



GREAT PLAINS TRIBAL CHAIRMAN'S ASSOCIATION

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Div. of Policy, Perf. &
MGMT. Programs

March 25, 2016

RE: US Fish and Wildlife Service Announce the Delisting of the
Yellowstone Grizzly Bear without meaningful tribal consultation, etc.

Dear Tribal Leader:

As Executive Director of the Great Plains Tribal Chairman's Association (GPTCA), it is my duty to alert you to what is now a clear and present danger to tribal sovereignty, tribal spiritual and religious freedoms, and self-determination.

The conduct of the US Fish and Wildlife Service (FWS) in accommodating states interests over those of federally recognized Indian tribes in the matter of delisting and trophy hunting the grizzly bear on ancestral tribal and treaty lands threatens irreparable harm to tribal rights if it is not challenged.

Against the wishes of some fifty tribal nations and organization's, including the GPTCA and member tribes, on 3/3/16 FWS announced its proposed rule to end Endangered Species Act protections for the grizzly bear in the Yellowstone region, to enable states to manage and profit from trophy hunting this being that is integral to our traditional cultures and ceremonies.

In its official resolution of 12/14 opposing the delisting and trophy hunting of the grizzly bear, the GPTCA outlined the mandated consultation process that, as a federal agency, FWS was required to follow; in their individual declarations and resolutions, member tribes did the same. These consultation requirements have not been honored. Instead, the rule has been published in the Federal Register, and tribes are now being invited to attend two general meetings at hotels in Bozeman, MT (4/28/16) and Rapid City, SD (5/5/16) that FWS is categorizing as "government-to-government consultation."

In FWS's press release announcing the rule, Director Dan Ashe reduced the tribal consultation process required by Executive Orders and Congressional Acts to public comment: "We are look [sic] forward to hearing from the public about the proposal and consulting with Native American tribes." These two meetings come at the end of the public comment period, and clearly demonstrate a lack of good faith, and FWS should be held accountable for this, not rewarded by attendance.

FWS, it appears, simply wants to inform tribes what it intends to do, and what the states intend to do, as the rule is already written. This is not government-to-government consultation, and by no measure do the stock letters issued by FWS, the random phone calls it has placed, and a sham webinar tribes boycotted constitute meaningful consultation. There cannot be thorough and meaningful consultation when the rule has already been published, a point many tribal leaders, including President John Yellow Bird Steele of the Oglala Sioux Tribe, have consistently made.

Further, at a meeting at the Dept. of Interior 11/6/15 a delegation of leaders with GOAL Tribal Coalition petitioned Director Ashe and Deputy Secretary of the Interior, Mike Connor, to consult with and include tribes in the post-delisting Conservation Strategy. This request was ignored, and tribes were omitted, while every associated agency was included. Though not consulted, the rule stipulates that tribes are expected to contribute to the \$3.8 million per year it will cost to implement the Conservation Strategy, despite having opposed delisting and detailed how it is against tribal interests.

Between the published rule and the claims made on the tribal affairs page of FWS's website, troubling contradictions exist pertaining to consultation. Additionally, FWS makes a startling admission regarding tribal religion: "We cannot profess to know the spiritual and religious significance of the grizzly bear to Native American culture. However, we recognize and support your profound devotion and practices surrounding this magnificent species that has lived in cohabitation with you since time immemorial." FWS acknowledges the importance of the grizzly bear to tribal religions, but is going to proceed with delisting and trophy hunting the grizzly bear irrespective of tribal objections on religious grounds, which is tantamount to allowing the states to stamp all over tribal religious rights and raises crucial Free Exercise issues.

The State of Wyoming has announced that it intends to begin trophy hunts of the grizzly in 2017. The State of Montana has admitted that when trophy hunting is initiated, the linkage zones long sought between the two main isolated populations of grizzlies will die with the bears. 2015 saw the highest rate of human caused grizzly mortality in Greater Yellowstone, with some 61 bears killed, which has, by some estimates, reduced the population toward the redline threshold of only 609 surviving bears. Almost two-thirds of grizzly bear

biologists canvased for a recent study supported the positions of tribal nations that the scientific data does not justify removing federal protections from the grizzly.

In closing, delisting the grizzly bear will relax restrictions on millions of acres of tribal ancestral homelands in Greater Yellowstone. As OST Vice President Tom Poor Bear recently highlighted: "This is not just about the grizzly bear, it is about the land the grizzly walks upon. If the grizzly is delisted, you will witness a two million acre land grab by energy and mining companies, livestock interests, and timber operations."

Fredericks, Peebles and Morgan, has been retained to represent tribes in this matter, at no cost to tribal nations. Further information can be obtained from attorneys Tracy Zephier (tzephier@ndnlaw.com) and Travis Clark (605-791-1515).

Sincerely,

A. Gay Kingman

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