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Subject: more info. for the states
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Attachments: [draft language_FactorB_Overutilization due to recreational purposes.docx](#)
[Triggers&Responses_Yellowstone grizzly_v4.docx](#)

hey guys,

Thanks for all your help and discussion yesterday. Here is additional info/docs/etc. requested from the States. I figured I'd include everyone because this is so much fun. I'm also attaching 2 documents for your review...the revised triggers & responses and the 2 paragraphs we currently have in draft form in the threats analysis about hunting. Please review these and send me any edits you have. These paragraphs are based on a previous draft of the infamous "protocol" document. They can be revised (within reason)...and we expect they will be based on the language you state guys are working on together. I just wanted to give you an idea of the type of info. we're looking at including in a proposed rule and Conservation Strategy.

In response to Daryl's request for more info about why we think these details are important, there are a few reasons we need information about what hunting seasons will look like.

-) ESA requirements: One of the 5 factors we must consider in listing decisions is potential "overutilization due to recreational purposes"...hunting. In a delisting decision, we have to ask what hunting would look like if the protections of the ESA were no longer in place. In order to determine whether hunting would constitute a threat without the ESA, we have to understand how this mortality will be implemented.
-) Lessons from District Court & 9th Circuit (sorry in advance): Both courts questioned how mortality limits would be enforced. Hunting is one of the few sources of grizzly bear mortality that is 100% discretionary and this makes hunting one of the only concrete management responses we have to directly limit mortality. If we can get regulatory statements from population managers (States, Tribes, Parks), we will have a solid response to the 9th circuit's statement that "specific management responses, tied to more specific triggering criteria, are required."
-) More quotes from litigation: "...[FWS] did not explain adequately how existing regulatory mechanisms actually prevent grizzly bear mortality." "There is not a single federal or state law or regulation that provides a means for enforcing the Strategy's mortality standards." "Without tangible requirements specifying how the mortality limits will be enforced, there is nothing in this portion of the CS that serves as a regulatory mechanism" "While the state plans incorporate the mortality limits, the plans include no enforcement mechanism or standards to ensure mortality does, in fact, stay below the prescribed levels. Nor are the states required to take any specific management response if mortality exceeds the limits." "[A biology and Monitoring Review] does not serve as a regulatory mechanism because...the Service and other agencies are not required to take any concrete response to protect grizzlies if monitoring shows population or habitat declines."

) Wyoming wolf precedent: In the 2013 final rule delisting wolves in WY only, the Service included super detailed information about: use of dogs, hunting from roads, hunting units, reporting requirements, etc. We don't think that level of detail is necessary but we do think there needs to be a regulatory commitment to manage grizzly mortality in the DMA in a coordinated fashion and within DMA-wide mortality limits that do not produce long-term population decline.

thanks!
rebecca

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