

May 6, 2016

TO: U.S. Fish and Wildlife Service, MS: BPHC
Attn: Public Comments Processing
5275 Leesburg Pike
Falls Church, VA 22041-3803

FROM: Samuel F. Jojola, USFWS Special Agent (retired)

RE: Proposed Rule: Removing the Greater Yellowstone Ecosystem (GYE) Population of Grizzly Bears from The Federal List of Endangered and Threatened Wildlife – Docket ID: FWS-R6-ES-2016-0042

1. I am opposed to the delisting of the grizzly bear in the GYE and the removal of this iconic species from protections under the Endangered Species Act (ESA) and my comments are based on my educational and field experience as a former U.S. Fish and Wildlife Service (USFWS) employee as detailed below:

- My prior professional training in the field of Wildlife Science with a BS degree in Agriculture from New Mexico State University in 1981 and prior experience in the USFWS as a Wildlife Refuge Manager trainee between 1977 and 1978 and Assistant Refuge Manager between 1981 and 1983 in the National Wildlife Refuge System.

- Field experience in short and long term covert operations for 23 years with USFWS legacy Division of Law Enforcement (DLE) now the Office of Law Enforcement (OLE) involving violations of the ESA, The Lacey Act, and a host of other federal wildlife statutes, including 2 years as the Deputy Resident Agent in Charge (DRAC) for the Torrance USFWS/OLE, involving federal wildlife investigations in Los Angeles, the 2nd largest port in the U.S.

- Experience in overt and covert operations into illegal trophy hunting of various wildlife species including but not limited to black bears, elk and mule deer in several Western states, and an illegal black bear guiding operation adjacent to Yosemite National Park in the late 1980's.

- Experience working on two investigations involving the illegal killing of wildlife in Idaho in two separate cases in the early 1980's by foreign sheep herders; one which involved the illegal shooting of a grizzly bear and the

other the poisoning of a sheep carcass that resulted in the death of a bald eagle.

- Experience working with a research biologist studying ocelots in South Texas that provided a fundamental knowledge of field research activities relating to various wildlife species and wildlife ecology.

- Experience in wildlife mortalities caused by illegal shooting, poisoning, electrical utilities, gold and silver mining operations, and wind power facilities and how they relate to wildlife impacts and federal wildlife laws.

- Experience in investigating complex wildlife violations on state, federal, and tribal lands, including investigations into violations of federal wildlife laws stemming from illegal trophy hunting outside the U.S.

- Experience working with multiple land management agencies, to include the BLM, U.S. Forest Service, U.S. Park Service, Bureau of Indian Affairs, and how these agencies operate and interact with respect to wildlife resources.

My opposition to grizzly delisting in the GYE ecosystem is outlined under the subheadings below:

Reintroduction is an alternative to delisting

Reintroduction of the grizzly into other ecosystems is the best option to expand the gene pool of the limited population in the GYE and keep the current protection intact. In March, 2000, USFWS plans were underway to implement a reintroduction to several ecosystems, including the Selway-Bitterroot area. Specifics of the grizzly reintroduction from the GYE and other ecosystems were never implemented and ignored. USFWS plans to initially reintroduce the grizzly into this area in 1996 and 2000 were dismissed in 2001 when George W. Bush took office.

In December, 2014, The Center for Biological Diversity filed a petition requesting USFWS again pursue reintroduction of the grizzly into the Selway-Bitterroot in Idaho and Montana with over 16 million acres of viable bear habitat to support up to 300 bears. Still nothing transpired. Wildlife bureaucrats would have a better argument for delisting if they took the initial initiative 20 years ago. Biopolitics and misguided priorities impeded this great plan.

Conflicts in the 1980's

In the mid to late 1980's I worked a few federal wildlife investigations with grizzly bear conflicts in Idaho with fellow USFWS Special Agents.

Then there were a number of USFWS law enforcement investigations from colleagues in Idaho involving grizzly conflicts with the sheep industry in Idaho and Montana. There were reports of illicit shootings and occasional poisonings with a highly toxic carbamate insecticide known as Aldicarb or Temik illegally used to lace sheep carcasses and kill predators.

One covert investigation involved foreign sheep herders in Idaho where a colleague and I tried to document their knowledge of who told them to lace a sheep carcass with a toxic poison left for a predator like a coyote or grizzly to ingest. We were investigating a bald eagle that fed on the laced sheep carcass and died. Forensics proved poisoning as the cause of death.

Another incident in Idaho involved a foreign shepherd accused of killing a grizzly at night. The shepherd never confessed or turned in the sheep rancher who was suspect in the crime.

Indiscriminate killings of grizzlies then and now are difficult to document and even more difficult to prove. Reports are often after the fact and logistics prevent an immediate investigation to secure fresh evidence.

These incidents were frequent enough in 1983 to warrant four USFWS Special Agents assigned to conduct seasonal horseback patrols in the Centennial Mountains and other remote areas in Montana, Idaho and Wyoming. Their primary goal was educational outreach to ranchers, herders, loggers, hunters, outfitters and recreationists to see what they knew or saw about grizzly killings.

If delisting occurs and law enforcement and management are turned over to the 3 states, will these states obligate a reasonable amount of people and resources to patrol areas in the GYE? How much field support will USFWS provide?

How many illegal grizzly kills were documented in the 1980's? How many have been killed since the 1980's that were never discovered or investigated due to terrain, logistics and remote areas and decomposing bear carcasses?

Grizzly bear history in the 1980's and before then is important to fully understand what human caused impacts and abuse have done to the limited population in the lower 48 today. Livestock conflicts are obviously an issue in Idaho, Montana and Wyoming and the grizzly reintroduction into the Selway-Bitterroot was

controversial, but it was the best initial option 20 years ago and still is today and should be considered before delisting.

Trophy hunting influence on grizzly delisting in the GYE

Safari Club International (SCI) has been advocating the delisting of grizzlies in the GYE since 2006. SCI had considerable influence arguing for the 2007 grizzly delisting and will have considerable influence on the current delisting.

Many SCI members and other trophy hunters would welcome the opportunity of a special limited hunt in that ecosystem and the states involved could benefit. But does that benefit outweigh the cost? Prior delisting politics and limited science resulted in the overturn in federal court in the 2007 USFWS delisting rule.

To have a mounted grizzly from the GYE is something a hardcore trophy hunter would rave about given the prestigious and limited hunt. Big time trophy hunters like to have something unique that very few others can obtain which is a powerful incentive.

The initial flaws in the current delisting proposal and the previous 2007 delisting suggests that trophy hunting politics and flawed science have permeated the upper levels of USFWS leadership and the delisting was overturned.

The current delisting proposal is a waste of taxpayer money after the initial proposal by USFWS bureaucrats was poorly executed and many key Native American tribes and U.S. Park Service leaders were left out. The current delisting process should be abandoned to the efforts of a future political administration that would give more time to see how the current grizzly population in the GYE responds to declining food sources and human caused mortality which are major unforeseeable uncertainties.

Sound science by multiple independent parties outside of government should be evaluated with the economic tourism value and cultural and religious aspects of Native American tribes concerned for the best decision.

Representatives from key Native American tribes, state tourism officials, U.S. Park Superintendents should be included in any future delisting proposals.

Conservation Strategy should be mandatory under proposed grizzly delisting

The Conservation Strategy should be mandatory under post delisting of the grizzly in the GYE. In my experience with a "voluntary" reporting system for the gold and silver mining industry to the state of Nevada Department of Wildlife in

the late 1980's to report migratory bird mortalities on cyanide leach operations it didn't work. It does not work for the wind power industry either and specifically the Altamont wind facility in Northern California that has a 2 decade long history of "voluntary" reporting of eagle deaths by wind power generators with absolutely no consequences for violating federal wildlife laws.

Voluntary Bear ID test in Idaho and Wyoming should be mandatory post delisting

Currently, there is no mention of Idaho or Wyoming having a mandatory bear ID test for hunters. The delisting proposal states that "from 2002 to 2014 there were 34 accidental mortalities and 23 mortalities associated with mistaken identification (totaling 18 percent of known mortality for this time period)."

With hunter misidentification a documented cause of mortality for grizzly bears in the delisting proposal, Idaho and Wyoming need to implement a mandatory bear ID test.

Elk hunts near Grand Teton & Yellowstone Nat'l Parks threat to grizzlies in GYE

The proposal states that "From 2002 to 2014 humans killed 97 grizzly bears in self-defense of others in the GYE. This constituted 31 percent of known grizzly bear mortalities during this time period." The proposal further states that "These grizzly bear mortalities occurred primarily with elk hunters on public lands during the fall, but also at other times and locations."

These mortalities are too high and the elk hunts need to be more closely regulated to curtail these mortalities and hunter training needs modification with more stringent standards to insure hunters are well versed and compliant with human behavior in the GYE and grizzly encounters.

Hunter carelessness has been documented in a 2001 Public Employees for Ethical Responsibility (PEER) report December 4, 2001 where conflicts with elk hunters leaving elk gut piles left outside Yellowstone National Park were causing grizzlies to depend on humans for food sources.

The most recent incident involving grizzly bear conflicts with elk hunters in 2012 and the authorization to kill 4 grizzlies in the Grand Teton National Park that was challenged in an Earthjustice lawsuit shows this to be an ongoing problem not resolved in 15 years.

How can the grizzlies be delisted with these types of mistakes made after delisting that would take away protections under the ESA for these types of poor

judgements if the states were enforcing state laws without any ESA protections in place?

Bear spray should be mandatory to carry in the GYE to curtail grizzly mortalities

There is no requirement for anyone to carry bear spray outside the Grand Teton Park and John D. Rockefeller Memorial Parkway, according to the proposal. Idaho, Wyoming and Montana should make it mandatory for all hunters in grizzly bear territory to carry bear spray just like a mandatory hunting license.

Heavy fines and hunting license revocation needs to be instituted in state regulations to incentivize compliance with carrying bear spray.

Trophy hunting and grizzly delisting in GYE ruined by bad behavior and violators

Trophy hunting has been marred by several high profile incidents of illegal and unethical hunting in recent years. Trophy hunting bad behavior has plagued the hunting community prior to these incidents and states are not fully equipped to handle violators with limited resources and traditional political influence on state prosecutors for lenient sentences or case dismissals.

Trophy hunting as it existed before the Dr. Palmer, Cecil the Lion incident is now very magnified. In 2008, Dr. Palmer pled guilty in federal court to an illegal black bear hunt in Wisconsin from 2006. In 2015, high profile hunters like the former Kansas beauty queen and NHL Anaheim Ducks hockey player left a black mark on trophy hunting grizzlies in Alaska and British Colombia.

The Montana hunter who illegally killed 3 grizzlies in 2014 is another tragic story.

The recent report that Scarface, a most iconic bear in the GYE was killed last year and under investigation by USFWS/OLE and Montana wildlife law enforcement authorities. This recent report further proves that federal jurisdiction is still important and by virtue of this most egregious incident in itself, the delisting proposal should be terminated if the official findings reveal that Scarface was maliciously killed.

Of particular note is the first case ever of an illegal grizzly kill prosecuted in Idaho state court in 2014 since the grizzly was listed as a Threatened Species in the Endangered Species Act in 1975. It took 39 years before the first ever case of its kind in Idaho became a reality.

These reasons prove that states are not equipped to pursue aggressive law enforcement action against illegal grizzly bear kills and need federal jurisdiction. The states need the federal government and the federal government needs the states to manage this species effectively for the future. The grizzly in the GYE needs the very best of multiple protections from federal and state entities.

How many grizzlies were illegally killed and never discovered or investigated in the past 10 or 20 years? Killing illegal wildlife is just the way some members of humanity operate when they feel entitled. Based on my 23 years of field experience in covert operations involving illegal guiding operations, illegal trophy hunting in and outside the United States and around the National Park system, illegal poaching of the world's wildlife is by far more widespread than world governments are able or willing to address. We need to set the example in our country if we expect other countries with imperiled wildlife to follow suit.

Arrogance and greed are so destructive to God's creatures and humanity and is a detriment to mankind's survival.

High level resource leaders lack field research experience for grizzly delisting

The vast majority of resource and wildlife leaders have little to no field research experience with any wildlife species. Some are political appointees that always have major influences by outside private interests that are not beneficial to the long term survival of key species like grizzlies in the GYE. They manage people and not wildlife. There is considerable evidence in previous cases involving other species of interest that decisions made by high level managers resulted in courts overturning misguided rulings and the current delisting could be overturned.

The Wolverine court ruling last month is a classic example where final decisions made by high level wildlife managers are misguided and suggest that the grizzly bear delisting in this case could stem from similar political pressures from states to delist and gain control of grizzly bear management before the end of this administration. An ethical and smart federal judge will figure this out.

Independent wildlife field research experts and scientists debunk delisting

With several of the most knowledgeable and highly respected field research biologists and scientists in the world citing recent specific major flaws in the current delisting proposal, and the need for continued ESA protection, it behooves USFWS wildlife leaders to reconsider and withdraw the delisting and

give more time to ascertain if the grizzlies are truly on the way to recovery, or if the GYE population is actually imperiled.

I sincerely hope that President Obama will consider a recent letter with signatories from primatologist Jane Goodall, preeminent field biologist George Schaller, and Harvard Biologist E.O. Wilson, all with combined multiple lifetimes of unprecedented field experience in their respective expertise in wildlife biology and ecology, along with another letter with 58 signatures of wildlife and ecology experts from around the U.S. who all question the current proposed delisting.

Selling grizzly bear parts not addressed in delisting proposal for the GYE

In the mid 1990's, Korean buyers placed ads in California newspapers to buy black bear gall bladders. A grizzly bear gallbladder can sell on the black market for \$10,000. This issue was not addressed in the proposed delisting and should be addressed before delisting as trafficking in bear parts is a serious worldwide issue. Six out of eight bear species in the world are imperiled.

The last time grizzlies were legally hunted in the Yellowstone area was in the early 1970's when trafficking in bear parts was not widely known or documented and the Internet has contributed to illuminating the world wide problem of how widespread trafficking in bear parts has grown globally. Some experts claim that the trafficking of bear parts in the U.S. is miniscule, but does anyone really know for sure? Preventative law enforcement through legislation making it illegal to sell bear parts should be explored by the 3 states that want delisting.

Most disturbing is that according to several Internet sites, it is legal to sell bear parts in Idaho, Montana and Wyoming. The proposed delisting should mention the current state laws or lack thereof from Idaho, Montana and Wyoming with respect to selling of bear parts. These states should not be allowed to take over grizzly bear management from the federal government and manage for a trophy hunt if there are no adequate laws regarding the sale of bear parts in effect.

This is a serious loophole that should not be allowed to be exploited. The fact that the trafficking in bear parts is a global problem is all the more reason to keep the grizzlies under federal protection.

Proposed delisting removes federal leverage to prosecute illegal grizzly kills

The proposal states that “grizzly bear mortalities are often prosecuted under State statutes instead of the Act. We have a long record of this enforcement approach being effective, and no reason to doubt its effectiveness in the absence of the Act's additional layer of Federal protections.”

If this were entirely true, why was the first case ever of an illegal grizzly kill prosecuted in Idaho state court in 2014 since the grizzly was listed as a Threatened Species in the Endangered Species Act in 1975? It took 39 years before the first ever case of its kind in Idaho became a reality.

Based on my experience in state and federal courts, defendants many times plead guilty in state court knowing that their case could be referred to federal jurisdiction. Without the ESA, or the Act, state courts will be the only option and much lenient sentences for wildlife violators are subject to prevail. In some instances certain state courts have great success in prosecuting bear poachers, but that is not always the case as research of fines and penalties for bear poachers in Idaho, Montana and Wyoming will reveal the truth.

Proposed delisting will not reduce poaching and human caused mortality

The proposal states that “Regardless of the reason, poaching continues to occur. We are aware of 22 such killings in the GYE between 2002 and 2014. This constituted 7 percent of known grizzly bear mortalities from 2002 to 2014. This level of take occurred during a period when poaching was enforceable by Federal prosecution. We do not expect poaching to significantly increase if this proposed action is finalized because State and Tribal designation as a game animal means poaching will remain illegal and prosecutable. If anything authorized hunting through designating the grizzly bear as a game animal may reduce the amount of illegal poaching”

The above statements are assumptive, subjective and misleading. No reports or documents were referenced in these statements to support these theories. To the contrary, authorized hunting of the grizzly bear in the GYE will not reduce poaching as black bears, elk, mule deer, white tail deer, mountain lions and a host of big game trophy animals across the planet that are legally hunted are routinely, and in in some cases vigorously poached.

Poaching is a continuous and changing uncertainty that should never be speculated upon other than it is always more widespread than we believe. The grizzlies in the GYE are better served with continued federal protection.

From 1983 to 1985, I infiltrated a big game trophy hunting operation centered in Colorado after state officials requested federal assistance to document the reports of illegal take of trophy mule deer and elk on federal, state and tribal lands. The activities were reportedly occurring for years and the states and tribe in question did not have the specific expertise and resources to target these violators operating under the radar. There are many other examples of joint federal state cooperation in law enforcement investigations that resulted in successful prosecutions of violators because of existing federal wildlife laws in place and state wildlife laws are a backup (either a Plan A or Plan B).

Translocation and other hunting options vs. delisting grizzlies in GYE

With all past illicit killings and poisonings contributing to an estimated 1,500 to 1,800 grizzlies in 5 populations in the lower 48 we should focus on the genetic integrity of what remains. Reintroduction through translocation should be considered first before delisting. Opportunities to hunt grizzlies in Canada exist where between 20,000 and 25,000 grizzlies occur.

Why jeopardize our limited population?

Reintroduction into the Selway-Bitterroot should be re-evaluated and undertaken first before delisting. It is a long term pattern of misguided priorities and biopolitics trumping science with integrity. Wildlife bureaucrats still fail to see the bigger picture and the public could be blind sighted by much larger initial and long term threats if delisting occurs.

Political Land Grab from multiple private groups after grizzly delisting in GYE

Once delisting occurs, it is easier for special interest development to assert political influence on federal lands outside Yellowstone to be sold for oil and gas, fracking, logging, mining and wind power interests, including expanded livestock grazing opportunities and trophy hunting grizzlies.

The Koch and ExxonMobil funded Property and Environment Research Center (PERC) and this group's agenda to privatize the National Park system for energy needs and sell public lands to the highest corporate bidders is just one of the greater threats ahead of trophy hunting.

Another looming threat is from the Federal Land Action Group (FLAG) that was initiated by two Utah Congressmen in April, 2015 in an effort to transfer federal public land to local ownership.

These are Republican supported groups. Similar agendas have been supported by right-wing lawmakers in Idaho, Montana, Wyoming and 8 other states.

The American Land Act and American Legislative Exchange Council, along with the Bipartisan Sportsmen's Act of 2014 are all serious threats to the future of key species protected under the ESA

With states asserting power over federal lands, wildlife will permanently suffer and federal lands could also end up in private ownership. It is easier to transfer federal lands when there are no listed species and re-listing could be complicated or nonexistent.

Bipartisan Sportmen's Act of 2014, amendment threat to grizzlies in GYE

On July 8, 2014, the above act, (S.2363) was amended by Senator Ted Cruz (Cruz Amendment #3456) that would prevent the federal government from owning more than 50 percent of any land within one state and requires the government to transfer the excess land to the states or sell it to the highest bidder.

Approximately 61.6% of Idaho is federally owned. Portions of these federal lands could be sold to private interests for the multiple uses above and impact the ability of the grizzly to expand to key areas like the Selway-Bitterroot and other viable habitat in Idaho.

American Land Act, HR 1017 and HR 1931 threats to grizzlies in GYE

On March 6, 2013, HR 1017 authorizes Secretary of Interior or Secretary of Agriculture to auction off 8 percent of federal lands managed by the BLM and 8 percent of the National Forest System lands.

On April 22, 2015, HR 1931 allows for the Secretary of Interior or Agriculture to auction of 8 percent of federal lands managed by the BLM and 8 percent of the National Forest System lands to any citizen, corporation or partnership created or organized under U.S. laws.

Final thoughts on current grizzly bear delisting proposal in the GYE

The bottom line: Upper level resource and wildlife managers are trading in their professional integrity for political expediency in this current grizzly delisting

proposal and risking the future of federal lands for wildlife to be exploited once they are sold to private entities.

Sam Jojola, U.S. Fish and Wildlife Service Special Agent (retired)

“Plans to protect air and water, wilderness and wildlife are in fact plans to protect man”-Stewart Udall (1920-2010)