
20 that we've discussed are not done. They haven't  
21 even been drafted yet. There's an MOU between the  
22 three states for what they intend to do, but  
23 they're not done yet, so...

24 One, I think, critical piece of next  
25 steps, the next process steps --

1 MS. CHANDLER: Yeah, the next steps.

2 MR. THABAULT: -- is the states have a lift.  
3 The state management entities, Idaho Game and Fish,  
4 Wyoming Game and Fish, and Montana Fish Wildlife  
5 and Parks, and their respective commissions have  
6 some work to do to pass regulations in order for us  
7 to consider going final, so...

8 MS. CHANDLER: That must happen before --

9 MR. THABAULT: Yes, ma'am.

10 MS. CHANDLER: I mean, and then, like, do you  
11 have to look at it and say it's done?

12 MR. THABAULT: We have been very clear. And  
13 when those regulations are drafted and done, we  
14 will reopen the public comment period and put those  
15 regulations out to get the public's views on those  
16 regulations and whether they're actually going to  
17 do what we think they're going to do. So I didn't  
18 want to leave that unsaid because there is more  
19 work to do.

20 MR. FISHER: Just one more thing on that.

21 MR. THABAULT: Yes, sir.

22 MR. FISHER: And I know that's important and  
23 we probably need to talk about next steps right  
24 away, but... You mentioned something that just  
25 reminds me of the history of federal Indian

1 relationships. And that is that there might be  
 2 problem animals there along the peripheral there.  
 3 And that's what they said about Indians. They said  
 4 there might be problem Indians, let's put them on  
 5 reservations. So I think that's the point I wanted  
 6 to make. You have this animal that was free  
 7 roaming. Not that we're animals, but you get the  
 8 analogy.

9 MR. THABAULT: I do.

10 MR. FISHER: You're starting to shrink their  
 11 roaming area and their habitat. And I just see  
 12 sort of that -- and I think that's one of the  
 13 reasons why we're so -- we're so sensitive to this  
 14 type of delisting and encroaching on their natural  
 15 habitat. But I think that's from a cultural  
 16 perspective, I think we can say.

17 MS. MC ADAMS: It is. It really is. I agree  
 18 with you, Conrad.

19 MR. THABAULT: And I appreciate that and I  
 20 have a number of other constituents that would also  
 21 like us to look beyond the boundaries of that black  
 22 line. It's an unfortunate philosophical difference  
 23 of opinion in say, for instance, the environmental  
 24 community. The purpose of the Act is not to  
 25 restore necessarily the animal to every place it

1 ever was, but to restore it to the level that it  
2 can sustain itself on the landscape. And so  
3 there's a tension there as to what we have  
4 authority to do and jurisdiction to look at, as  
5 opposed to some other visions of how it should play  
6 out on the landscape. I don't know any other way  
7 to say that, but I'm just trying to acknowledge  
8 that it's a fundamental issue.

9 MR. FISHER: Matt, let me share a story with  
10 you from the tribes. When FEMA had the great flood  
11 down in the Crow reservation along the Yellowstone  
12 and Tongue River and Powder River, they had FEMA  
13 come out. A friend of mine was telling me, who  
14 worked for FEMA. He said they had FEMA reps go  
15 over and they talked to the Crow tribe. I won't  
16 mention any names, but they had their cultural  
17 people come over and said, do you have any cultural  
18 sites that were damaged? And this spiritual leader  
19 said, yeah. He said, our sweat lodge is damaged.  
20 There's a -- well, let's go look at it. Well,  
21 what's the cost for replacing the sweat lodge? He  
22 said, well, he said -- and this is off the record,  
23 by the way.

24 MS. CHANDLER: He really means it.

25 MR. FISHER: Thanks, I appreciate it.



1 MS. CHANDLER: Take a little break maybe.

2 (Whereupon, an off-the-record  
3 discussion then took place.)

4 MR. HOGAN: We had -- we have a lot in  
5 common in terms of our -- we all work for the Fish  
6 Wildlife and Service because we care very deeply  
7 about wildlife, as I know all of you do. It's --  
8 with a species like the grizzly bear, it gets  
9 difficult. Because, as I said, a lot of the public  
10 simply will not -- I mean, the people of Bozeman  
11 probably wouldn't tolerate a bear walking between  
12 these two hotels for very long before they would be  
13 up in arms. And I think, you know, there would be  
14 a segment of us, you and I think us, that if we had  
15 total control, we'd say, you know, we need to  
16 figure out a way to coexist with the bear wherever  
17 the bear chooses to show up. Unfortunately, the  
18 world isn't that clean anymore and now we -- I  
19 mean, the species used to range way out on the  
20 plains. And we've, as a species, humans have  
21 pushed them into the mountains in places where  
22 we don't go routinely. And that's the only  
23 place where they can make a living. And so  
24 that's -- we're now stuck trying to balance that,  
25 what's biologically suitable for them, but what's

1   also socially suitable for them so people will  
2   tolerate them. Because at the end of the day, if  
3   the majority of people don't tolerate them, they're  
4   not going to be around. You know, species usually  
5   lose out to people if people don't tolerate them.  
6   Even with an Act like the Endangered Species Act,  
7   if the vast majority of people are against  
8   something, eventually it will disappear. So that's  
9   a little bit of the balancing act we're trying to  
10   do with the grizzly bear and that's why we draw  
11   somewhat artificial lines on maps, because we have  
12   to figure out how do we keep it in a way that  
13   people will tolerate them and they don't completely  
14   disappear.

15           MR. FISHER: Well, the gentleman right there,  
16   and I don't want to speak for him, but he brought  
17   up an interesting question. He said how come we  
18   always have -- non Indians are the ones that get  
19   mauled and, you know, they -- by bison and grizzly  
20   bears, and we never hear of Indians having that  
21   same -- same accidents.

22           MR. CHINGMAN: You know, and when I was  
23   looking at the map, I was seeing the same thing on  
24   the reservation. You know, it's just a different  
25   species that we're talking about. And, you know,

1   once it starts happening and it gets put on, you  
2   know, hunting tags and stuff like that, you know,  
3   majority of those grizzlies are just going to  
4   migrate off that and it's going to be moving -- you  
5   know, especially moving to Cody and, you know, our  
6   reservation and, you know, we -- my family goes  
7   camps in Owl Creeks. And Brian DeBolt is the guy I  
8   was thinking of, he is the grizzly manager for our  
9   area.

10           MR. HOGAN: I think he's a state guy.

11           MR. CHINGMAN: Yeah, yeah, that's him. And I  
12   know him pretty good through -- his son plays  
13   baseball and he played on my nephew's team. But we  
14   go camping in the Owl Creek Mountains for the 4th  
15   of July and grizzlies been up there. And my  
16   family -- or the family that I go camp with, I'm  
17   not physically related to them, but they took me in  
18   as a member and that's how the natives do, is they  
19   take somebody in and you take them as your own.  
20   But I go camping with them and they tell me stories  
21   of a grandpa one morning woke up and there was,  
22   like, a real big grizzly in the willows and, you  
23   know, he chased all the kids in tents and stuff.  
24   And they just watched that grizzly go by. And, you  
25   know, that's a good story.

1 MR. THABAULT: Absolutely.

2 MR. CHINGMAN: And I think as Natives, that's  
3 what we always grew up with, is just don't mess  
4 with them and, you know, let them be on their way,  
5 but... You know, and I understand grizzlies are an  
6 animal, you know, do what they want, you know, like  
7 some mauings do happen. But, you know, as far as  
8 I can remember, I never ever heard of a Native  
9 getting mauled on the reservation there.

10 And I -- there's this run called the  
11 Moccasin Lake challenge and it goes straight to the  
12 heart of our mountains. And one of the things that  
13 was brought up by a nonmember, tribal member was,  
14 you know, what are we going to do when we see a  
15 bear? And personally, me, and I know the Natives  
16 on our land, never really thought of that, you  
17 know. You know, our families and people been  
18 getting wood up there all these years and running  
19 up in there and stuff. And it just never crossed  
20 my mind of somebody getting mauled by a bear. I  
21 mean, but I understand how the human race is  
22 growing into the mountains.

23 I mean, driving into Jackson, you can  
24 just see it. I mean, there's nice houses on these  
25 sides of the mountains and it's just common sense

1 you're going to run into some kind of wildlife  
 2 that's going to affect harm into -- whether it be a  
 3 mountain lion or moose, you know, running you over,  
 4 something like that. It's just -- and looking at  
 5 that map, I mean it's just going to -- the bears  
 6 are just going to, you know, start making their way  
 7 out of there, which is common sense is what they'll  
 8 do. But if they make it to the res, I guess  
 9 they're welcome.

10 MR. ALEX: Who managed them before?

11 MR. THABAULT: Who managed them?

12 MR. ALEX: The bears before.

13 MR. THABAULT: Before when, is my question?

14 MR. ALEX: That's my question. They managed  
 15 themselves.

16 MR. THABAULT: Well, they were mismanaged  
 17 down to a point where they needed some help, but...

18 MR. ALEX: No. Man mismanaged them to that  
 19 point.

20 MR. THABAULT: Yes, that was my point.

21 MR. ALEX: Animals don't extinct themselves.

22 MR. THABAULT: No, they don't. They were  
 23 mismanaged by man down to that point.

24 MR. ALEX: Who managed them before?

25 MS. SPANG: I have a few questions. So

1 the grade or the straight polygon there, that's the  
2 protected habitat?

3 MR. THABAULT: No. That's a rough  
4 approximation of the current range of grizzly  
5 bears.

6 MS. SPANG: Oh, that's their range.

7 MR. THABAULT: Yeah.

8 MS. SPANG: Okay. So is that habitat  
9 protected or no, by the ESA?

10 MR. THABAULT: So I'm going to go up one  
11 slide. So again, I went back to every bear that's  
12 going to be within this circle will not be -- if  
13 the proposal goes final, would not be protected  
14 under the Endangered Species Act. They will have  
15 different levels of protection in the green, the  
16 dark green and outside. There's going to be strict  
17 limitations and regulations and population limits  
18 and other triggers in the green to make sure the  
19 population, at least within the green, stays at a  
20 stable level. There's going to be -- there will  
21 be, under this proposal, more flexibility, for lack  
22 of a better term, on bears that get into sheep.  
23 They will not be -- if a bear is killed outside of  
24 the green, it will not count against the population  
25 numbers in the dark green.

1           MR. HOGAN: To your question specifically,  
2   Marissa, on habitat. So within the green, even  
3   though the ESA is going to go away, the Forest  
4   Service and the Park Service have agreed to  
5   restrictions. So in other words, it's not like  
6   when you say it goes away that everything can  
7   restart. They've agreed that basically there's  
8   going to be no more official --

9           MS. SPANG: I guess I'm just worried about  
10   the potential that the delisting poses, the risk it  
11   poses to decreasing public lands.

12          MR. HOGAN: It shouldn't decrease any public  
13   lands. And I don't know that we've got a slide  
14   that articulates all the things that the federal  
15   agencies have agreed to. But within all of the  
16   federal public lands, Park Service lands and Forest  
17   Service lands, there's very specific things that  
18   they've agreed to keep it perpetuity beyond just  
19   the ESA. So no additional road density, no gas  
20   development, et cetera, within that core area. On  
21   the outside, that's a mix of public and private.  
22   And I think you're going to get a mix of  
23   regulations and no regulations. I mean, private  
24   lands, we don't -- even the ESA doesn't have a lot  
25   of strict prohibitions on what you do on your

1 private land. But the core of the habitat, the  
2 vast majority of it is going to be federal public  
3 lands and tribal lands. And most, if not all, of  
4 the habitat protections that exist now will stay in  
5 the absence of the ESA.

6 MR. THABAULT: So I think this line right  
7 here basically is the Wyoming -- southern tip of  
8 the Wyoming range, and that's the National Forest  
9 boundary. All of the federal protections, land  
10 management protections will apply to all of the  
11 federal lands within the DPS. So these areas up  
12 here, this area out here. So there is still going  
13 to be protections on federal land even though it's  
14 not within the demographic monitoring area.

15 MS. SPANG: I have a question, and I'm just  
16 kind of curious about your response. Why trophy  
17 hunting? Like, why is that painted as an advantage  
18 to the delisting of the grizzly bear?

19 MR. THABAULT: It's not painted as an  
20 advantage. You know, part of where the Fish and  
21 Wildlife Service has to be in terms of all of this  
22 is we look at what's going to happen if we were to  
23 delist, and part of the things that are going to  
24 happen to the species. Is it going to sustain it  
25 at some level on the landscape or is it going to



1 then revert back and drive it to the point we need  
2 to list it again?

3 So to the extent that we've determined  
4 that the population can sustain, can -- a certain  
5 level of mortality and still be stable, then our  
6 obligation is to take it off the list, no longer  
7 protect it through the federal government, and hand  
8 it back to the agencies that have principal  
9 authority; in this case, would be tribes and  
10 states. We can't dictate through the delisting  
11 what the states do. The states tell us here's how  
12 we're going to manage and then we look at that and  
13 say, okay, is the bear going to be okay.

14 Right now our assessment is yes. We  
15 can't say we're going to delist except for you  
16 can't have trophy hunting. We don't have that  
17 authority. We don't have that jurisdiction to go  
18 back the other way. All we can do is evaluate  
19 what's before us, as a management scheme, which is  
20 the conservation strategy and the state  
21 regulations, and do we believe based on that and  
22 our assessment into the future, some point in the  
23 future, is the bear going to be okay. And if the  
24 answer to that is yes, even though some management  
25 aspects may be very offensive to a lot of people,

1 it's the biological facts is what feeds into our  
2 decision.

3 MR. FISHER: So again, the question is -- are  
4 you done, Marissa? You got another question?

5 MS. SPANG: Yeah, mostly. So, but I was just  
6 looking at the conservation strategy. And sorry,  
7 is your point related to what we were just talking  
8 about? Because I was going to steer it in another  
9 direction.

10 MR. FISHER: Go ahead.

11 MS. SPANG: Okay. It does account for, like,  
12 changes in climate, about where these bears have to  
13 go for, like, food sources?

14 MR. THABAULT: We've evaluated as far into  
15 the future as we think we can see, is a little bit  
16 a part of the answer I think to your earlier  
17 question, Conrad. Is there's uncertainty in  
18 everything, but based on what we know about the  
19 bear now and its adaptability. It's an omnivore.  
20 It shifts back and forth between food sources. It  
21 uses fish, it uses the moth, it uses the white bark  
22 pine, which only occurs in Yellowstone. The bears  
23 don't use white bark pine in any other ecosystem.

24 Our assessment right now is that it's  
25 plastic enough to move back and forth between food

1 sources that it's going to be okay. And that the  
2 climate change effects in changing those food  
3 sources don't appear to be -- at least on what we  
4 know now, are going to be at a rate or significant  
5 enough, as far out as we have some certainty.

6 MS. SPANG: So have you done climate change  
7 modeling? Is that what you've done?

8 MR. THABAULT: No, we have not done any  
9 specific climate change modeling for this proposal.  
10 This interagency grizzly bear study team has looked  
11 at what climate change might do to the various food  
12 sources when they did that food synthesis study.

13 MS. SPANG: And where can I get that or where  
14 is that available?

15 MR. THABAULT: The food synthesis study is  
16 posted on our grizzly bear website.

17 MS. MUNOZ: Yeah, I'm sending it to you right  
18 now.

19 MR. THABAULT: Yeah. So anything grizzly  
20 bear that we have, we have got a grizzly bear  
21 website and all the documents, all the annual  
22 reports, all the synthesis studies, all that stuff  
23 is there. And we'd be happy to --

24 MS. SPANG: So do tribes -- so tribes have to  
25 weigh in on the conservation strategy plan draft

1 through the public comment process then?

2 MR. THABAULT: And/or any other consultation  
3 venues that we establish through the tribes through  
4 reputations.

5 MS. SPANG: So Conrad knows so much more  
6 about this than I do, so I'm just kind of  
7 projecting my experience from, like, EIS and  
8 Riverton River Railroad and things like that. Like  
9 we hired our own experts to go out and assess sites  
10 and poked all these holes in the EIS and the  
11 Riverton River Railroad was saying, we're not going  
12 to have this many impacts and we came back and said  
13 actually you're going to have these impacts.

14 And I'm just wondering if there's  
15 that -- that process is made available in this.  
16 Because it sounds like you all have made your case,  
17 you collected your data, your knowledge from your  
18 Western science paradigm, and I'm not saying it's  
19 right or wrong, but I'm saying that it's very  
20 ethnocentric.

21 And so where is our opportunity to put  
22 in our traditional knowledges about, you know,  
23 grizzly bear and then inform the conservation  
24 management plan? Because I looked at the data.  
25 There isn't a very big window for public comment.

1 It's not big at all. You guys have had all this  
2 time to prepare your materials and your decisions  
3 and your recommendations. And where is our  
4 opportunity to do the same level of rigor in the  
5 investigation of what the impacts could be to this  
6 particular species?

7 So that's a big question. That would be  
8 my recommendation, that we be allowed more time.  
9 And I don't know if it's something the tribe would  
10 be willing to take on or not, but any other tribe  
11 would want to do that. But I know that with things  
12 that are this impactful, it would make sense to me  
13 that that be something that becomes a part of these  
14 government-to-government consultations. Because  
15 it's not just about the policies and the process,  
16 which are important, but it's also about us making  
17 decisions as a tribal government from our own  
18 tribal knowledges that are older than Western  
19 science. Western science is very recent to these  
20 territories. These are indigenous territories.  
21 That's Crow and other -- it's shared territory  
22 between Crow and others, but...

23 Those knowledges and relationships of  
24 the land have been here for thousands of years.  
25 And Western science have been here, what, a couple

1 hundred years? So I'm not saying one is more valid  
2 or less valid than the other, but I'm saying that  
3 we both have words and they both have to be on the  
4 table.

5 MS. CHANDLER: I'm watching and I'm  
6 listening, and this is such a key moment to talk  
7 about timing and getting influence. And also I see  
8 you getting ready. So does this feel like a time  
9 that you want to say goodbye and then regroup? I'm  
10 relying on you government folks.

11 MR. THABAULT: Let me answer her question  
12 before you leave. I'd like to.

13 MS. CHANDLER: Okay. Ask if that's okay?  
14 Can you hang in there? Okay.

15 MR. THABAULT: So a short answer is there is  
16 a lot of traditional ecological knowledge out  
17 there. And I think it would be valuable if the  
18 tribes have that traditional ecological knowledge.  
19 It's a lot to say, traditional ecological  
20 knowledge.

21 MS. SPANG: TEK maybe.

22 MR. THABAULT: TEK. The challenge in some  
23 of the underlying assumptions in the science that  
24 we presented, that would be very valuable from -- I  
25 think from the tribal's perspective to feed into

1 the Fish and Wildlife Service, what's your  
2 understanding of the knowledge, the nature of the  
3 bear, how it responds to food on the landscape, how  
4 it might respond to climate change, based on your  
5 traditional ecological knowledge. That would be  
6 something that I think would be valuable for us to  
7 then look at and then give us a platform and maybe  
8 go back to you and say, well, give us a better  
9 understanding of how this operates so we can take a  
10 look at that.

11 That is, again, in my opinion, one of  
12 the more valuable pieces of tribal input within the  
13 very small box of ESA that I have to work with  
14 them, is that piece.

15 MS. SPANG: So that would be a recommendation  
16 that I'd make. And as a part of the treasurer's  
17 responsibility I would say that the U.S. Fish and  
18 Wildlife consistently support tribes in that  
19 endeavor, because as I indicated before, we're  
20 like -- we have -- our time is in high demand. So  
21 that's one of the things that we also are kind of  
22 trying to balance, too. Is like I have these  
23 day-to-day things that I have to do for our land  
24 base that I have to attend to every day. And then  
25 there are these instances where there's like these

1 draft EIS's or these draft proposed rules and  
2 things like that, that I want to try to lend my  
3 expertise to, but I can't go out and lead that  
4 study. Like, I just don't have the bandwidth for  
5 that. So as a treasurer's responsibility, I would  
6 look to the Fish and Wildlife Service to provide  
7 that support to tribes so that can be done.

8 MR. HOGAN: So this is a difficult topic.  
9 Not specifically this, but through this whole  
10 delisting process, there's been a lot of folks, to  
11 be blunt about it, that have taken potshots at the  
12 federal scientists who have been studying the bear  
13 and they've ascribed motives to them that I think  
14 are unfair. And I'm not suggesting that's at all  
15 what you're doing, Marissa. But there's been -- I  
16 mean, the people who we've relied on, the  
17 interagency grizzly bear study team, I believe, are  
18 some of the best bear scientists in the world. And  
19 as Mike said, they have a very conservative  
20 protocol about which they use to estimate the bear  
21 population that somehow, unfortunately, I think  
22 some people in the media have painted them as  
23 they're being influenced by politics to create a  
24 bear number that gets us to a political decision to  
25 delist the bear. And I would say it's actually the



1 opposite. It's been the scientists who have been  
2 studying the population for years who have said  
3 here's what we believe the population to be.

4 But to your point, I'm wondering if a  
5 middle ground in the short term wouldn't be for us  
6 to come and have our scientists, and as Mike said  
7 earlier, dug too much into the weeds of a federal  
8 science works. I mean, at one point the science  
9 that is now part of the U.S. Geological Survey used  
10 to be imbedded in the Fish and Wildlife Service and  
11 Secretary Babbitt separated the two and basically  
12 said he wanted the science separated from the  
13 management. So we rely on our colleagues and the  
14 U.S. Geological Survey, the study team that studies  
15 the bear.

16 But would it be helpful for the study  
17 team to make a presentation to you and maybe some  
18 of your colleagues on the wildlife side of tribes  
19 to talk a little bit more in depth about the  
20 scientific approach reviews to get to some of these  
21 estimates?

22 MS. SPANG: Yeah, I think that would be  
23 helpful. So thank you for that. It would be  
24 helpful. It still doesn't get to the point that I  
25 made.

1           MR. HOGAN: No, no, I hear you. I'm just  
2    thinking in the short term, if there's not a way  
3    for us to at least explain maybe better, we  
4    certainly can in this room or even by looking at  
5    documents, if you had some opportunity to interact  
6    with some of these scientists to better  
7    understand --

8           MS. SPANG: Yeah, I think it would be  
9    informative. But, yeah, it would still maintain  
10   that, you know, tribal knowledges have to be  
11   incorporated into these conservation management  
12   plans and its proposed delisting. Like, to me,  
13   that's a true government-to-government engagement.  
14   And especially for lands that are already -- tribal  
15   lands that are managing these particular species.

16          MS. CHANDLER: What would be a doable next  
17   step is that -- I know now I'm just trying to get  
18   you to clarify, both, make sure you're  
19   understanding each other, a doable next step to  
20   provide that kind of support? Like, what would it  
21   look like, sound like, feel like for Northern  
22   Cheyenne to get that support?

23          MS. SPANG: It would be to have people come  
24   to the reservation and set up a plan for how we're  
25   going to go out and assess it and look at it. And

1 the other thing, too, is that you can't just copy  
2 and paste and come in and collect traditional  
3 knowledge like specimens. Like, they're -- they  
4 have imbedded value systems. Like Conrad was  
5 saying, like we can't just tell you what it is.  
6 Like you have to come and live it too. So I'm just  
7 going to say that that tension is also there. And  
8 it isn't present just in wildlife work. I mean,  
9 it's happening all over the world. It's not just  
10 to the states. It's everywhere about how do you  
11 meaningfully engage with indigenous peoples in  
12 their own territories where they were forcibly  
13 colonized and removed from their indigenous  
14 territories. And then incorporate our traditional  
15 knowledges into these sorts of practices, because  
16 they do go on to inform policies and land  
17 management and they're impacting -- they go as far  
18 as down as impacting the genome of these particular  
19 species because now they've been enclosed.

20 And so our choices have real impacts  
21 beyond just us, beyond us having a comfortable  
22 hotel room where we're not in the danger of a  
23 grizzly bear walking through the parking lot.  
24 It's -- you know, it's -- let's make it less  
25 anthropocentric I guess is one of the other points

1 I'm trying to get to. And I think we all kind of  
2 share that in this room.

3 MR. FISHER: And a lot of it might be sacred  
4 knowledge, you know, it's only passed down through  
5 how do you protect that information? You know,  
6 it's somebody could use the knowledge that we  
7 give you and get a dissertation out of that, that  
8 type of knowledge when, you know, we -- you  
9 just -- you're asking us something that you want us  
10 to freely give you that might be a process for you  
11 to get that knowledge. So it's not just about  
12 coming in and saying we need this information, give  
13 it to us so that we can use it for this.

14 The best scenario would be to have an  
15 independent agency. Because I kind of look at it,  
16 and I'm not criticizing anybody, but like the fox  
17 and the henhouse. You're the agency that's going  
18 to determine it, you've done your studies, you want  
19 the tribes to look at it and then you'll make a  
20 determination. Best scenario would be to have an  
21 independent agency look at it from both sides. I  
22 mean, we all want to have this, the best thing that  
23 happens. But you have these proposals, if you  
24 will. You have this information and then you have  
25 an agency that looks at that information and says

1 here's what we're going to do.

2                   However, that isn't the case. And  
 3 I'm not trying to be critical. I know you're  
 4 doing -- this is the best case scenario, but I  
 5 think it's important that -- and I know that tribes  
 6 are ready to leave and I've got to go here pretty  
 7 quick -- that whatever resources you can provide to  
 8 come over to the tribes and give a real good  
 9 presentation with folks like our own natural  
 10 resource department and to give us as much  
 11 information as you can so that we can better  
 12 understand what's going on, I think the more  
 13 responsive they'll be, the better the understanding  
 14 and the better we can protect the grizzly bear, I  
 15 mean.

16                   And again, you know, we're running out  
 17 of time. In hindsight, it could have been an all  
 18 day thing. But we appreciate you inviting us to  
 19 this listening session and not a consultation. I  
 20 think we want to restress that, that this is, in  
 21 our opinion, a listening session and not a  
 22 consultation meeting. Consultation isn't going to  
 23 start until -- G-to-G isn't going to start until  
 24 you come over and meet with the tribes. And I know  
 25 you're just going to -- you're going to follow up

1 with that. That doesn't mean that will happen, but  
2 I think we're here, we're sincere, we want it to  
3 happen. We want the consultation to happen, but  
4 it's got to be with the tribes. It's not going to  
5 happen in this type of scenario unless the tribes  
6 want it to happen.

7 MR. HOGAN: I appreciate that comment,  
8 Conrad. And I don't know if we're ending or not,  
9 but I think -- you know, I walk out of here  
10 thinking that -- that we have more in common than  
11 we know. You know, we both have a passion for  
12 our children and grandchildren and generations to  
13 come, this grizzly bear is wild and free on this  
14 landscape and --

15 MS. CHANDLER: Let's take -- I'm sorry. Can  
16 you just bracket it to say goodbyes? Yeah, say  
17 goodbye.

18 MR. FISHER: Safe travels.

19 MS. CHANDLER: It just felt like the right  
20 time.

21 MR. HOGAN: Yeah, just the best speech of my  
22 life and you interrupted it. Can you read back  
23 what I was saying?

24 MS. CHANDLER: Closing prayer from Conrad.

25 MR. HOGAN: Are we there now or?

1 MS. CHANDLER: I think -- I don't know. I'm  
2 going to take my signal from Conrad, and Councilman  
3 Alex and Leander Watson. I'm still needing these  
4 things.

5 So is there something more that needs to  
6 be captured from your perspectives around the  
7 table? Did you want to finish the best speech of  
8 your life?

9 MR. HOGAN: No.

10 MS. CHANDLER: Are you sure?

11 MR. HOGAN: Yeah, I'm good. I'll call Conrad  
12 and give it to him in person.

13 MS. CHANDLER: Yeah, see you can do that.

14 MR. WATSON: I would like to get the notes  
15 from the next meeting too.

16 MS. CHANDLER: Yeah. In Rapid City?

17 MR. WATSON: Yes.

18 MS. CHANDLER: So who will do what next time  
19 on those? How will that work? With you, for  
20 example, when do those get delivered?

21 (Whereupon, there was an  
22 off-the-record discussion.)

23 MR. FISHER: So I just want to make this  
24 presentation at this -- we're not done yet, are we?

25 MS. CHANDLER: Not unless you all say so.

1 I'm relying on you to --

2 MR. FISHER: So I just want to make this  
3 formal presentation at this point that from our  
4 president and this was -- this is Resolution Number  
5 DOI-027 2015 officially opposing the federal  
6 government's intent to remove the Yellowstone  
7 grizzly bear from the Endangered Species Act  
8 protection. And the Northern Cheyenne Tribal  
9 Council has the authority to take this action  
10 pursuant to Article IX, Section 1-A and R of the  
11 Northern Cheyenne tribes amended constitution and  
12 bylaws. And this was -- this was accepted by our  
13 local BIA superintendent.

14 And what it essentially says is the  
15 resolution of the Northern Cheyenne Tribal Council  
16 officially opposing the federal government's intent  
17 to remove the Yellowstone grizzly bear from the  
18 Endangered Species Act protection.

19 Whereas, the Tribal Council of the  
20 Northern Cheyenne Tribe is the governing body of  
21 the Northern Cheyenne Tribe and the Reservation  
22 pursuant to the amended constitution and bylaws as  
23 approved by the Secretary of the Interior on May  
24 31st, 1996. And we have the authority to cultivate  
25 and preserve native arts, crafts, culture and



1 Indian ceremonies.

2 And it says, Tribal Council of the  
3 Northern Cheyenne Tribe opposes the federal  
4 government's proposed removal of the Yellowstone  
5 grizzly bear from the Endangered Species Act  
6 protections through the U.S. Fish and Wildlife  
7 Service. The U.S. Fish and Wildlife Service,  
8 Department of the Interior, has so far ignored the  
9 Executive Order 13175, November 6, 2000,  
10 Consultation and Coordination with Indian Tribal  
11 Governments signed by President Clinton and the  
12 Memorandum for the Heads of Executive Departments  
13 and Agencies, November 5th, 2009, issued by  
14 President Obama requiring a complete and consistent  
15 implementation of Executive Order 13175.

16 And whereas, the federal government's  
17 determination to remove the grizzly bear from the  
18 Endangered Species Act protection contravenes the  
19 American Indian Religious Freedom Act, AIRFA.PUBLIC  
20 LAW 95-341, August 11th, 1978. And whereas the  
21 American Indian Religious Freedom Act states laws  
22 pertaining to conservation and preservation of  
23 natural species and resources were never intended  
24 to impact American Indian religion practices, but  
25 did. And therefore, were passed without

1 consideration of their effect on traditional  
2 American Indian religions. Whereas in its proposed  
3 delisting of the grizzly bear, the U.S. Fish and  
4 Wildlife Service in its contravention of the  
5 Secretarial Order issued by the Secretary of the  
6 Interior and the Secretary of Commerce pursuant to  
7 the Endangered Species Act ESA of 1973, 16 U.S.C.  
8 1531, which sets forth the framework to be followed  
9 when action taken under authority of the ESA affect  
10 tribes.

11 And whereas, the American Indian Tribal  
12 Rights, Federal Tribal Trust Responsibilities, and  
13 the Endangered Species Act Order state, The  
14 Departments shall take into consideration the  
15 impacts of their actions and policies under the Act  
16 on Indian use of listed species for cultural and  
17 significant purposes. Section 5 #4. And whereas,  
18 the order directs the U.S. Fish and Wildlife  
19 Service to solicit traditional knowledge, and  
20 comments from, and utilize the expertise of  
21 affected Indian tribes during the consultation  
22 process and cooperate with affected tribes to  
23 develop and implement Recovery Plans in a manner  
24 that minimizes social and cultural impacts on  
25 tribal people. And none of these commitments have

1     been honored.

2                 Whereas, one of the twenty-six federally  
3     recognized tribes the federal government  
4     acknowledges has an ancestral connection to the  
5     region now known as Yellowstone National Park and  
6     the Greater Yellowstone Ecosystem, the U.S. Fish  
7     and Wildlife Service is thus required to consult  
8     with the Northern Cheyenne Tribe under the  
9     aforementioned Orders and Acts.

10                And whereas, the U.S. Fish and Wildlife  
11     Service has refused to release the raw data it has  
12     based its conclusions on for independent scientific  
13     review, that data being the basis for the federal  
14     government's proposal to remove the grizzly bear  
15     from the Endangered Species Act's protections.

16                And whereas, when considering the intent  
17     of the Endangered Species Act, a species cannot be  
18     considered sufficiently recovered to warrant  
19     removal from the Endangered Species Act protection  
20     if it is presently only survives on approximately 2  
21     percent of its original range, as is the case with  
22     the grizzly bear in the lower 48.

23                And whereas, throughout the U.S. Fish  
24     and Wildlife Service's process proposing a new rule  
25     to delist the grizzly bear, there has been no

1 discussion related to the impact delisting the  
2 grizzly, and the subsequent trophy hunting of the  
3 bear will have on American Indian spirituality,  
4 namely the religious practices of traditional  
5 tribal people, supposedly protected by PL-95-341.

6 And whereas, the grizzly bear holds a  
7 unique position in traditional Cheyenne culture and  
8 the cultures and ceremonial lifeways of the  
9 traditional spiritual practitioners of the tribes  
10 also identified by the federal government as  
11 possessing centuries old, and in some instances,  
12 millennia-long connections to the lands where the  
13 grizzly now survives.

14 And whereas, those cultural imperatives  
15 and the preservation of sovereignty require a  
16 repudiation of the federal government's desire to  
17 delist the grizzly bear from the Endangered Species  
18 Act protections; and the legislative resolve  
19 to deny the State's determination to seek trophy  
20 hunting of grizzlies on reservations and the  
21 extirpation of the grizzly bear from swathes of  
22 reservation and ancestral homelands.

23 Now, therefore, be it resolved, that the  
24 Tribal Council of the Northern Cheyenne Tribe  
25 hereby opposes the delisting of the Yellowstone

1 grizzly bear. Approved by the Tribal Council by 9  
2 votes for passage, 0 against on this 1st day of  
3 December 2014. Signed by our president, Llevando  
4 Fisher.

5 I'd like to give this to you as a matter  
6 of record.

7 MR. THABAULT: Certainly. Thank you.

8 MR. FISHER: And I've got witnesses here that  
9 will attest that I gave it to you, and they'll be  
10 subpoenaed when we go to court.

11 (Laughter.)

12 MR. THABAULT: Wouldn't be the first time I  
13 had to go to court.

14 MS. ALVAREZ: Yeah, I just wanted to verify,  
15 thank you so much for letting me observe this  
16 listening session here. And I can't wait to see  
17 what working together will hopefully produce later  
18 on. Safe travels to everyone home. And hope to  
19 see you all soon. Hope we cross paths again. So  
20 thank you.

21 MR. FISHER: You bet. Thank you.

22 And I'll also give you back your key to  
23 the hotel.

24 MR. THABAULT: That's okay. It's going on  
25 Anna's credit card, so...

1 MS. CHANDLER: Again, so where does that  
2 leave us? I think we talked at the beginning how I  
3 was going to rely on each person here to take this  
4 meeting when you want. Did you get what you needed  
5 out of this meeting today? Is it time to wrap up?  
6 Are there any party comments you did not get a  
7 chance to say, that you want to say now? And is it  
8 clear enough about who's doing what next by when,  
9 in terms of your satisfaction about today?

10 MS. SPANG: Well, I would just like I guess  
11 to hear it from you all. So it sounds like the  
12 comment period is closing -- what's the date?

13 MR. THABAULT: May 10th.

14 MS. SPANG: May 10th, so that's shortly. I  
15 don't know. Has any tribe requested an extension  
16 on the comment period?

17 MR. HOGAN: Not that I'm aware of.

18 MR. THABAULT: Not that I'm aware of. We  
19 have had some request for extension, but not  
20 tribal.

21 MS. MUNOZ: But because of our special  
22 relationship with tribes, we are able to continue  
23 to take information and knowledge or, you know,  
24 comments beyond the comment period that is laid out  
25 through our administrative process. So that May

1 10th date is not like a hard and fast date. I  
 2 don't know what the timeline is overall in terms of  
 3 a final decision, so I can't speak to that. But  
 4 tribes are not bound. If you sent us something,  
 5 you know, a month later, we would still consider it  
 6 because of our special relationship.

7 MS. SPANG: So then what is the timeline,  
 8 then, to put the final draft forward?

9 MR. HOGAN: So we've set it, there's  
 10 nothing set in stone. We've basically set the  
 11 end of the year to try to make a final decision.  
 12 To the -- your point earlier, Marissa, one of  
 13 the -- our director has decided at this point not  
 14 to extend the comment period, but we envision  
 15 reopening it, Anna's comments, notwithstanding  
 16 you're not bound by the comment period. There will  
 17 be another opportunity. We will reopen the comment  
 18 period after we get a peer review of the rule,  
 19 correct?

20 MR. THABAULT: More than likely we'll do it  
 21 when the regulations are done, and then we'll open  
 22 up to evaluate the peer review comments and the  
 23 regulations at the same time.

24 MS. SPANG: Who's doing the peer review?

25 MR. THABAULT: We are contracting out to an

1 independent, an honest peer review. So we got  
2 contracted with an entity so that we are not in the  
3 position of choosing peer reviewers.

4 I was actually going to ask a question  
5 based on Conrad's comment in that, is there a way  
6 to incorporate traditional ecological knowledge,  
7 TEK? Is there a peer reviewer that could come into  
8 the peer review process and provide -- well, maybe  
9 not ideal, but some perspective on the science?  
10 Because typically a peer review is a scientific  
11 review. If you had brought recommendations for a  
12 potential peer reviewer, I would be happy to  
13 advance that name into the peer review process. I  
14 think we could clearly make a case that that would  
15 be a legitimate component of peer review. And to  
16 be honest, I just thought about that right now,  
17 so...

18 MS. SPANG: Yeah, that would be great.  
19 Yeah.

20 MR. THABAULT: But we'd need someone that you  
21 trusted that was objective, unbiased, didn't have  
22 financial consideration and all that kind of stuff.

23 MS. SPANG: Yeah.

24 MR. THABAULT: But could take and advance to  
25 the contractor and say, hey, this is a component of



1 the peer review that would be very valuable to the  
2 tribal nations.

3 MR. FISHER: Yeah. And I think Mike  
4 mentioned that in that conservation plan that there  
5 was a peer review. But I think we're looking at it  
6 at a -- you could call it that. But also I think  
7 it would be nice if the tribes had a -- somewhat of  
8 their own contractor that could look at it and --

9 MR. THABAULT: Clearly. It's not a  
10 substitute but I'm thinking, are there  
11 opportunities that we supplement and provide at  
12 least some form within the process we have now. So  
13 my name and phone number and everything else is on  
14 the list.

15 MR. FISHER: You're a genius.

16 MR. THABAULT: I've very rarely ever been  
17 accused of that, so. But thank you.

18 MR. FISHER: I've got to go. I have another  
19 appointment at 4:30. And I think I'm late.

20 MS. CHANDLER: Okay.

21 MR. THABAULT: Yeah, you're going to be late.

22 MS. CHANDLER: So no closing prayer today?  
23 Or you're going to run without that?

24 MR. FISHER: Well, I don't want to close the  
25 meeting if it's still -- you still have some other

1 things that you want to --

2 MS. CHANDLER: Oh, I think -- did anybody  
3 else have other things? I mean, I don't want to  
4 rush you. It's not my job. It's not my job to  
5 rush you. Okay? Okay. Yeah, if you'd be willing,  
6 I'm confident that that would be welcome, to close  
7 the meeting.

8 MR. FISHER: Sure. Sure. You want me to?

9 MS. CHANDLER: Well, if you're willing, I  
10 sense that that would be a really good thing.

11 MR. FISHER: Okay.

12

13 (Whereupon, the taking  
14 of this meeting was  
15 concluded at 4:32 p.m.)

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1 C E R T I F I C A T E

2 STATE OF MONTANA )

3 ) ss.

4 COUNTY OF GALLATIN )

5 I, Marla Jeske, Court Reporter - Notary  
6 Public, CSR, in and for the County of Gallatin,  
7 State of Montana, do hereby certify:

8 That the witness in the foregoing  
9 deposition was by me first duly sworn to testify  
10 the truth, the whole truth and nothing but the  
11 truth in the foregoing cause; that the deposition  
12 was then taken before me at the time and place  
13 herein named; that the deposition was reported by  
14 me in shorthand and later transcribed into  
15 typewriting under my direction, and the foregoing  
16 pages contain a true record of the testimony of the  
17 witness, all done to the best of my skill and  
18 ability.

19 IN WITNESS WHEREOF, I have hereunto set  
20 my hand and affixed my notarial seal this \_\_\_\_ day  
21 of \_\_\_\_\_, 2016.

22 \_\_\_\_\_  
23 Notary Public for the State of Montana  
24 residing at: Bozeman  
25 My commission expires: July 8, 2018