

In an effort to clarify some statements in this document, FWS has inserted in blue some further information. January 14, 2016

Thoughts on the Structure and Function of the Interagency Grizzly Bear Committee (IGBC)

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Below are key areas related to the structure and function of the IGBC, issues associated with each of those key areas, and suggested recommendations to address each issue. **Recommendations are noted in this color and are bolded.** Recommendations below are based on the premise that the IGBC is still relevant and should continue to function. Before moving forward on implementing recommendations, **this question should seriously be considered – is the IGBC still relevant, necessary, and does it provide added value towards the original objective of recovering grizzly bears? If no, then consider disbanding the IGBC or restructure it to address current status.** For example, if the focus of IGBC is recovery, and ultimately NCDE and GYE are delisted, then the IGBC would have oversight/coordination over recovery of the Bitterroot (0 bears), North Cascades (0 bears), and the Cabinet-Yaak (45 bears) and Selkirks (50 bears). Will there be continued interest among the agencies for continued participation in this large committee when recovery of these populations is likely decades if not centuries away? Also, there is hesitancy by the agencies, especially the USFWS, to discuss major issues in a public forum, both at the subcommittee and IGBC level, so many of the relevant issues that should be topics of discussion by the IGBC are not discussed. This leads to less desire to participate by higher administrators because their presence is not needed to make decisions. Meeting topics end up being primarily informational vs. decisional, negating the need for decision-makers to be engaged. This again brings up the question whether IGBC **is still relevant as originally envisioned?**

Operating Rules are Nonexistent

Through an MOU, the make-up of the IGBC is established. However, there is no charter or other document that clarifies how the IGBC operates, especially if there are contentious issues that may require a vote. This gets into a basic question about what the role of the IGBC is, and whether it is organized just for information sharing (in which case a voting structure isn't necessary) or whether it is intended that this committee be action oriented. If the latter, then while the group appears to strive for consensus, it is unclear what the procedure is if consensus cannot be reached. Similarly, it isn't clear if voting is limited to members present, if they can have proxies, etc. **The IGBC should develop a charter clarifying how it will operate.** There is also the circumstance where some "members" never participate – e.g., the ID and WY BLM offices. **As part of charter development, IGBC should review membership and make appropriate adjustments if necessary.**

Similarly, the relationship of subcommittees to the committee is unclear, and should be clarified. Additional detail on this issue is described below.

The Role and Function of the IGBC is unclear

Compared to when IGBC was established, and there was a clear focus on recovery of grizzly bear populations, the current role of IGBC seems very unclear and unfocused, with the exception of the container testing program. Most of the meeting agendas of the past several meetings have been focused on updates and information sharing, with very little to no action to meet stated goals and mission.

- In the MOU, it states that the IGBC “was established in 1983 to **ensure recovery** of viable grizzly bear populations and restoration of their habitats in the lower 48 states through an interagency coordination of policy, planning, management and research.” The MOU contains goals that include
 - Engage decision makers in coordinate approach to recover grizzly bears...
 - Coordinate management and research of activities between state and federal agencies related to grizzly bear management
 - **Implement the Grizzly Bear Recovery Plan to facilitate recovery** of grizzly bear populations
 - Further **implement and oversee the management and research activities of recovered grizzly bear populations.**
- In the 5-Year Plan (2012-17) it states the mission of the IGBC is to “recover, manage, and secure the future of grizzly bear populations and their habitat so that grizzly bears no longer require the protections afforded by the ESA”

The above statements point to a major role of the IGBC being **recovery of grizzly bear populations** through coordinated actions of state and federal management agencies. However, over the past decade, there has been very little effort by the IGBC actually focused on recovery, recovery plan implementation, and pressing for delisting of recovered populations. A review of meeting agendas over the past several years will confirm this. **There needs to be a clear articulation of the role of the IGBC so member agencies and their representatives on the committee are clear about that.**

The above two documents point to a contradiction about what the role of IGBC is once a population is recovered. The MOU implies that IGBC would still have an oversight role over recovered populations. The 5-year plan (“implement and oversee management, research, and communication activities....until individual populations are both biologically recovered and legally delisted”) and subcommittee work plans imply once a population is recovered, that subcommittee ceases to exist and there is no oversight. **This inconsistency needs to be addressed and clarified – Do subcommittees of the IGBC go away upon delisting, or not?**

Five Year Plans

Five year plans were developed to help guide and prioritize efforts of the IGBC, and ensure accountability. However, very little attention has been paid to the five year work plans. The 5-year plan points to some very specific tasks and deadlines for the IGBC and IGBC member agencies to oversee that haven’t been done, haven’t been addressed, and haven’t even been discussed. These include:

- Implement the Grizzly Bear Recovery Plan – The IGBC hasn’t discussed the recovery plan, recovery criteria for at least 8 years. **The recovery plan and how/whether we are meeting recovery criteria should be the focus of every meeting.**
- Approve 5-year work plans for each ecosystem subcommittee – This tends to be a rubber-stamp exercise, with no follow up or accountability. **Subcommittee efforts and reports should be tied directly to their 5-year work plan, and deadlines and objectives therein.**
- Be assertive in encouraging progress to recover, delis, and conserve grizzly bear populations – The IGBC recognized that both the GYA and NCDE populations are recovered, and included target dates for delisting which have come and gone, yet there has been no assertive discussion

at recent meetings as to why. **The IGBC needs to be very assertive about pressing for delisting once a population meets recovery targets (which need to be clear and contemporary).**

- Work with the USFWS to continually revise and approve Grizzly Bear Recovery Plans/Work with the USFWS to revise and approve the 1993 Grizzly Bear Recovery Plan by December 31, 2012 – This has never been done, and the IGBC has never addressed the failure to meet this deadline. The lack of contemporary recovery criteria is a major reason for the delay in delisting. The USFWS is establishing new recovery criteria as part of the delisting process rather than ahead of it, based on the assumption that any new criteria will be challenged and will delay delisting. As a result, recovery/delisting criteria are being “invented” on the fly, resulting in uncertainty about what really is “recovered”.

There are discrepancies between the statements: “*The USFWS is establishing new recovery criteria as part of the delisting process rather than ahead of it*” and “*...recovery/delisting criteria are being “invented” on the fly*” and the actual process used to revise the Recovery Plan demographic criteria. Revision of the demographic recovery criteria in any chapter of the Recovery Plan is an open process involving all IGBC agencies and the public. The process to revise demographic criteria in the Recovery Plan for any ecosystem involves 4 steps:

- 1) Preparation of a draft revision to the existing demographic recovery criteria based on the best available science by FWS with the full involvement of all agencies and the prior approval of the IGBC subcommittee associated with that ecosystem;
- 2) A Federal Register Notice of Availability of these draft demographic criteria revisions and a public comment period and peer review;
- 3) Revision of the Recovery Plan proposed demographic criteria as necessary based on the public comments and peer reviews received during the public comment period; and
- 4) Finalization of the demographic criteria in the Recovery Plan chapter.

If these revised demographic criteria are going to be used in a delisting proposal, then they are incorporated into the Conservation Strategy for that ecosystem, and a proposed delisting rule for that ecosystem.

The recent revision of the Recovery Plan demographic criteria for the Yellowstone ecosystem followed the above process between April 2012 and September 2014. Here are the details on how the Recovery Plan demographic criteria revision process occurred in the Yellowstone Ecosystem:

1. Changes in the grizzly bear vital rates monitored by the IGBST required the IGBST to complete a full demographic review of Yellowstone ecosystem grizzly bear population dynamics. The IGBST held a series of science workshops in 2011 including personal from all state and federal Yellowstone Ecosystem Subcommittee (YES) members, and completed a scientific report¹ in 2012.
2. Results of this IGBST scientific review were presented to YES at their April, 2012 meeting. Recommendations coming from these scientific workshops included:
 - a.) The need to evaluate new counting methods like the mark-resight method;
 - b.) Change the mortality counting area to the same area where the population

¹ [http://www.nrmssc.usgs.gov/files/norock/IGBST/GYEGBMortWksRpt2012\(2\).pdf](http://www.nrmssc.usgs.gov/files/norock/IGBST/GYEGBMortWksRpt2012(2).pdf)

was counted; and c.) Alerting YES that the vital rate data from 2002-2011 had changed, which would necessitate changing the sustainable mortality rates for females, males, and dependent young in order to stabilize the population. YES discussed these recommendations and formally voted to move forward with evaluation of new population counting methods and to adopt the new area to count mortalities. The 4-step process needed to append these changes as a demographic revision supplement to the Yellowstone chapter of the Recovery Plan was also discussed and supported by YES at this meeting. These detailed discussions and votes are in the April 2012 YES meeting minutes (attached to this message).

3. Based on the approval of YES to move forward in April 2012, the FWS worked with all YES member agencies to draft the supplement to the Yellowstone chapter of the Recovery Plan to revise the demographic recovery criteria. The new demographic criteria in this Recovery Plan supplement were based on the best available science in the IGBST report¹ and had the input of all YES agencies.
4. The FWS released these proposed demographic revisions as a supplement to the Yellowstone chapter of the Recovery Plan² in a Federal Register Notice of Availability and request for comments on March 22, 2013 and opened public comment for 60 days (Fed Reg. 78, No. 56 pp. 17708-17709)³, and then granted a requested 30-day comment period extension. Copies of the proposed revisions were posted on all appropriate web sites and were sent to YES and IGBC members.
5. The public comment period on this demographic supplement to the Recovery Plan ended June 20, 2013. During the public comment period, FWS received approximately 40,000 public comments and one solicited peer review on these Recovery Plan revisions.
6. During the comment period, the Wyoming Game and Fish Department wrote a comment letter in support of the proposed revisions, stating: *"As you know Department personnel, along with other qualified researchers and managers participated in the development of the draft recommended changes to the supplement and consider the proposed changes a positive step in the conservation and management of the Yellowstone grizzly bear population. The proposed changes represent a more scientifically accurate and practical approach to monitoring and managing the grizzly bear population"*. The Montana Fish, Wildlife and Parks Department and the Idaho Fish and Game Department did not comment on the proposed changes during the comment period.
7. FWS made appropriate changes to the demographic criteria based on the public comments and the peer review received. By summer of 2014, FWS had prepared the final draft of the Recovery Plan demographic revisions including detailed responses to 20 major issues that surfaced from the public comments

² http://www.fws.gov/mountain-prairie/es/species/mammals/grizzly/Grizzly_Bear_Recovery_Plan_March2013.pdf

³ <http://www.fws.gov/mountain-prairie/es/species/mammals/grizzly/78FR17708.pdf>

and peer review. These revised demographic criteria stabilized the population at the time of delisting by applying sustainable mortality limits developed by the IGBST¹, and counted mortalities against the mortality limits within the demographic monitoring area, the same area where population size was estimated.

8. In summer 2014, with the completion of revised Yellowstone Ecosystem demographic criteria in the Recovery Plan and near completion of a proposed rule, FWS was preparing to move forward with a proposal to delist the Yellowstone grizzly population in early 2015.
9. In late 2014 (14 months after the public comment period on the revised criteria closed), the 3 states met with FWS Regional Office leadership and stated that they now opposed the demographic recovery criterion to stabilize the population at the time of delisting (note item #6 above). The current delay of the proposed delisting of the Yellowstone grizzly population is a result of this state opposition to the revised demographic recovery criteria.

- **The recovery plan for each population needs to be regularly evaluated, and adjusted as necessary, so agencies and the public have a clear expectation of what is necessary to reach recovery. This should be a high priority for IGBC.**
- Facilitate the revision of demographic recovery criteria to allow for management and maintenance of biologically recovered populations – This is related to the bullet above since demographic recovery criteria are the primary emphasis of each population’s recovery plan. This is happening as part of delisting efforts; however it is happening independent of IGBC and is a source of great consternation among agencies. **If this is an important task, IGBC should have a much stronger oversight role in facilitating this.**

This statement: “Facilitate the revision of demographic recovery criteria to allow for management and maintenance of biologically recovered populations – This is related to the bullet above since demographic recovery criteria are the primary emphasis of each population’s recovery plan. This is happening as part of delisting efforts; however it is happening independent of IGBC...” is not correct.

As detailed above, the revision of Recovery Plan demographic criteria has involved the IGBC agencies and IGBC subcommittees and is an open process with public comment and peer review.

- Complete the NCDE Conservation Strategy by Dec. 31, 2012 – Not completed, and never addressed by IGBC. **IGBC needs to regularly review the IGBC and subcommittee work plans, address deviations from the work plan, and require accountability.**
- Propose delisting of the NCDE before December 2014 - Not completed, and never addressed by IGBC. **IGBC needs to regularly review the IGBC and subcommittee work plans, address deviations from the work plan, and require accountability.**
- Continue to implement the Yellowstone Conservation Strategy and apply adaptive management to this implementation. There has been no discussion about the Conservation Strategy or its implementation by the IGBC. **If IGBC has an oversight role, then items like this should be addressed as part of work plan reviews.**

A work plan template tied to the IGBC work plan should be developed and provided to the subcommittees (e.g., I would recommend each work plan include the following headings and address: Recovery, Monitoring, Management, Conflict, Research, Social-Political, and Communication & Education). Work priorities should be tied to recovery plan objectives and criteria. At each meeting,

the IGBC should review its work plan, and progress towards meeting work plan objectives, as well as each of the subcommittee work plans. IGBC should also provide guidance to the subcommittees on areas the IGBC feels are highest priority to work on.

Relationship between IGBC and Ecosystem Subcommittees

In most committee structures, a subcommittee is comprised of a subset of the larger committee. In the case of the IGBC, subcommittees are comprised of completely different sets of people, and there is no representation of IGBC members on subcommittees. As a result, it appears that the ecosystem subcommittees function pretty much independently from the larger IGBC committee, and the relationship and oversight role of the IGBC is not clear. Additionally, the make-up of each subcommittee is determined by the subcommittee, and is not necessarily consistent with the make-up of the IGBC. Also, the subcommittees appear to have developed their own procedures for addressing issues, decision making, voting, etc. Rather than making recommendations to the IGBC, they make decisions on significant issues, and simply report on that to the IGBC. Development and approval of post-delisting conservation strategies is an example of this. Finally, it is not clear what the role of the IGBC is when there are circumstances where the subcommittee is in disagreement. **As part of the charter recommended above, the charter should clearly articulate the roles of the subcommittees and the relationship of those subcommittees to the larger committee, including approval of work products.**

Example of All of the Above Issues

In the GYE, there is agreement by the IGBC agencies that this grizzly bear population is recovered. There is a push by individual agencies (e.g., state fish and wildlife agencies) to move forward with delisting (but not overtly by IGBC). States and the USFWS have been working on modifications to the 2007 Conservation Strategy to incorporate new demographic criteria. Unfortunately, these criteria are being developed and negotiated right now, vs. having been done as part of recovery plan revision.

The Yellowstone demographic criteria revisions were in fact done 2012-2014 as part of Recovery Plan revision as detailed above.

Essentially recovery is being defined after we have all agreed the population is recovered. Once there is agreement on the demographic criteria between the states and USFWS, the discussion has been to have the GYE Subcommittee approve the demographic criteria and other modifications to the Conservation Strategy.

Revisions to the demographic criteria in the Recovery Plan (or other revisions to the Recovery Plan) require more than agreement between the states and FWS. Revision requires the 4-step process detailed above that was used to revise the Yellowstone criteria, including use of the best available science, notice of availability, public comment, peer review, and appropriate revisions based on comments and peer reviews. This process ideally starts with subcommittee approval of the process and rationale behind the revisions, as happened with YES in 2012.

The language indicates approval requires a simple majority of the subcommittee. There is no mention of IGBC, including need to review or approve. Interestingly though, the signators to the Conservation Strategy are IGBC agencies and quite a few are IGBC representatives (e.g., regional forester, state directors, etc.). It is conceivable that the subcommittee could approve a conservation strategy by majority vote that agency heads will not sign.....then what?

Subcommittees, like the IGBC, operate with majority votes to make decisions. If a subcommittee voted to approve a Conservation Strategy for that ecosystem and an agency would then not sign the Strategy, FWS could not demonstrate the existence of adequate

regulatory mechanisms as required by Section 4(a)(1)(D) of the ESA, and delisting could not occur.

Does IGBC have a role in such a scenario or not? Currently, NO. Wording in the Conservation Strategy states that upon delisting, the GYE subcommittee ceases to exist, to be replaced by the Yellowstone Grizzly Coordinating Committee (YGCC), which is independent of IGBC. It is unknown if this is their decision to make.

The NCDE recovery/delisting process is very similar – the subcommittee was charged with developing a conservation strategy by the end of 2012. This hasn't been accomplished primarily because there is strong disagreement between the state and the USFWS over what is recovery (i.e., recovery criteria in the current recovery plan are apparently inadequate, and the USFWS intention is to define those as part of the conservation strategy process).

The process to revise the NCDE demographic criteria would be exactly the same open process described above for the Yellowstone ecosystem: 1) Preparation of a draft revision to the existing demographic recovery criteria for the NCDE based on the best available science by FWS with the approval of the NCDE subcommittee and full involvement of all agencies; 2) A Federal Register Notice of Availability and a public comment period and peer review; 3) Appropriate revision of the proposed Recovery Plan demographic criteria based on the public comments and peer reviews; and 4) Finalization of the demographic criteria.

To move forward with delisting in the NCDE, the revised demographic criteria would be incorporated into the NCDE Conservation Strategy, and incorporated into a proposed rule to delist. This process has not proceeded because at NCDE Conservation Strategy Team meetings FWS and the FWP representative could not agree on proposed demographic criteria based on the best available science. This disagreement has prevented progress on the 4-part demographic criteria revision process outlined above.

Not only has the deadline come and gone (more than 3 years past), but there has never been a discussion among IGBC as to why, and if there was a completed strategy, there is no oversight/approval role for IGBC anyway.

The NCDE Conservation Strategy Team has an IGBC member (Ken McDonald) who was assigned to the Team. This presence of IGBC member on the team drafting the Strategy was to assure IGBC input/oversight into the NCDE Conservation Strategy. This IGBC member's title on the NCDE Team was "Liaison to the IGBC". (See attached NCDE Conservation Strategy Team minutes for a list of the members of the NCDE Conservation Strategy Team.)

This example highlights many of the issues identified above: what is the role of IGBC regarding development/approval of the Conservation Strategy as it fits within the mission/goals/structure of the IGBC? Should IGBC have any input into what will be the final recovery criteria? Is IGBC ok with negotiating and approving recovery plan amendments on the fly as is being done vs. as part of more formal revision of the recovery plan? What is the relationship between the subcommittee and the IGBC on these types of decisions? If there is not agreement on the final Conservation Strategy at the subcommittee level, is there a role for IGBC to intercede? Are there consequences for not meeting deadlines and objectives?