

June 26, 2014

The Honorable Dan Ashe
Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, D.C. 20240

Dear Director Ashe,

We are writing to discuss the future status of the grizzly bear under the Endangered Species Act. While we recognize that the Fish and Wildlife Service has made great progress in conserving the grizzly bear, we believe that there are several significant challenges the Service must address before it moves to delist the grizzly bear in the Greater Yellowstone Ecosystem (GYE) or other parts of the species' range.¹

We are deeply concerned about the consequences for grizzly bears in the remainder of their range in the lower 48 states if the Service moves to designate and delist a GYE Distinct Population Segment (DPS) from the larger grizzly bear listed entity. Last year, when the Service proposed to delist the gray wolf nationwide, it did so in large part because it concluded that the original 1978 gray wolf listing no longer represented a valid entity under the ESA. In other words, the designation and delisting of the Northern Rocky Mountains DPS and the Western Great Lakes DPS had, in the Service's opinion, invalidated the rest of the original listing. We believe that the designation and delisting of a GYE DPS, as well as the Northern Continental Divide Ecosystem DPS for grizzly bears, could have the same effect — the Service would be left with a remnant population of grizzly bears that it considers invalid for listing under the ESA. And in so doing, the Service would jeopardize the recovery of grizzly bears in other key parts of the species' historic range including the Cabinet-Yaak, Selkirk, North Cascades, Selway-Bitterroot and San Juan mountains.

There is a way to move forward with grizzly bear delisting that does not jeopardize the larger listed entity; the Service can undertake a range-wide review and reclassification of the grizzly bear listing that in addition to designating — and if appropriate delisting the GYE — clarifies the status of the remainder of the species in the lower 48. This could be done by either clarifying that the remainder of the grizzly bear's range in the lower 48 does qualify for recognition as a DPS, or by creating additional DPS units.

¹ On May 23, the spring unified regulatory agenda was published on the OIRA website and contained a proposed delisting rule for the Greater Yellowstone DPS. See *Removing the Grizzly Bear in the Greater Yellowstone Area From the List of Endangered and Threatened Wildlife*, RIN 1018-BA41, <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=1018-BA41> (last visited June 23, 2014).

Doing so is fully consistent with the Service's past practice. The Service reclassified the original range-wide Columbian white tailed deer into two DPS units prior to delisting the recovered DPS unit, while leaving the other DPS unit as endangered. Likewise, the National Marine Fisheries Service reclassified the original range-wide Steller sea lion listing into two DPS units, and most recently reclassified the range-wide loggerhead sea turtle into nine DPS units. We are aware that NMFS is currently pursuing similar reclassifications for the green sea turtle and humpback whale.

Undertaking such a reclassification would unquestionably take more work and time for the Service to complete, but could still be accomplished before the end of 2016. We would hope that the Service would be transparent with such a process, provide notice to the public of its intent to pursue such a strategy, and solicit input from stakeholders across the grizzly bear's historic range. This would allow the Service to make an informed decision about the future of this species, not only in the GYE but elsewhere across its range.

Furthermore, if the Service undertakes such a process, it would provide valuable time to resolve key scientific disputes regarding the status and trend of the grizzly bear within the GYE. Research published by Doak and Cutler (2013) and Higgs et al. (2013) has raised significant concerns about the status of bears in the GYE.² The conclusions of Higgs et al. (2013) indicate that the grizzly bear population in the GYE has potentially been declining since 2008. Doak and Cutler (2013) identified critical methodological errors that may have resulted in the Service overestimating the current size of the grizzly bear population in the GYE as well as the trend of that population. Other data suggests human-related mortality of bears is on the increase in the GYE.

Finally, doing a comprehensive reclassification would allow the Service to take the time to improve any potential delisting rule in the GYE or elsewhere such that it is adequately protective to ensure grizzly bears maintain their recovered status over the long-term. This includes ensuring (1) that all post-delisting regulatory mechanisms are adequate such that a status review will be triggered in the event that the GYE population declines significantly; (2) that the post-delisting monitoring period (PDM) is biologically meaningful; for example an extended PDM similar to the Peregrine Falcon PDM which occurs over three generations of grizzly bears; (3) and that habitat and linkage zones are properly maintained to allow connectivity between grizzly bear populations.

Ever since 2011, when then-Secretary Salazar promised to delist the grizzly bear in 2014, the Service has been on an accelerated time-line to complete delisting of the GYE by this arbitrary deadline. Taking the extra time to fully address these concerns would make any final decision more defensible and consistent with the legal requirements of the ESA. Moving

² Doak, D.F. and K. Cutler. 2013. *Re-Evaluating Evidence for Past Population Trends and Predicted Dynamics of Yellowstone Grizzly Bears*, Conservation Letters; Higgs, M.D., et al. 2013. *Insights Into the Latent Multinomial Model Through Mark-Resight Data on Female Grizzly Bears With Cubs-of-the-Year*, Journal of Agricultural, Biological, and Environmental Statistics, 18:556–577

forward with grizzly bears the right way would be something that the entire environmental community could potentially support and celebrate. Thank you for your consideration.

Sincerely,



Kieran Suckling
Executive Director
Center for Biological Diversity



Travis Bruner
Executive Director
Western Watersheds Project



John Horning
Executive Director
WildEarth Guardians



Tehri Parker
Executive Director
Rocky Mountain Wild



Joseph Vaile
Executive Director
Klamath-Siskiyou Wildlands Center



Gary Macfarlane
Ecosystem Defense Director
Friends of the Clearwater



Nick Cady
Legal Director
Cascadia Wildlands



Brad Smith
Conservation Associate
Idaho Conservation League