



Agriculture... Keeping Wyoming Strong

May 6, 2016

Public Comments Processing
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U.S. Fish and Wildlife Service
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**Div. of Policy, Perf. &
MGMT. Programs**

Docket No. FWS-R6-ES-2016-0042

To Whom It May Concern:

On behalf of over 2,700 agricultural producers who are members of the Wyoming Farm Bureau Federation (WyFB), we would like to provide the following comments on the proposal to categorize the grizzly bears in the Greater Yellowstone Ecosystem (GYE) as a distinct population segment (DPS) under the Endangered Species Act (ESA) and delist that DPS of grizzly bears from the ESA.

The Wyoming Farm Bureau Federation represents agricultural producers throughout the state of Wyoming many of whose operations are in the area described as the GYE. These members have been impacted by grizzly bears and the management of the habitat for grizzly bears.

Distinct Population Segment (DPS)

WyFB previously submitted a petition to declare the grizzly bears in this area as a DPS (2004) which was addressed in the 2007 delisting proposal. We support establishing this population as such. The information we submitted then and the information provided by the Fish and Wildlife Service (FWS) in this rule making strongly supports a DPS designation.

Establishing a DPS for grizzly bears in the GYE provides the necessary legal framework to allow a recovered population to go forward. However, we do question the boundaries for the DPS as outlined in the Federal Register notice. We believe, should grizzly bears occur in any part of the state, it would be from grizzly bears migrating out of the GYE. Therefore we suggest that a larger portion of the state of Wyoming should be included in the DPS boundary. We suggest US Highway 85 as the eastern boundary which runs north and south along the eastern edge of Wyoming, a small section of I-25 from US 85 to I-80 on the southern portion and I-80 along the southern boundary from approximately Cheyenne to the proposed intersection of US 30 into Idaho would provide an easily recognizable boundary delineation. US 85 continues north into South Dakota until it intersects with US 212. The northern boundary could utilize US 212 going west until it intersects with I-90 in southern Montana. *Please see the attached map*

We stress that this boundary does not include suitable habitat for grizzly bears, but does establish a better management process for delisted grizzly bears should they occur outside of the FWS proposed

DPS boundary. We concur with the Agency that it is very unlikely that grizzly bears would make the trek across the private land areas between the GYE and west edge of the Big Horn Mountain range. Given the number of other activities which occur both between the GYE and on the Big Horn Mountain range, these areas would not qualify as suitable habitat for the bear nor would other areas outside of the primary recovery area or those areas in the Demographic Monitoring Area (DMA).

We concur with the FWS's analysis that GYE grizzly bears are a distinct population. The grizzly bear population in the GYE is discrete in relation to the remainder of the taxon; it may not meet the criteria for significance, but as pointed out the law does not require that a DPS meet all of the criteria; losing the species would represent a significant gap in the range of the taxon; and studies have shown that the GYE population have some level of genetic difference from other grizzly bears.

Delisting

Wyoming Farm Bureau Federation believes that a recovered population of grizzly bears has existed for several years. We supported efforts to delist the species in 2007 and believed at that time there were necessary protections in place. Since the federal judge rejected the delisting proposal, based in part on inadequate analysis of climate change on whitebark pine and inadequate regulatory mechanisms we've seen these concerns were not borne out by actual experience. Later, as noted in the Federal Register, the regulatory mechanism incorporated into the 2007 delisting proposal were found to have adequate regulatory mechanisms by the appeals court.

After close to a decade of experience, we have seen that whitebark pine impacts have not had deleterious effects on grizzly bears. Further research has confirmed that grizzly bears have the ability to adapt to changing circumstances.

Indeed it is acknowledged that *Ursus arctos horribilis* had ranges as far south as Mexico. This large variation in climate and the species consequent diet adaptability argues that grizzly bears have long existed in a wide variety of climactic conditions and can survive in warmer areas. The Agency acknowledges this ability of the species when it states that, "Grizzly bears are extremely omnivorous, display great diet plasticity – even within a population" (FR/Vol 81, No. 48 page 13177).

The proposed rule however, appears to add additional requirements to the delisting process. We disagree with the proposal to require that, "The 2016 Conservation Strategy remains in effect indefinitely — beyond the post delisting monitoring period required by the Act . . ." (FR page 13188).

Section 4 (g) of the act establishing the Secretary's duties after delisting and states, "'MONITORING. – (1) The Secretary shall implement a system in cooperation with the States to **monitor effectively for not less than five years** (emphasis added) the status of all species which have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and which, in accordance with the provisions of this section, have been removed from either of the lists published under subsection(c)."

The 2016 Conservation Strategy for the Grizzly Bear in the Greater Yellowstone Ecosystem describes itself as a "management" document in numerous places which clearly move the effort beyond what is provided for in the ESA. We acknowledge that some management documents agreed to between the

various parties which manage grizzly bears is necessary, but we do not believe the federal government can expand its authority to require a management program be in place “indefinitely” through a delisting proposal. We do not feel the Secretary has the authority to require more than Congress allowed in the Act.

We suggest the 2016 Conservation Strategy is not something required under the Act. Should the Agency want to enter into a management agreement with the other parties it is within their ability however, such an agreement cannot be mandated. It definitely cannot be required to be an indefinite agreement under the provisions of the Act which is clear that the Agency's role is to monitor for at least five years. If the monitoring provides information about the bear's decline below recovery levels the Agency under subsection 7 can relist on an emergency basis as stated in the notice.

The potential for a species to be relisted provides incentives for all parties to manage the species as a recovered species. Wyoming's efforts to prevent listing of the Greater Sage-grouse shows how important policy makers within the State feel about keeping species off of the Endangered Species Act list.

The Wyoming Game and Fish Department and its governing body the Wyoming Game & Fish Commission are charged with maintaining Wyoming's wildlife populations at sustainable levels. This State agency has developed sustainable wildlife populations and programs for numerous big and trophy game animals, as well as upland birds and fisheries over many decades. To allege the Game and Fish cannot suitably manage another trophy game species in a sustainable manner is not supported by history.

We feel the Agency has adequately addressed those issues which have potential to impact the grizzly bears future. We would note this has been accomplished by sacrificing the livestock industry in these areas, especially the sheep industry. This sacrifice of an industry has not gone unnoticed and has led to considerable concern and suspicions of the Agency and the ESA itself.

We agree with the concern the Agency has expressed for the need for public acceptance for grizzly bears. Currently there is a great amount of suspicion about whether the management of this recovered population will be allowed to be turned over to the State.

Wyoming's legislative body recently passed a resolution asking Congress to remove the gray wolf and grizzly bear population from listing under the endangered species act along with funding programs and services for management of these species. This Joint Resolution passed the Wyoming House by a vote of 56 to 3 and passed the Wyoming Senate by a unanimous vote – not a single vote against. This action by the elected body shows the deep distrust citizens have towards the inability to delist a recovered population under the ESA.

At the hearing held in Cody Wyoming on April 11, 2016 a large group of local citizens expressed support for delisting. Representatives of sportsman groups testified about the need to delist the grizzly bear. The testimony by local ranchers pointed out that they have been struggling to live with these predators for a very long time. One rancher testified they had 14 grizzly bears around their ranch houses and out buildings. Needless to say, this puts these rancher's lives at stake every time they walk out their door. Something most US citizens would find unacceptable.

WyFB comments

Page 4

Given strong support by those local citizens who live with the grizzly bear every day and given the Agency's strong scientific analysis we feel there are ample legal and scientific underpinnings as well as social desire to support delisting. We urge the Agency to move forward with establishing a DPS. We feel an expansion of the boundary for the grizzly bear DPS is warranted and logical. We do not feel the Agency has the authority to establish a management regime indefinitely under the ESA and finally we feel that in order to create or enhance public support in the area where grizzly bears exist it is critical that this species be delisted as soon as possible.

Thank you for the opportunity to comment.

Sincerely

A handwritten signature in black ink, appearing to read "Ken Hamilton".

Ken Hamilton
Executive Vice President

cc: Wyoming Congressional Delegation
Wyoming Governors Office
WyFB Board
WyFB NER and SGA Chairs
WDA

