

**From:** [Matt Hogan](#)  
**To:** [Noreen Walsh](#)  
**Subject:** RE: take a read  
**Date:** Thursday, October 29, 2015 12:54:00 PM

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I think it's good. There is one issue that Mike brought up in response to what we received from states that we need to discuss and it's the importance of having similar criteria in place if they exceed male and/or subadult mortality in multiple years. We have already said that closing seasons for exceeding male and/or subadult mortality is not necessary but think there is merit of them having something in place if they exceed in successive years.

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**From:** Noreen Walsh [mailto:noreen\_walsh@fws.gov]  
**Sent:** Thursday, October 29, 2015 12:38 PM  
**To:** Matt Hogan  
**Subject:** take a read

Directors,

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

During recent discussions between our agencies, there has been considerable dialogue about specific regulatory mechanisms, 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, as part of our justification to propose a delisting of this species, we will have to articulate the regulatory mechanisms that will be in place post-delisting. We understand that all of the regulatory mechanisms 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. It is my preference that the regulatory mechanisms you describe in your letters then be clearly articulated in the Conservation Strategy. 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 for the public to understand as well as more legally defensible. It will also ensure consistency, as the federal land management agencies are outlining their post-delisting commitments in the Conservation Strategy such that the public will be able to evaluate a

comprehensive picture.

If the states continue to have concerns about detailing the mechanisms in the body of the narrative of the Conservation Strategy, I am willing to consider moving forward by instead including your letters to the Service as appendices to the Strategy. However, please recognize that this approach will be subject to review by our Solicitors and their advice about legal sufficiency of our justification for a proposed rule. As I understand you all have discussed with Matt previously, it is also our intent that a specific citation and reference to final state regulations will be included in the final version of the Conservation Strategy before we would be able to issue a final rule.

As to the substance of the regulatory mechanisms you are planning, I understand that all three states have agreed to adopt regulations that will work to prevent female mortality limits being exceeded. Specifically, my understanding is that all three 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 intent and 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 three states continue to talk about what your response will be in the event this occurs, and then strive to articulate how each state 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 biologically recovered and proposing delisting is warranted. Also like you, we want to ensure our proposal can withstand legal challenge. Having another grizzly bear delisting overturned through legal challenge would not benefit our agencies nor the grizzly bear itself. In that vein, I hope we can continue to move forward together the few remaining steps on this issue.

Thanks for your partnership.

*Noreen Walsh  
Regional Director  
Mountain-Prairie Region*

*U. S. Fish and Wildlife Service*  
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