

From: [Bush, Jodi](#)
To: [Betty Grizzle](#)
Subject: Fwd:
Date: Monday, February 27, 2017 12:04:01 PM
Attachments: [INFO MEMO FOR THE SECRETARY .docx](#)
[FINAL DRAFT Director Briefing Paper Withdrawal 070714 bf.docx](#)

Betty. Can you pull together something concise for a wolverine briefing? I've attached the last briefing we did on the topic (2014). But some of the points might be useful to bring forward. Please use format attached and let me know if you have any questions. JB

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----- Forwarded message -----

From: **Thabault, Michael** <michael_thabault@fws.gov>
Date: Mon, Feb 27, 2017 at 11:00 AM
Subject:
To: Jodi Bush <Jodi_Bush@fws.gov>, Drue DeBerry <drue_deberry@fws.gov>, Tyler Abbott <Tyler_Abbott@fws.gov>, Pete Gober <pete_gober@fws.gov>, Julie Lyke <julie_lyke@fws.gov>, Casey Kruse <casey_kruse@fws.gov>
Cc: Nicole Alt <Nicole_Alt@fws.gov>, Marjorie Nelson <marjorie_nelson@fws.gov>

Folks if you are getting this you are on the hook for a briefing paper in anticipation of the new Secretary coming to your state or potentially asking about a subject. Unfortunately Jodi has 3 so lets work with Marj on what we can do about that and help. Please use the attached BP format. The latest and greatest.

Here are the list of briefing papers we would like. No specific due date other than as soon as possible but everyone should recognize we could get a short notice request for briefing papers at any time. We are trying to avoid the three hour turn around time we had for a similar exercise for Utah.

Matt would also ask that each ARD personally review and approve each briefing paper. Lets get these to Nicole for first review.

Topics (by program):

Wolverine (ES)
Lynx (ES)
Grizzly Bear (GYE and NCDE in one briefing) (ES)
Gunnison Sage Grouse (ES)
Wolves in WY (ES)

Black Footed Ferret (ES)
Missouri River (ES)

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INFORMATION MEMORANDUM FOR THE SECRETARY

DATE: Date of Memo

FROM: Author – Name, title, office, phone number

SUBJECT: Short statement of topic being briefed

I. STATEMENT OF PURPOSE

The opening sentence should clearly state the purpose of the memo (i.e. to inform/update the Secretary (i.e. to inform the Secretary about an issue, topic, or event he has a need to be aware of). Briefing memos should NOT raise issues for decision.

II. BACKGROUND

Briefly and succinctly provide the necessary background information to frame the issue or topic.

III. DISCUSSION

Describe the issue, topic, or event being briefed and include relevant actions or policy implications. If recommending a particular action for the Secretary, add it in brackets, as in the example below.

[You may want to encourage the governor's participation and reiterate an invitation to join the regional team.]

IV. NEXT STEPS

Provide a look-ahead with a bulleted list of future steps being taken, or should be taken related to this issue.

V. ATTACHMENTS

If this is a cover memo as part of a longer briefing, attach the briefing and supplemental materials.

July 2, 2014

INFORMATION MEMORANDUM FOR THE SECRETARY

FROM: Dan Ashe, Director, U.S. Fish and Wildlife Service

CC: Gary Frazer, Assistant Director, Endangered Species
Noreen Walsh, Regional Director, Region 6

SUBJECT: Withdrawal of the Proposed Listing for the Distinct Population Segment of the North American Wolverine occurring in the contiguous United States

I. INTRODUCTION

On August 4, 2014, we plan to publish in the Federal Register a withdrawal of the proposed rule to list the Distinct Population Segment (DPS) of the North American wolverine occurring in the contiguous United States as threatened under the Endangered Species Act. The proposed rule was published in on February 4, 2013.

II. BACKGROUND

- On December 14, 2010, we determined that the wolverine in the contiguous United States constituted a Distinct Population Segment that warranted listing under the Act, but that listing was precluded by higher-priority listing actions.
- On September 9, 2011, we reached an agreement that we would submit for publication in the Federal Register a proposed listing determination, or withdraw the warranted 12-month finding, no later than the end of the 2013 Fiscal Year.
- On September 20, 2012, we reached a settlement with different plaintiffs who sought an earlier deadline for our listing decision for the wolverine DPS. This settlement and resulting order stipulated that we publish a proposed rule or withdraw the warranted finding by January 18, 2013, or the case would move to trial.
- On February 4, 2013, we published a proposed rule to list the wolverine DPS as a threatened species under the Act. The listing proposal was based on the predicted effects of climate change on wolverine habitat. All other threats in the proposed rule were identified as secondary threats inasmuch as they interacted with the threat of habitat loss due to climate change.
- Peer review of the proposed rule revealed significant scientific disagreement about the scientific basis for the proposal. In response, we invoked a 6-month extension on the listing deadline to allow us to seek additional scientific input on the climate change information. On

April 3 and 4 of 2014, we convened a panel of scientific experts to advise us through a facilitated workshop. Following the workshop, we determined that the information supporting the proposed listing rule was too uncertain and speculative to be relied upon in the listing decision, and that habitat changes due to climate change do not constitute a threat to the DPS at this time.

- Other risk factors such as effects of inbreeding due to small and semi-isolated populations, and harvest are not threats to the DPS.
- The current range of the species in the contiguous United States includes the North Cascades Mountains, the northern Rocky Mountains, the Greater Yellowstone area, the southern Rocky Mountains, and the Sierra Nevada Mountains.
- Most of wolverine habitat in the contiguous United States (over 90%) is located on federally owned land with the remainder being state, private, or tribally owned.

Proposed 4(d) Rule

With the withdrawal of the listing proposal, the proposed special rule under Section 4(d) of the Act is also withdrawn.

Proposed 10(j) Rule

With the withdrawal of the listing proposal, the proposed experimental population rule for the southern Rocky Mountains is also withdrawn.

III. POSITION of INTERESTED PARTIES

The information contained in this memorandum is for informational and outreach purposes only and has not been used as the basis for any potential Agency decision.

Federal Agencies:

The majority (94 percent) of wolverine habitat currently occupied by wolverine populations in the lower contiguous United States is federally owned and managed, the majority of that is Forest Service land, with some National Park lands. U.S. Forest Service and Park Service have not taken a position on listing. Both have participated in the reintroduction discussions in Colorado and are likely partners in that effort. Both agencies are likely to be supportive or neutral on the rule.

State and Local Agencies:

The State of Montana is opposed to listing and many of the arguments used in the withdrawal originated with them. Idaho, Wyoming, Utah, Nevada, New Mexico, Oregon, and Washington have all expressed opposition to the listing proposal. Montana is highly concerned about the potential for listing and its affect to their wolverine trapping season. They will support the

withdrawal which will allow their trapping season to resume. The State of Colorado has not taken a position on the listing; however, they have indicated that they would only pursue a reintroduction of wolverine to the State if the area was designated under a 10(j) rule. Therefore, this action is likely to curtail further pursuit of a reintroduction to the State of Colorado.

Government to Government (Tribal):

Surrounding tribes were notified of the proposed rule and invited to participate in Government-to-government consultation. The Nez Perce Tribe of Idaho initially requested such consultation, but then determined that it was not needed.

Other Entities:

Environmental groups, including WildEarth Guardians, the Center for Biological Diversity, Defenders of Wildlife and Earthjustice are expected to oppose the withdrawal. Litigation on the final decision by these groups is likely.

IV. POTENTIAL ISSUES

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- There will be immediate positive reaction from most state agencies and elected officials regarding the withdrawal.
- The potential for reintroductions into the southern Rocky Mountains by the state of Colorado will be reduced. Stakeholders in Colorado have repeatedly stated their desire for experimental/nonessential status to secure their support for a reintroduction. They are likely to view a withdrawal as leaving the future status of wolverines under the Act in doubt.
- The lead FO and RO originally recommended finalizing the listing for wolverine as a threatened species. A memo with this recommendation was signed by the R6 ARD. The RDs in Regions 1, and 8 all signed memos recommending withdrawing the listing. Based on these and other analysis, the R6 RD signed a memo instructing the RO and FOs to prepare a withdrawal. Because the full record, once released, will indicate substantial internal deliberations and some disagreement with the final decision, we recommend the Service be prepared to address the scientific and decision-making process and explain that not all scientific decisions have consensus around them.
- The above-mentioned memos were shared predecisionally with the LA Times, and an article has appeared in the LA Times and reproduced in other venues. The Center for Biological Diversity has made the Region 6 Regional Director's memo and the Region 6 Assistant Regional Director's memo public on their website.

V. COMMUNICATIONS AND OUTREACH

Outreach Lead: Region 6
Media POC: Press release to be issued by Region 6: Contact [Name] (xxx-xxx-xxxx)
[for Media POC, either the above line, or the info below]
FWS Washington Office External Affairs has lead and is coordinating w/DOI
OCO, DOI OCL and DOI OEA: Contact [Name] (xxx-xxx-xxxx)
Congressional: Region 6 will provide press release (and other materials) to Congressional
District Offices. FWS CLA, in coordination with DOI OCL, will distribute
press release (and other materials) to Members Offices on Hill.
State Contacts: Montana Ecological Services Office Supervisor will contact Governor's Office,
State Director of Montana Fish, Wildlife and Parks and State Director of
Montana Department of Natural Resource Conservation.
Other outreach: Press release will be sent to [FS, BLM, COE, NPS, partner groups, local
government communities (in future, social media venues might be utilized)]

VI. TALKING POINTS

- **Overview**
We are withdrawing the proposal to list wolverines as a threatened DPS in the contiguous United States. We are also withdrawing the proposed special rule under Section 4(d) of the Act, as well as the proposed nonessential/experimental population designation in the southern Rocky Mountains of Colorado, New Mexico, and Wyoming.
- **Scientific Peer Review**
 - Solicited 7 scientific reviewers - 7 responses.
 - 5 peer reviewers were supportive overall of the approach and conclusions in the proposed rule. 2 peer reviewers did not agree that we used the best scientific information and disagreed with our conclusions. In response to this scientific disagreement in the peer review, we conducted a facilitated workshop with a group of 9 experts in wildlife biology, climate science, and habitat modeling, to gather expert input about the available information on the potential for climate change impacts on wolverine habitat. These 9 experts provided feedback that was overall in line with the proposed rule; however, subset of the panel that were wildlife biology experts were the more skeptical of the potential for large effects to the wolverine DPS from climate change than the panel overall.
- **Issues Raised in Public Comments**
 - We opened the comment period three times and received over 120,000 public comments. Public comment was overwhelmingly supportive of the proposed rule.
 - States in the range of wolverines were highly critical of the proposed rule and their substantive comments concerning the science behind climate change impacts were considered in the science panel workshop.
 - Environmental NGOs were supportive of listing. Many thought that wolverines should be listed as endangered. Many also thought that the special 4(d) rule was not justified, and some thought the 10(j) designation was not justified.

- Private industry comments were generally against the listing; however, industry supported the 4(d) rule and were skeptical that the 10(j) rule would provide the protection from regulation that they sought.