

From: WildEarth Guardians
To: [Chris Servheen](#)
Subject: Keep Yellowstone's Grizzlies Safe
Date: Thursday, April 28, 2016 12:49:46 PM

Apr 28, 2016

Dr. Chris Servheen

Dear Dr. Servheen,

Thank you for the opportunity to comment on the U.S. Fish and Wildlife Service's (Service's) proposed rule to remove the Greater Yellowstone Ecosystem (GYE) population of grizzly bears from the federal list of endangered and threatened wildlife (81 Fed. Reg. 13,174 (Mar. 11, 2016)). I respectfully urge you to reconsider your proposal to strip GYE grizzly bears of vital Endangered Species Act (ESA) protections because it is premature, not based on the best available science, undermines the recovery of the other grizzly bear populations and violates federal law.

First, the proposed delisting rule is premature. The ESA requires that adequate regulatory mechanisms be in place before removing a protected species from the list of endangered and threatened wildlife. 15 U.S.C. § 1533 (c); 50 C.F.R. 424.11. These mechanisms ensure the species will continue along the path of recovery even after federal ESA protections are removed. However, the proposed rule is dependent upon a Conservation Strategy and State management plans that have yet to exist in final form. 81 Fed. Reg. at 13,189. Thus, the Service's proposal to remove federal protections is nothing more than a rash attempt to speed through the procedural requirements of the ESA; requirements that ensure that decades of conservation efforts are not derailed at the behest of a few special interests, and further ensure that the species does not need to be immediately re-listed as the result of a hasty and ill-considered process. Until the Service can provide more assurance than mere promises from the States and federal land managers that they will do the right thing, it is plainly too soon to consider removing necessary ESA protections from GYE grizzly bears.

Second, as the Service is well aware (see 81 Fed. Reg. 13,190), the agency cannot proceed in simultaneously designating the GYE population of grizzly bears as a "distinct population segment" (DPS) under the ESA while also delisting the newly created entity. *Humane Soc'y of the United States v. Jewell*, 76 F. Supp. 3d 69 (D.D.C. 2014). Although the Service "respectfully disagree[s]" with the court's detailed analysis and interpretation of the agency's DPS policy in *Humane Society*, 81 Fed. Reg. 13,190, the agency cannot blatantly ignore the law as it currently stands. The Service's attitude toward controlling case law subjects the proposed rule to plausible legal scrutiny, with the palpable risk that the Service could very well be charged with failing to uphold its duties and responsibilities to carry out the mandates of the ESA by proceeding to delist GYE grizzly bears in this manner.

Third, now is not the time to remove GYE grizzly bears of ESA protections considering the immense threats the bears continue to face. The impending impacts of climate change, dwindling food resources, and lack of connectivity to other grizzly bear populations in the lower 48 states already present monumental challenges to these bears and their future existence across the West. The Service is undermining the recovery of the species as a whole by prematurely removing the federal protections that have allowed the GYE population to make a remarkable comeback from the brink of extinction. These protections remain necessary to fully recover grizzly bears to their native western landscape.

Finally, I am shocked that the Service can repeatedly note throughout the proposed rule that the primary threat facing grizzly bears since their listing (and before) is human-caused mortality. See e.g., 81 Fed. Reg. 13,178; 13,187; 13,200. Yet, the rule provides provisions for state-regulated trophy hunts to occur as soon as the rule is finalized. This is nonsensical. Hunting bears will not aide their recovery; it will kill them. Last year, the GYE population experienced record-high mortality levels with 59 deaths, 54 of which were likely human-caused. IGBST Mortality Database (2015). Allowing the dramatic increase in mortality that hunting will logically bring to this population will directly turn the tide from recovery efforts nearing success to recovery efforts needing to begin anew again. Yellowstone's iconic grizzly bears belong in the wild, not on a trophy hunter's wall.

In sum, I urge you to reconsider your proposal to remove federal ESA protections from GYE grizzly bears. Such a proposal is simply premature and does not comport with your responsibility and duty under the law to recover this species to the American West.

Respectfully,

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