

From: [Matt Hogan](#)
To: [Noreen Walsh](#)
Subject: Re:
Date: Wednesday, October 28, 2015 9:53:03 PM

That's helps. Thanks.

On Oct 28, 2015, at 7:50 PM, Noreen Walsh <noreen_walsh@fws.gov> wrote:

paragraphs 3 and 4 confuse me

Can you streamline by using this order; I think it would be more clear:

paragraph 1. ok

2. ok

3. "I prefer reg mechs to be described in the body of th strategy and why"

4. "If you are unwilling, at a minimum your letters to me will need to be appended to the strategy so the public knows what you are committing to"

5. "in either case, reg mechs proposed at the time of a proposed rule must be final by the time we publish a final rule"

remaining 2 paragraphs: ok

What would you think?

And let me know if you want me to do anything else

Noreen Walsh
Regional Director
Mountain-Prairie Region
U. S. Fish and Wildlife Service

On Oct 28, 2015, at 6:29 PM, Matt Hogan <Matt_Hogan@fws.gov> wrote:

Noreen,

Here is a first suggested draft of an email from Dan to the 3 directors. I would welcome your thoughts. Thanks.

Directors,

I believe we continue to make progress on our discussions regarding management of grizzly bears in the GYE in a post-delisting environment.

During recent discussions between our agencies, there has been considerable dialogue about specific regulatory mechanism, how and where those regulatory mechanisms will be described, and when they will be finalized. Based on those discussions and conversations with my

staff, I wanted to let you know the position of the Service.

First, as you know, we will have to articulate the regulatory mechanisms that will be in place as part of the justification to delist this species. We understand that all of the regulatory mechanism that states will implement are not in place at this point in time. Accordingly, it is my understanding that each state will describe the regulatory mechanisms they intend to put in place in a letter to the Service. A clear articulation of these regulatory mechanisms by each state will be a prerequisite to a proposed rule. We will include those letters as part of our justification for drafting a proposed rule and accordingly, those letters and their content will be available for public review and comment. We also believe that these letters should be added to the Conservation Strategy as an appendix to the strategy (either along with your state management plan or as a separate appendix). It is also our understanding that states will finalize these regulatory mechanisms prior to the Service publishing a final rule to delist the species.

I understand that some concerns have been raised by the States about having the agreed upon regulatory mechanisms clearly articulated in the Conservation Strategy itself. We believe that having them articulated in the Conservation Strategy will make our finding about adequate regulatory mechanisms easier to understand as well as more legally defensible. It will also ensure consistency with the commitments that federal land management agencies are making by detailing their regulatory mechanisms in the Conservation Strategy. If the states continue to have concerns about detailing the mechanisms in the Conservation Strategy, we are willing to consider moving forward without a clear articulation of the regulatory mechanisms in the Conservation Strategy. However, please recognize that this approach will be subject to review by our Solicitors and absent approval by them, we will be unable to move a proposed rule forward. It will also be our intent that a specific citation and reference to finalized state regulations will be included in the final version of the Conservation Strategy.

I understand that all 3 states have agreed to adopt regulations that will work to prevent exceeding female mortality limits. Specifically, my understanding is that all 3 states will close the grizzly bear season in their state if female mortality limits are reached in your state. I recognize that it is the desire of the states to manage discretionary mortality in a very conservative manner. However, despite that, factors out of your control could result in exceeding female mortality limits in a given season and in successive seasons. Accordingly, I would ask that the 3 states continue to talk about what will happen in the event this occurs and strive to articulate how states will address that as part of your regulatory

mechanisms.

My understanding is that there have been initial conversations between state lawyers and our Solicitors about regulatory mechanisms and the legal scrutiny that any delisting rule will need to withstand. Like you, we believe the species is recovered and warrants delisting. Also like you, we want to ensure our proposal can withstand legal challenge. Having another grizzly bear delisting overturned through legal challenge does not benefit our agencies nor the grizzly bear itself. In that vein, I hope we can continue to move forward together on this issue.

Thanks for your partnership.