September 4, 2020

Objection Reviewing Officer
USDA Forest Service, Northern Region
Building 26
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Missoula, MT 59804

Submitted online at https://cara.ecosystemmanagement.org/Public//CommentInput?Project=50185

Re: Custer Gallatin 2020 Land Management Plan, DROD, and FEIS Objections

To whom it may concern,

Thank you for the opportunity to provide objections on the Custer Gallatin National Forest 2020 Land management Plan and Final Environmental Impact Statement (FEIS).

The Greater Yellowstone Coalition (GYC) previously submitted public comments on the Proposed Action on March 5th, 2018 as well as the Draft Revised Forest Plan and DEIS June 4th, 2019. These comments related to topics including areas of Tribal importance, recreation, vegetation, climate change, Wild and Scenic Rivers, watersheds and riparian areas, wildlife, the various designated areas within the National Forest, and the Gallatin Forest Partnership agreement. The following objections relate to the content of our previous comments. By objecting we hope to clarify our prior comments, point out remaining shortcomings in the planning documents, and provide practical solutions to aid in the creation of a robust, balanced, and effective final plan.

We were pleased by many aspects of the 2020 Land Management Plan, and we thank the Forest Service for reflecting aspects of our previous comments. We recognize that the plan adopts major aspects of the Gallatin Forest Partnership agreement and we appreciate the explicit acknowledgement of the Partnership's work in the Draft Record of Decision. We are also glad to see the recommendation of 30 eligible Wild and Scenic Rivers, improved monitoring for human-wildlife conflict, area-specific Tribal plan components, partnership goals to address the uncertainties of climate change, and more. We thank the Forest Service for its work up to this point and strive to support you as you wrap up the plan revision process.

There remain several issues touched on in our previous comments that we feel the Forest Service either failed to address or insufficiently addressed. We therefor offer the following objections and management recommendations to improve the final plan.

Gallatin Forest Partnership Agreement

Objection: The 2020 Plan fails to incorporate key aspects of the Gallatin Forest Partnership (GFP) Agreement, which were essential factors that won the agreement unprecedented community support.

There are many aspects of the GFP agreement incorporated into the 2020 Land Management Plan, and we are pleased to see that adjustments were made to incorporate some of the GFP's comments on the Draft Revised Forest Plan. We are also grateful for the Forest Service's explicit acknowledgement as "the most compelling" proposal for the future of the Gallatin Range (DROD p15). We believe the collaborative approach and area-specific focus of the GFP agreement benefits the most to achieve resolution in areas like the Gallatin Range, and we are pleased that the Forest Service sees the value in this work.

Therefore, we feel it is important that the new Forest Plan accurately reflect the pieces of the GFP agreement that allowed such diverse supporters to find agreement. Some of these, like new recommended wilderness protecting the heart of the Gallatins, are straightforward and obvious in their significance. Other aspects, like the subtle yet long-deliberated language balancing wildlife and recreation needs, were equally essential in our shared vision for the Gallatin Range.

GYC supports the full objections submitted by the GFP on the 2020 Land Management Plan and FEIS. The GFP's objections and corresponding recommendations are written to help the final plan accurately reflect the most important aspects of the GFP agreement and do not represent all nuances of the GFP agreement. We understand that the final plan will represent a compromise for all interested parties. Rather, the GFP's objections highlight only the issues that were centrally important during the years spent developing the agreement and those that remain equally critical today. By incorporating them, the Forest Service will ensure that the Gallatin components of the final plan receive the same overwhelming, diverse community support that the GFP agreement has generated. In particular, the major issues are as follows:

- The Hyalite Recreational Emphasis Area fails to live up to the vision proposed by the GFP.
- The 2020 plan fails to recommend wilderness in key areas in the Gallatin and Madison ranges.
- The 2020 plan fails to fully protect the Buffalo Horn Backcountry Area as envisioned by the GFP agreement.
- The 2020 Plan fails to provide adequate protections for wildlife in the face of growing recreation pressure in the Gallatin Range.
- The 2020 Plan includes inconsistent and confusing direction that requires clarification.

Management Recommendations:

- *Fully incorporate the remedies suggested in the Gallatin Forest Partnership's objections in order to accurately reflect the critical components of the agreement.*

Grizzly Bear

As one of the last remaining intact temperate zone ecosystems on the planet, the GYE hosts important habitat for a variety of important and iconic wildlife species. The CGNF encompasses much of the Montana portion of the GYE. With large amounts of wild, secure land, the CGNF hosts crucial core habitat for a wide variety of native species and provides the doorstep for wildlife connectivity to other ecosystems in the Northern Rockies.

Our supporters have a strong interest in management that affects wildlife of the GYE. We advocate for thriving populations of grizzly bears, wolves, and ungulates in Greater Yellowstone and work to maintain important ecological processes like migrations and long-distance dispersal. Our work blends policy advocacy with on the ground projects that reduce conflicts with wildlife, remove barriers to wildlife movement, and build public support for the iconic species of Greater Yellowstone.

Our focus for this objection remains on adequate habitat protections for grizzly bears outside of the Recovery Zone/Primary Conservation Area (RZ/PCA), due to the important role the CGNF can play in ensuring connectivity between the GYE and other grizzly bear recovery areas. It is our goal to ensure that the GYE population remains robust and eventually connects to the Northern Continental Divide Ecosystem (NCDE) and other populations as part of one large interconnected Northern Rockies grizzly bear metapopulation. Montana is home to the two largest grizzly populations in the lower-48 and large landscapes characterized by open space. The opportunity to see the conservation vision for connected grizzly populations to fruition is an issue unique to Montana that science-based management of CGNF lands will help facilitate.

Objection 1: The CGNF must extend habitat protections that limit road density, developed sites, and prevent livestock conflict beyond the RZ/PCA to include all forest land within the Demographic Monitoring Area (DMA), in order to ensure the forest provides for a stable population of grizzly bears over the long-term.

We are disappointed the CGNF has still not addressed our previous concerns regarding habitat protections for grizzly bears in lands outside of the RZ/PCA. As we mentioned in our comments on the proposed action, we believe this is taking the bare minimum approach to grizzly bear conservation. GYE grizzly bears occupy roughly 45,000 sq. km (~17,000 sq. mi), and the RZ/PCA only comprises 23,853 sq. km (9,210 sq. mi), barely half of the currently occupied habitat. On the CGNF, 56% of currently occupied grizzly habitat sits outside of the RZ/PCA but within suitable grizzly bear habitat (Page 26, CGNF Assessment Wildlife Report).

The 2016 Conservation Strategy for the Grizzly Bear in the Greater Yellowstone Ecosystem (CS) commits to managing for a stable GYE population within the DMA. The CGNF must incorporate plan components

that will ensure adequate habitat protections for meeting this goal. Yet despite this requirement the final CGNF plan is still lacking in specific assurances for grizzly bears outside the RZ/PCA. As we note in our comments on the Proposed Action, "Expanding the habitat standards, which are designed to protect grizzly bears, to the area that grizzly bears are counted towards the population and recovery criteria is logical and necessary to ensure a stable population into the foreseeable future, and to help ensure the Forest Service meets connectivity and at-risk species persistence requirements under the 2012 Planning Rule." We included an extensive review of the science supporting the role of secure habitat, developed sites, potential for conflict with people, and potential for conflict with livestock on grizzly bear survival in our comments on the Proposed Action and DEIS.

Secure habitat

In our comments on the Proposed Action, we emphasized the importance of maintaining and promoting secure habitat throughout the DMA to maintain a stable population and noted that any decrease in secure habitat within the DMA could potentially impact population stability. Page 422 of the FEIS states, "There are no specific plan components that would preclude reductions in secure habitat outside the recovery zone. However, given the existing restrictions in designated wilderness areas, plus a variety of restrictions on new motorized transport for other resource reasons outside the recovery zone, it is reasonable to expect that future reductions in secure habitat outside the recovery zone over the life of the plan would be minor." While this conclusion of minor future reductions in secure habitat outside of the RZ/PCA over the life of the plan may have merit due to other land designations, the reality is that there are substantial portions of the CGNF outside of the RZ/PCA where habitat is already no longer secure (Figure 28, Page 408, FEIS). It is true that current conditions have been adequate to facilitate grizzly bear expansion well beyond the RZ/PCA, however it is also the case that any further reduction in secure habitat in heavily used portions of the forest could negatively impact grizzly bear survival through increased potential for conflict with people, especially considering the rising recreational demand and use occurring on the forest. For these reasons, the CGNF should commit to no additional reductions in secure habitat in areas outside the RZ/PCA but within the DMA that are not otherwise protected from other land management designations. The Conservation Strategy for the Grizzly Bear in the Northern Continental Divide Ecosystem (NCDE) establishes zones of habitat management outside of the PCA. Zone 1 and the PCA collectively form the DMA, and management direction for this area states, "Here, habitat protections will focus on managing motorized route densities within levels specified in current Federal, State, and Tribal land use plans because these are known to have been compatible with a stable to increasing grizzly bear population." This habitat direction was incorporated in the Flathead Forest Plan as part of the recent forest plan revision process and concurrently added to management direction for the Helena, Kootenai, Lewis and Clark, and Lolo National Forests as part of the Forest Plan Amendment to integrate the NCDE Grizzly Bear Conservation Strategy into forest plans. At a minimum, the CGNF should be striving for consistency with NCDE management direction in order to achieve the stated desired condition of grizzly bear connectivity. There should not be a disparity in management approach between forests critical for grizzly bear conservation within the same Forest Service region.

Developed Sites and Recreation

We also recommend habitat protections related to human activity and associated potential for conflict with grizzly bear throughout the DMA. Page 431 of the FEIS states, "Designated wilderness areas account for 44 percent of National Forest System lands outside the recovery zone, in which no new developed sites would be allowed. Land use allocations in the revised plan alternatives for recommended wilderness areas, backcountry areas, and key linkage areas would also limit new developed recreation sites and other developments outside the recovery zone (FW-STD-RWA 01-06; FW-STD-BCA 01-07; FW-GDL-WL 03, 04). " However, page 430 of the FEIS also acknowledges (in reference to increased sanitation and attractant storage efforts at developed sites on the CGNF), "As a result, bear-human conflicts have shifted away from developed sites, and are now more frequently associated with surprise encounters in back-country scenarios (Frey and Smith in (van Manen et al. 2019))." Rising recreational demand associated with growth in communities surrounding the CGNF will only exacerbate this potential for conflict between grizzly bears and people. Regardless of restrictions associated with land designations like Wilderness and Recommended Wilderness, there are going to be more people showing up in secure grizzly bear habitat. Similar to our recommendations regarding secure habitat, the CGNF must commit to no increase in developed sites in areas within the DMA not otherwise protected by other designations, even if the portion these areas comprise of the total DMA are small. Rising visitor use will continue to increase potential for conflict and limiting increase in developed sites in all portions of the DMA is key to mitigating that potential. Given occurrences of backcountry conflicts are increasing, the CGNF must also include more specific management direction that will ensure maintaining high quality, secure grizzly bear habitat is a priority throughout the DMA in the face of rising recreational demand. The majority of grizzly bear mortalities are human-related; in 2019 32 of 45 known and probable mortalities in the DMA were human-caused (https://www.usgs.gov/data-tools/2019-known-and-probable-grizzly-bear-mortalities-greater-yellowstone-ecosystem). The CGNF could commit to monitoring recreational use intensity. This could prove useful in making management decisions that might prevent conflict, thereby enhancing human safety and protecting grizzly bears.

Livestock grazing

Finally, we hope the CGNF will consider additional protections for grizzly bears in relation to potential livestock conflict within the DMA. Page 433 of the FEIS states, "The primary difference in plan alternatives for use of domestic sheep or goats for weed control outside the recovery zone is that there would be no requirement for management actions to favor grizzly bears over livestock in the event of a conflict outside the recovery zone." The CGNF must manage for habitat conditions that contribute to a stable population of grizzly bears for the foreseeable future. Given sustainable mortality thresholds for grizzly bears are fairly low, it is not a stretch to consider that management removals resulting from conflict with sheep and goats outside the RZ/PCA and within the DMA could be detrimental to the goal of population stability. We strongly encourage the CGNF to adjust this language regarding use of domestic sheep or goats for weed control outside the recovery zone to convey management direction in favor of grizzly bears in conflict incidences within the DMA.

Management Recommendations

- *Provide additional protections outside the RZ/PCA vital to ensuring a stable GYE population over the long-term through:*
    - *Including a standard for no reduction in secure habitat in lands outside the RZ/PCA and within the DMA*
    - *Including a standard for no increase in developed sites in lands outside the RZ/PCA and within the DMA*
    - *Monitoring recreational use intensity within the DMA to obtain important information for future management actions that could prevent bear-human conflict during high risk time periods*
    - *Expanding livestock grazing standard regarding use of domestic sheep and goats (FW-STD-WLGB 07) to the entire DMA*

Objection 2: The CGNF should provide more specific management direction around roads and recreational use that will ensure secure habitat is conducive to grizzly bear occupancy in important connectivity areas.

GYC previously expressed concern over the 2016 delisting rule and CS failing to adequately address the lack of connectivity between grizzly bear recovery areas as a threat to the long-term persistence of grizzly bears in the lower-48 (Appendix A). The best available science indicates functional connectivity between isolated grizzly bear populations would restore the metapopulation structure that historically characterized grizzly bear presence within the intermountain west (Merriam 1922, Picton 1986, Craighead and Vyse 1996). Restoring a metapopulation structure will be important to the long-term persistence of grizzly bears in the United States (Proctor et al. 2005) because it will address genetic isolation which may pose a threat to GYE grizzly bears (Haroldson et al. 2010) and will likely create resiliency to environmental changes (Breitenmoser et al. 2001, Hedrick 1996, Hedrick and Gilpin 1996). Therefore, as a threatened species in the contiguous lower 48 states under the U.S. Endangered Species Act (ESA) (40 Fed. Reg. 31,734 (July 28, 1975), grizzly bears should be recovered and managed as a large well-connected Northern Rockies meta-population. The premise of the CGNF approach to developing grizzly bear specific plan components is that incorporation of the habitat protections defined in the CS is adequate. However, the reality is that the CS failed to address GYE grizzly bear recovery within the larger context of the species as a whole. The CGNF is required by the National Forest Management Act (NFMA) 16 U.S.C. § 1604(g)(3)(B) to manage for diverse plant and animal communities and maintain viable populations. Ultimately, viability for the species will depend on functional connectivity (i.e. dispersal *and* occupancy) between recovery areas. Section 7 of the ESA also requires that the Forest Service consider effects of forest plan components on the viability of GYE grizzly bears within a broader context, given the viability of lower 48 grizzlies depends on connectivity between populations that are currently isolated (https://www.fws.gov/endangered/lawspolicies/section-7.html).

Functional connectivity between the GYE and other recovery areas will require conditions that facilitate occupancy by male *and* female grizzly bears. Slow reproduction and establishment of female home ranges close to a mother's home range mean that range expansion occurs slowly for grizzly bears (McLellan and Hovey 2001, Schwartz et al. 2003). For male grizzly bears, dispersal over the distances between currently occupied ranges would likely take place over a year or even several (Peck et al. 2017,

Proctor et al. 2004, McLellan and Hovey 2001, Blanchard and Knight 1991). At a minimum, dispersal for male grizzly bears requires conditions suitable for seasonal occupancy. To reiterate our comments on the DEIS and Proposed Action, "Motorized access management in linkage areas between occupied habitats is an important component of maintaining genetic and demographic connectivity, and thus healthy and sustainable grizzly bear populations (Proctor et al. 2018). Demographic connectivity areas to the Cabinet-Yaak (CYE) and Bitterroot (BE) Ecosystems require no increase in road density using conditions that have allowed for female occupancy in zone 1 as the baseline." And, "The Forest Service must consider that roads (permanent or temporary, open or closed) and site development will increase human-bear conflicts and grizzly bear mortality and affect the potential for connectivity through important linkage areas. Both roads and development significantly contribute to habitat deterioration and fragmentation and are the two strongest predictors of grizzly bear survival/mortality on the landscape (Mace et al. 1996, Schwartz et al. 2010). Road density is also strongly related to secure habitat, which is critical to the survival and reproductive success of grizzly bears (Mattson et al. 1987; IGBC 1994; Schwartz et al. 2010) and is primarily achieved through motorized access management."

Despite the science that indicates occupancy will likely be an important element of connected populations due to the incremental nature of grizzly bear range expansion, the CGNF acknowledges that due to the large amount of human use, the Bridger key linkage area is not suitable for long-term or residential grizzly bear use and argues that managing the area as a movement corridor for dispersing grizzly bears is adequate (page 437, FEIS and appendix F, FEIS). Given the Bridger key linkage area may have a, "low likelihood of sustaining resident grizzly bears free of conflict situations and subsequent management actions" (Appendix F, page 191, FEIS), the CGNF must demonstrate that adequate habitat protections conducive to occupancy are in place in other areas of the forest important for connectivity. The CGNF points out that other potential connectivity areas are in large part protected by designated Wilderness, recommended wilderness, or backcountry area designations due to land use restrictions that limit development (page 438, FEIS). However, this logic does not account for potential stressors to grizzly bears associated with rising recreational demand, and it incorrectly assumes that proposed protections in key linkage areas and backcountry areas provide adequate protections to ensure grizzly bear occupancy over the long-term. While we appreciate the additions made to key linkage area plan components, we believe additional protections in key linkage areas and backcountry areas, as well as commitment to monitoring recreational intensity will be important for achieving the Forest's desired condition for GYE grizzly bears to connect with other ecosystems. The NCDE Grizzly Bear Conservation Strategy and Flathead National Forest Plan identify two Demographic Connectivity Areas at the northwest and southwest corners of zone 1, where the goal is to support female occupancy. Specifically, the areas are protected from no net increase in motorized route miles or density. Again, the CGNF should be striving for consistency in management direction within Region 1 of the Forest Service that is likely to achieve the stated goal of connecting the GYE and NCDE populations.

Management Recommendations

- *Revise FW-DC-WLGB-02 (recommended additions underlined): Outside the recovery zone/primary conservation area, grizzly bears occur where habitat is biologically suitable and grizzly bear occurrence is socially acceptable. Availability of secure habitat contributes to habitat connectivity <u>and occupancy</u>, which facilitates grizzly bear movement between the Greater*

Yellowstone Area and other grizzly bear ecosystems. Human development is configured in a manner that strikes a balance between management needs to accommodate administrative and public use and habitat protection that allows for grizzly bear occupancy and human co-existence.

- *Establish plan components that will strengthen the likelihood that FW-DC-WL-07 (In key linkage areas, human disturbance does not limit habitat connectivity for wildlife, particularly wide-ranging species) is actually achieved. We recommend enhancing key linkage areas through:*
    - *Expanding FW-GDL-WL-03 to include no increase in road infrastructure and explicitly limiting any increase in motorized access routes for any purpose in key linkage areas.*
    - *Strengthening FW-GDL-WL-04 to state that there will be no net increase in permanent facilities within key linkage areas.*
    - *Monitoring recreational use intensity within key linkage areas to obtain important information for future management actions that could prevent bear-human conflict during high risk time periods.*
- *Strengthen protections in all backcountry areas of the forest to more accurately reflect the wildlife values of those areas through:*
    - *Adding a desired condition to all backcountry areas similar to that of the Cabin Creek Recreation and Wildlife Management area: (MG-DC-CCRW 01 Big game and grizzly bear habitat provide foraging and security to allow wildlife to coexist with human use of the area).*
    - *Adding guidelines to all backcountry areas that new recreation special uses should not take away from wildlife protection and wild character.*
    - *Restricting new permitted livestock grazing in backcountry areas.*
    - *Identifying the current trail network (both system and non-system) in all backcountry areas and committing to no new trail construction thereafter (with the exception of a new trail proposed by the GFP in the West Pine BCA. We have committed to this trail as part of the GFP).*

Objection 3: The Regional Forester must identify grizzly bears a Species of Conservation Concern (SCC) if or when they are removed from the federal list of threatened and endangered species.

As stated in our Assessment letter and re-emphasized in our comments on the Proposed Action and DEIS, "The 2012 Planning rule (p. 36) states that species in the following categories *must* be considered for SCC designation (emphasis added):

- "Species that were removed within the past 5 years from the Federal list of threatened or endangered species, and other delisted species that the regulatory agency still monitors."

Grizzly bears are an umbrella species and a "conservation reliant" species, in that they will perpetually require efforts to conserve them on the landscape (Scott et al. 2005). Arguably, this reliance, the current genetic isolation of the Yellowstone population, and the relatively limited occurrence of bears within their historic range in the lower 48 calls for additional caution and therefore protections. These factors should warrant designation and the accompanying protections as a Species of Conservation Concern."

Management Recommendations

- *Identify grizzly bears as a Species of Conservation Concern if or when they are removed from the federal list of threatened and endangered species.*

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Wolverine

Objection: The CGNF has not adequately addressed impacts of non-motorized and dispersed winter recreation on wolverine habitat availability.

As we stated in our Assessment letter, the wolverine is an imperiled species facing loss of habitat from climate change and recreational disturbance. Small populations are increasingly isolated. The U.S. Fish

and Wildlife Service is currently re-evaluating whether listing of wolverine as threatened on the Endangered Species Act is warranted. Recent research suggests non-motorized dispersed recreation negatively impacts wolverine habitat use, resulting in loss of a substantial amount of high-quality winter habitat for females (Heinemeyer et al. 2019). We pointed out in our comments on the Proposed Action that recreational use is increasing on the forest and previously undisturbed areas are now supporting recreational pursuits that overlap with occupied wolverine habitat (Heinemeyer and Squires 2012, IDFG 2014).

The reality is that both winter motorized and non-motorized activities can potentially negatively impact wolverine and their use of natal denning areas (Heinemeyer et al. 2019, Copeland et al. 2007, Krebs et al. 2004 May et al. 2006, Rowland et al. 2003, Carroll et al. 2001). The CGNF acknowledges female wolverines react to both motorized and non-motorized winter recreation on page 472 of the FEIS and identifies recreation uses such as skiing and snowmobiling as a key stressor for the species (page 463, FEIS). The CGNF even points out the science that indicates a likely increase in overlap between recreational use and wolverine distribution as snow cover declines (page 472, FEIS). Yet the CGNF also states on pages 204 and 205 of Appendix F (response to comments), "As noted previously, large proportions of wolverine primary and maternal habitats are located within designated wilderness areas, where motorized over-snow use is not suitable. Although non-motorized winter recreation occurs in designated wilderness areas, these areas provide a high degree of protection from winter recreation impacts, since people simply cannot cover as much ground as quickly by non-motorized means as they can by motorized means." In this response, the CGNF fails to account for the best available science, which is well documented in the FEIS, that non-motorized recreation is likely to pose a threat to female wolverines. The statement on page 462 of the FEIS that the majority of maternal wolverine habitat is not expected to change due to its location within designated wilderness completely contradicts previous statements within the FEIS that acknowledge the potential for increasing overlap between non-motorized recreational users and wolverine as areas of persistent snow cover decline. We encourage the CGNF to account for the best available science in any identification of important wolverine habitat and associated management actions.

Management Recommendations

- *Work with scientists to develop and apply more rigorous models of wolverine maternal and foraging habitat (based on habitat selection within individual home ranges) to the Custer Gallatin National Forest.*
- *Create opportunity for winter closure areas in vital maternal and foraging habitat during the denning season to be warranted as part of future travel planning through:*
    - *Revising FW-DC-WLWV 01 (recommended addition italicized and underlined): Forest and alpine habitat characterized by persistent snow cover and cooler temperatures provide high quality reproductive habitat, denning and foraging opportunities for wolverines. High elevation habitat and associated micro-climates provide refugia and habitat connectivity for wolverines in the face of changing climates <u>and increasing winter recreational use</u>.*
    - *Strengthening FW-GDL-WLWV by not precluding other forms of recreation management that might enhance secure habitat for wolverines during the reproductive denning*

season (I.e. allow the opportunity for evaluating the merits of winter closure areas in a future travel management planning effort).

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Bison

We provided substantive comments regarding bison in our Custer Gallatin Assessment Letter (pages 43-49), a joint letter for the Proposed Action (PA), and for the DEIS (pages 54-60) and raise similar concerns in the objections below. Our previous comments make a science-based rationale for why the Forest Service should have reconsidered bison as a Species of Conservation Concern (SCC). We are disappointed that bison were not included on the SCC list by the Regional Forester and continue to recommend that plan components support an arguably "at risk" species deserving of SCC status, and provide the ecological conditions necessary to maintain and contribute to the long-term viability and persistence of bison.

Specifically, we want to see forest plan direction that will adequately promote a free ranging bison population that is broadly distributed both seasonally and year-round throughout existing tolerance areas outside YNP on CGNF system lands. We applaud the Forest for including a standard for habitat

improvement projects, as well as some commendable guidelines and desired conditions for bison access to suitable habitats, adequate connecting corridors between suitable habitats, educational efforts and year-round presence of bison on the Custer Gallatin. However, we are concerned that the final plan weakened previous language and creates ambiguity that results in a plan that is unenforceable, lacks actionable steps to meet the desired conditions, goals, and guidelines for bison on CGNF lands, and fails to provide the ecological conditions necessary to maintain and contribute to the long-term viability and persistence of bison.

In our previous comments, we supported bison direction that would actively provide for bison habitat and promote access to year-round forage and presence on National Forest System lands as included in the DEIS Alternatives B and C, in addition to direction supporting a year-round self-sustaining bison population on the CGNF as supported in the DEIS Alternative D. We also asked for clarifications of specific plan components and provided recommendations for additional components in response to the DEIS that were largely ignored in the revised plan. We strongly opposed the plan components in Alternative E of the DEIS which did not seek to facilitate bison habitat improvement projects and aimed to minimize impacts to livestock operations at the expense of supporting native bison within tolerance areas. The revised plan (Alternative F) appears to "strikes a balance" between Alternatives D (that we supported) & E (that we opposed). Plan component language that we supported in the DEIS has been changed and now either weakens the direction, is unclear, or is altogether concerning. For example, the Forest Service notes (p. 547, Vol. I FEIS) that "Alternatives D and F go a step further than the other alternatives by including a desired condition for bison presence on the Custer Gallatin National Forest year-round with sufficient numbers and distribution to provide a self-sustaining bison population (FW-DC-WLBI 04)." While this is a commendable desired condition (DC) as written, the selected Alternative F adds language to this DC, that sufficient bison numbers and distribution be considered in conjunction with bison in Yellowstone, rendering it meaningless (see below). Furthermore, a "desired condition" for bison on the Custer Gallatin in no way ensures actionable steps are taken to facilitate expansion of bison into unoccupied, suitable habitat, nor does it represent a "proactive management approach to facilitate bison expansion on the Custer Gallatin" as is the stated intention of Alternative F (FEIS, p. 559). Though the single actionable "standard" calls for one habitat improvement project every three years in/or for the purpose of creating or connecting bison habitat, the language in this standard lacks enforceable direction that ensures facilitated expansion of bison on the forest or the habitat necessary to support an at-risk species on the landscape with <u>sufficient distribution to be resilient to</u> stressors, adaptable to changing conditions, and contributing to stable and increasing genetic diversity.

As we've previously argued, though Yellowstone bison now have access to ~380,000 acres of land outside the Park, they are only using a small fraction of this area. The Interagency Bison Management Plan is not meeting its goal of supporting a wild free-ranging bison population. This significantly constrained distribution of bison within the CGNF planning area not only raises concerns over the resiliency, adaptability and persistence of the planning area population, and therefore its population viability (see Appendix D in our DEIS comments), it also further perpetuates the significant management issues surrounding this population (i.e. dependence on the unacceptable practice of shipping bison to slaughter, unsafe and inhumane hunting in overcrowded small patches of land, etc.). While we realize constraints on their current distribution are due in part to current and past management actions and hunting, there is much more the forest should do, from a habitat perspective, to facilitate dispersal and use throughout current tolerance areas. Indeed, "the key role of Custer Gallatin National Forest relative

to bison is to provide and improve suitable habitat" (emphasis added, Forest Plan Revision Assessment, page 134). Currently, there is a lack of contiguous suitable habitat providing effective corridor areas for bison to migrate and disperse farther out on the landscape and into suitable habitat areas in the Taylor Fork and Upper Gallatin within the west side tolerance area (Figure 18 from the Terrestrial Wildlife Report). Plan components must ensure that clear actionable steps are taken to identify, create, and manage for suitable bison habitat and corridor/migration routes for bison migrating from the Park to facilitate dispersal into areas within tolerance zones.

Our goal in this objection process is to offer a specific set of remedies (i.e. "solutions") to strengthen and clarify the language of specific plan components. These remedies ensure plan direction is enforceable and will result in the Forest meeting the presumed intent of the desired conditions and selected alternative, and more specifically, that plan direction will ensure wild bison have access to suitable habitat and adequate connecting corridors to support bison expansion and broad distribution throughout existing tolerance areas to support both migrating bison and a self-sustaining year-round bison population on Forest lands.

Objection 1: Language in the Desired Condition FW-DC-WLBI-02 in the revised plan has been weakened and is no longer sufficient to support an arguably at-risk species deserving of SCC status, as previously argued in our joint letter for the Proposed Action (PA).

"FW-DC-WLBI-02 Suitable habitat supports a year-round bison presence on the Custer Gallatin National Forest. Habitat accommodates bison migrating out of Yellowstone National Park in winter, as well. Adequate connecting corridors exist between suitable habitats to facilitate bison movement and distribution to increase resilience to stressors, adaptability to changing conditions, and contributing to stable and increasing genetic diversity." (2020 LMP, *Emphasis added).*

Though this is a commendable DC at first glance, the language in the last sentence has been weakened (see underlined) from the previous version (in the DEIS) that we supported and should be strengthened. Specifically, the last sentence in the previous version of FW-DC-WLBI-02 read: "Adequate connecting corridors exist between suitable habitats to facilitate bison on the landscape with sufficient distribution to be resilient to stressors, adaptable to changing conditions, and contributing to stable or increasing genetic diversity." "Sufficient distribution" has been removed and the language changed from "distribution to be resilient" to "distribution to increase resilience". This is the difference between contributing towards resiliency versus ensuring a resilient population, the latter being measurable and enforceable language. Simply contributing to resiliency is too vague and does not go far enough to ensure that sufficient bison distribution on the landscape is resilient to stressors, adaptable to changing conditions, and contributing to stable and increasing genetic diversity.

Management Recommendation

- *We recommend the forest change the above desired condition to read:*

FW-DC-WLBI-02 Suitable habitat supports a year-round bison presence on the Custer Gallatin National Forest. Habitat accommodates bison migrating out of Yellowstone National Park in winter, as well.

Adequate connecting corridors exist between suitable habitats to facilitate bison movement and sufficient distribution to be resilient to stressors, adaptable to changing conditions, and contributing to stable or increasing genetic diversity.

Objection 2: Language has been added to the Desired Condition FW-DC-WLBI-04 in the revised plan that weakens plan direction.

"FW-DC-WLBI-04 Bison are present year-round with enough numbers and adequate distribution to support a self-sustaining population on the Custer Gallatin National Forest in conjunction with bison herds in Yellowstone National Park." (2020 LMP, *Emphasis added).*

The last part (underlined) of the above DC is new language. This significantly weakens this DC by saying that the population is self-sustaining on the forest in conjunction with YNP bison herds rather than a stand-alone year-round bison population on CGNF lands with adequate numbers and distribution to be self-sustaining. Arguably, any year-round bison herd on the Forest regardless of their numbers and distribution could be considered self-sustaining if it is considered part of the herds in Yellowstone National Park. This new language deems the DC meaningless and unenforceable and should be changed back to its original version.

Management Recommendation

- *The forest should strive to support one or more year-round self-sustaining bison herds on the Forest and therefore we recommend removing the above added language and restoring it to the original version to read:*

FW-DC-WLBI-04 Bison are present year-round with enough numbers and adequate distribution to support a self-sustaining population on the Custer Gallatin National Forest.

Objection 3: The single bison objective (FW-OBJ-WLBI-01) is vague, unclear, and lacks explicit direction facilitating bison expansion into/throughout suitable habitat areas within existing tolerance zones.

"FW-OBJ-WLBI-01 Complete three projects within, or for the purpose of creating or connecting, suitable bison habitat every three years, one of which is a habitat improvement project." (2020 LMP).

Objectives must be concise, measurable, and time specific (FSH 1909.12, section 22.13. First, it is unclear what is meant by the other two projects if they are not habitat improvement projects. These "projects" could be anything, including a project that is detrimental to bison. The intent of the other two projects needs to be clarified, and if they are not bison habitat improvement projects they should be identified as other projects aimed to benefit bison on the forest in some way, such as conflict reduction work with private landowners, education projects to increase social tolerance, or projects to improve public and tribal hunting efforts. In addition, this objective requires further clarification ensuring that the one habitat improvement project is for the purpose of creating, improving, or connecting habitat for "bison"

explicitly. Also, stating "or for the purpose of creating or connecting, …" only makes it an option to create bison habitat rather than a requirement, which is measurable and time specific. Both the type of projects and their intent should be specified, and the habitat improvement project must be clearly defined as a "bison" habitat improvement project. In other words, as written, this objection does not actually meet what we had hoped was the Forest's intent (complete a bison habitat improvement project every three years) nor is it enforceable.

The Forest should also include a guideline (or additional objective) to identify and manage for corridor/migration route areas for bison migrating from the Park to the Forest to facilitate dispersal throughout new and existing tolerance areas. Specifically, routes to the Taylor Fork and Upper Gallatin tolerance area should be identified in the forest plan, and habitat improvement projects implemented to provide a contiguous pathway of suitable habitat to facilitate the restoration of native bison to this area.

Management Recommendation

- *The new forest plan should include actionable direction that specifically promotes bison dispersal into, connectivity between, and broad distribution throughout suitable habitat areas within tolerance zones. Again, facilitating dispersal and restoring connectivity throughout tolerance areas is the necessary ecological condition that the Forest should provide to contribute to bison viability. We ask that the objective language be changed to read:*

FW-OBJ-WLBI-01 Complete three projects supporting bison use on the Forest every three years, one of which is a bison habitat improvement project for the purpose of creating, improving, or connecting suitable bison habitat.

- *The Forest should also add the following guideline:*

The Forest Service will work with state, federal, tribal, and NGO partners to identify, and manage for, suitable habitat and potential corridor areas linking suitable habitat to facilitate bison dispersal into and throughout tolerance areas and to help guide habitat improvement projects under FW-OBJ-WLBI-01.

Objection 4: New and existing language in Guideline FW-GDL-WLBI-03 is confusing and inappropriate.

"FW-GDL-WLBI-03 To facilitate bison expansion into unoccupied, suitable habitat in the area that coincides with the grizzly bear primary conservation area, management actions should not create a barrier to bison movement unless needed to achieve interagency targets for bison population size and distribution." (2020 LMP, *Emphasis added).*

The above (underlined) grizzly bear PCA language is new and is both unnecessarily confusing and potentially concerning. What is the Forest's intention behind including this added language? First, the Forest should not tie bison expansion to grizzly bear recovery/policy. These two species have independent management plans and different biological and social issues concerning their viability. Second, locations that have suitable bison habitat and an interest in seeing bison restored, such as the Dome Mt. Ranch/WMA area and other state sections, fall well outside of the PCA. Furthermore, as mentioned in our DEIS comments, the last portion of this guideline is also problematic. Because IBMP

population objectives and tolerance zones are subject to change over time and are currently based on an outdated and unacceptable plan, we believe it is inappropriate for the Forest to include plan direction that could in any way restrict bison use of the landscape, impede connectivity, or affect population abundance. The Forest has an obligation outside of the IBMP to support a viable population of wild bison on Forest System lands and to contribute to the broader restoration of this species as a whole.

Management Recommendation

- *As previously suggested, a more straightforward and appropriate guideline would be:*

"To facilitate bison expansion into unoccupied, suitable habitat within current tolerance areas, management actions should not impede bison movement."

Objection 5: The Forest Service did not include our previously suggested guideline.

The Forest ignored our previous suggestion to include a guideline to 1). Allow for the phase-out of grazing allotments if there are willing permittee(s) both within and adjacent to current tolerance areas, 2). Consider the acquisition of private lands/conservation easement opportunities as those opportunities arise, and 3). Collaborate with other agencies to facilitate safe highway crossings for bison (and other wildlife). Specifically, the voluntary phase-out of grazing allotments to the northwest and west of the Park both within and outside tolerance areas could have significant benefits to bison restoration on Forest lands including the potential to adjust current tolerance zones to allow for bison dispersal into new areas of the Forest, including areas where they are currently allowed but have no way to access given current tolerance boundaries and existing conflicts with cattle.

Management Recommendation

- *We ask that the Forest reconsider including the above guideline as a critical part of facilitating bison dispersal into currently unoccupied suitable habitat on the Forest.*

Objection 6: The monitoring question and implementation indicators are inadequate to measure progress toward achieving the desired conditions and goals of the new plan.

"The FEIS monitoring question (MON-WL-07) is: What management actions have occurred to improve / facilitate bison movements and avoidance of human/bison conflicts?" (2020 LMP)

The new Forest Plan should include direction that specifically promotes bison dispersal and distribution throughout suitable habitat areas within tolerance zones. The required 2012 Planning Rule Monitoring Plan should reflect this as well. By simply asking what management actions have occurred "to facilitate bison movements" is vague and unmeasurable. Movements to where and for what purpose? The monitoring language should be explicit to reflect these goals and desired conditions.

Management Recommendations

- *As we previously asked in our DEIS comments, we ask again that the Forest amend the monitoring question MON-WL-07 to read:*

"What management actions have occurred to improve/facilitate bison use of and broad distribution throughout new and existing tolerance areas?"

- *Under the Implementation indicators (page 195, 2020 Land Management Plan), we asked and do so again here, that the first Bison management action be amended to read:*

"# and types, locations of actions that improve or facilitate opening corridors for bison movement and use of unoccupied suitable habitat."

Wild and Scenic River Eligibility

Objection 1: The Custer Gallatin National Forest did not entirely acknowledge and use its own definition of the Fisheries ORV regarding *habitat* on the national forest. Based on the agency's Fisheries ORV *habitat* definition, the Shields River, Mill Creek and Buffalo Creek should be eligible Wild and Scenic Rivers.

Appendix E from the 2020 Forest Land Management Plan defines the Fisheries ORV regarding habitat as:

> "Habitat: The river provides uniquely diverse and/or high quality habitat for native aboriginal population (s) or assemblage (s) compared to the region of comparison.
>
> • The habitat represents a pristine ecosystem relative to others in the region of comparison.
>
> • The habitat supports native aboriginal populations or assemblages of native fish with high conservation value.
>
> • Habitat is secure from invasion of non-native species."

Based on this definition, streams that have been identified by Montana Fish Wildlife and Parks and the Custer Gallatin National Forest for high-priority native fish conservation because of their existing habitat, and because of their high conservation value should be eligible Wild and Scenic Rivers. What's more, in three cases described below, these recommended eligible streams have existing projects in process to secure that habitat from non-native fish species for native fish population strongholds using augmented natural barriers or human-constructed barriers and chemical treatment. Three examples include: Buffalo Creek, Mill Creek, and the upper Shields River.

Shields River and tributaries

A conversation with Custer Gallatin National Forest Ecologist, Jake Chaffin (phone call with Charles Wolf Drimal, 7/15/2020), reemphasized the importance of the Shields River and its tributaries for native fish

conservation. The Forest Service and Montana Fish Wildlife and Parks have partnered on a ten-year project on the upper Shields River to create a 35-mile stronghold for Yellowstone cutthroat trout. This has included a barrier and eight aquatic organism passages so far, with four more to complete. The aquatic habitat and the Yellowstone cutthroat trout population secured above the barrier should qualify as "outstandingly remarkable."

Management Recommendation

- *The miles of current and near-future secure native fish habitat of the Shields River system should be considered eligible Wild and Scenic Rivers based on the Forest Service's own definition of the Fisheries habitat ORV: "The habitat supports native aboriginal populations or assemblages of native fish with high conservation value."*

Mill Creek and tributaries

Based on a conversation with Custer Gallatin National Forest Ecologist, Jake Chaffin (phone call with Charles Wolf Drimal, 7/15/2020), GYC staff learned Mill Creek and its tributaries are the Forest Service's most immediate and pressing conservation opportunity for securing a Yellowstone cutthroat trout stronghold population from non-native rainbow trout. Although an old barrier installed near the Forest Service boundary has not fully prevented all rainbow trout from upstream travel, a new barrier near the confluence with Passage Creek, intended to be installed in 2021, will protect 17-27 miles from invasion of non-native species.

Management Recommendation

- *Because the habitat value is so high for native Yellowstone cutthroat trout conservation, we urge the Forest Service to recognize the Fisheries ORV related to habitat for Mill Creek and its upper tributaries. The miles of current and near-future secure river miles should be considered eligible Wild and Scenic Rivers based on the Forest Service's own definition of the Fisheries habitat ORV: "The habitat supports native aboriginal populations or assemblages of native fish with high conservation value." "The habitat represents a pristine ecosystem relative to others in the region of comparison."*

Buffalo Creek

Based on a conversation with Custer Gallatin National Forest Ecologist, Jake Chaffin (phone call with Charles Wolf Drimal, 7/15/2020), GYC staff learned Buffalo Creek and its tributaries are the Forest Service's strongest conservation interest in the Yellowstone Headwaters region for securing a Yellowstone cutthroat trout stronghold population from non-native rainbow trout. This project also has the support of Montana Fish Wildlife and Parks and the National Park Service. Yellowstone National Park is supportive because of the risk of non-native rainbow trout contaminating the genetic makeup of the Lamar watershed. Buffalo Creek flows into Slough Creek, an eligible Wild and Scenic River because of its

habitat and population of secure native Yellowstone cutthroat trout. Once complete, the project will secure over 40 miles of stream for native fish. Like Slough Creek and Mill Creek, Buffalo Creek offers excellent habitat for the full life-cycle of Yellowstone cutthroat trout.

Management Recommendation

- *Buffalo Creek should be considered an eligible Wild and Scenic River based on the Forest Service's own definition of the Fisheries habitat ORV: "The habitat supports native aboriginal populations or assemblages of native fish with high conservation value." "The habitat represents a pristine ecosystem relative to others in the region of comparison."*

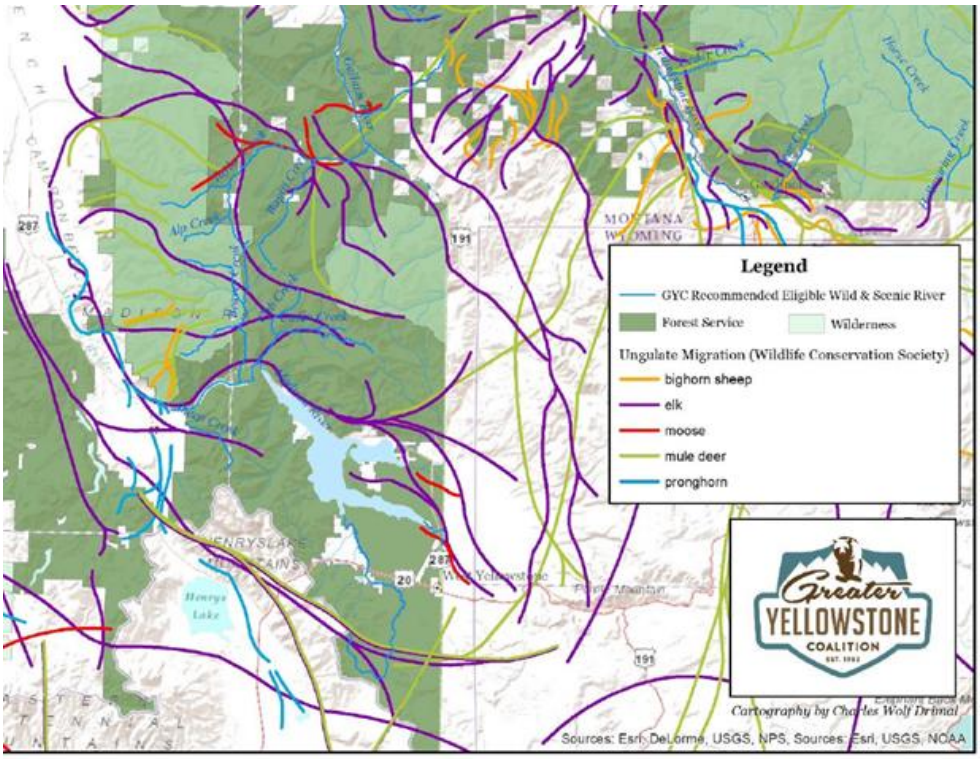
Objection 2: In the agency's "Appendix F Responses to Comments on the Draft Environmental Impact Statement," the Forest Service arbitrarily dismissed the Wildlife ORV on deserving eligible streams without acknowledging the science around ungulate migrations, best secure grizzly bear habitat, and best riparian habitat for moose. Not all wildlife habitat is created equal.

The Forest Service writes: "The fact that any mammals, such as moose, beaver, river otter, or grizzly bear at times use rivers and floodplain habitats is not an outstandingly remarkable value, but a part of their normal habitat. These examples did not meet the outstandingly remarkable value definition used for wildlife." (Appendix F Responses to Comments on the Draft Environmental Impact Statement, p.132)

The Greater Yellowstone Coalition's Report on Recommended Eligible Wild and Scenic Rivers on the Custer Gallatin National Forest made a strong case that not all wildlife habitat is created equal, and that based on scientific data and scientific modeling, it is clear that iconic species like elk, moose, and grizzly bear are prone to use particular, high quality habitat, and habitat that provides a critical link during the animal's annual cycles. The aforementioned GYC Report explains this in several ways on such streams as Taylor Creek and its tributaries, and Hellroaring Creek and its tributaries.

Taylor Creek (aka Taylor Fork)

Based on field data from the Wildlife Conservation Society, the Taylor Creek offers one of two moose migrations of conservation interest on the western side of the entire Custer Gallatin National Forest (the other moose migration is on the Madison River.



The Forest Service defines the Wildlife ORV for *Habitat* as: "The river, or area within the river corridor, provides uniquely diverse or high quality habitat for wildlife of national or regional significance, and/or may provide unique habitat or a critical link in habitat conditions for Federal or State-listed or candidate threatened or endangered species, or species of conservation concern. Contiguous habitat conditions are such that the biological needs of the species are met, particularly where such habitats meet the year-round or important seasonal biological needs of the species."

The Greater Yellowstone Coalition finds that important wildlife migrations clearly linked to riparian habitat fit the agency's Wildlife ORV definition for habitat. This is not generic habitat that exists anywhere and everywhere on the forest. This is not just "normal habitat." This is outstandingly remarkable habitat. The above map not only exemplifies the outstandingly remarkable wildlife habitat for moose on the Taylor Creek, it also shows the direct relation of the Taylor Creek and its headwaters (Alp Creek and Lightening Creek) to an elk migration of national significance that moves back and forth from Yellowstone National Park, into the Taylor Creek watershed, and over into the Madison Valley where it winters. The habitat of these river corridors provides essential security for elk movement and is related to the river system. Again, this is not just "normal habitat." This is outstandingly remarkable.

The Craighead Institute also makes a case that not all habitat on the Custer Gallatin National Forest, or in other parts of the Greater Yellowstone Ecosystem, is created equal for grizzly bears. The Craighead Institute's modeling on best available core value habitat for grizzly bears shows that some of the best habitat on the national forest extends from the confluence of the Taylor Creek and the Gallatin River up to the headwaters of Taylor Creek, Alp Creek and Lightening Creek. This high-quality habitat follows the river corridors. In the words of the agency's wildlife ORV definition, Taylor Creek "provides uniquely diverse or high quality habitat for wildlife of national or regional significance [grizzly bear], and/or may provide unique habitat or a critical link in habitat conditions for Federal or State-listed or candidate

threatened or endangered species [grizzly bear], or species of conservation concern." One of the outstandingly remarkable values of the Taylor Creek watershed is that it offers incredibly diverse habitat – from sage brush to willow wetlands to montane forest to alpine lakes – in a short distance. The grizzly bear is a threatened species under the Endangered Species Act and is also a species of regional and national significance. The well-being of the species is dependent upon protecting high quality riparian habitat like the Taylor Creek.

One of the region's veteran specialists on grizzly bear conservation couldn't agree more. Chuck Schwartz, who oversaw the Yellowstone Interagency Grizzly Bear Study Team during the important Taylor Fork-Gallatin Land Exchange in the early 2000s, is on record saying:

"The Taylor Fork has the highest density of bears in the northern half of the greater Yellowstone ecosystem," Schwartz says. With plenty of elk calves, rodents, and a wide variety of native plants to eat, some grizzly bear sows have given birth to as many as four cubs in a litter, twice the usual number. "It's not just incredibly productive for grizzly bears," Schwartz says, "the Taylor Fork is a rich piece of real estate for a whole array of species." (https://www.tpl.org/magazine/make-way-wildlife%E2%80%94landpeople)

Kurt Alt, the former Montana Fish Wildlife and Parks regional wildlife manager, also explained, "The Taylor Fork is one of the most precious wildlife areas in the entire Yellowstone area." "Losing it [to development] would have been tragic. Saving it was a close call." (https://www.tpl.org/magazine/make-way-wildlife%E2%80%94landpeople)

On a Greater Yellowstone Coalition field visit to Taylor Creek that involved packrafting the creek from the Taylor Creek trailhead to the entrance of the canyon section about one mile from the Gallatin River confluence, GYC's waters conservation coordinator, Charles Wolf Drimal and Montana conservation associate, Ryan Cruz documented a male Harlequin duck sitting on a rock in the river corridor about a half mile from their take-out. A Harlequin duck sighting for many birder watchers is considered a life accomplishment because these birds are rare and elusive. The Custer Gallatin National Forest's Appendix C Species of Conservation Concern Plan Components, Sensitive Species List pg. 192 lists the Harlequin duck as a sensitive species linked to "unique habitats: aquatic and riparian."

The Harlequin duck sighting on June 4, 2020, combined with essential moose and elk migratory habitat, and high value core grizzly bear habitat, adds to the justification of a wildlife outstandingly remarkable value of the entire Taylor Creek watershed.

Management Recommendation

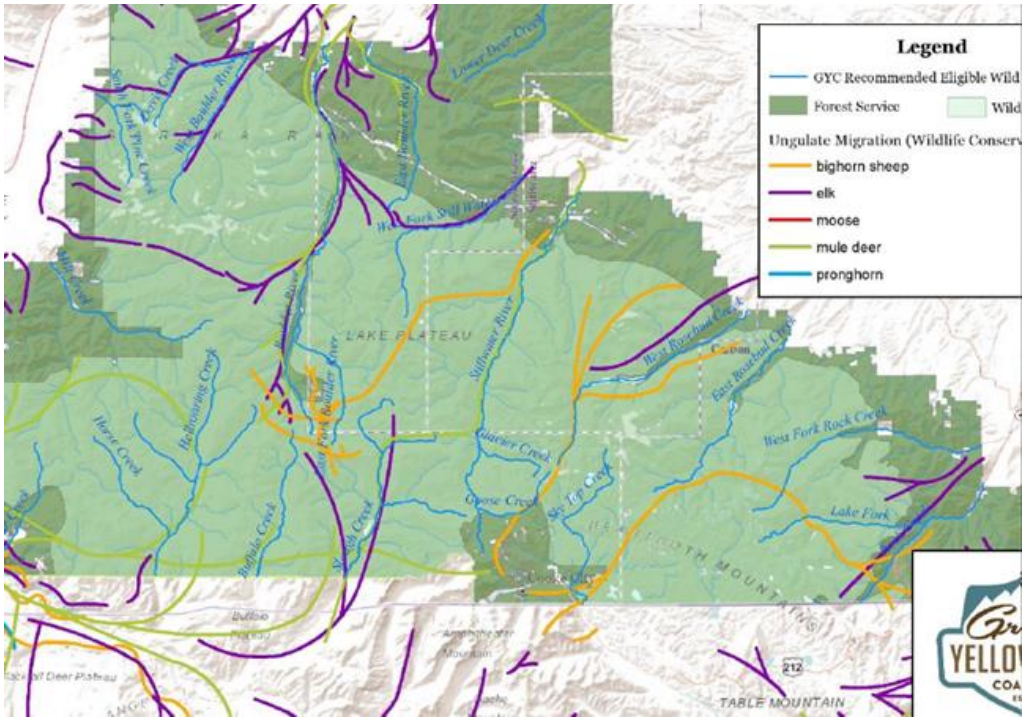
- *Taylor Creek and its tributaries, Alp Creek and Lightening Creek, should be eligible Wild and Scenic Rivers with a Wildlife ORV.*

Hellroaring Creek

With its relatively low elevation valley compared to sub-alpine drainages to the east, Hellroaring Creek supports an abundance of wildlife species including elk, moose, mule deer, grizzly bear and wolverine. Based on Wildlife Conservation Society data and tracking, a prominent mule deer migration follows Hellroaring Creek for miles up to its headwaters before crossing over into the Mill Creek drainage. While the Custer Gallatin National Forest's argues that "this is part of their normal habitat", it is clear that places like Hellroaring Creek that draw a very defined ungulate migration that is not dispersed, do so because of habitat security afforded by the riparian vegetation. Without the presence of the creek, the habitat would not be there, and the mule deer population would not be attracted to it. Let's face it, there are mule deer in many parts of the national forest, but there are only select places like Hellroaring Creek where the mule deer consistently use a migratory route, year after year. The Greater Yellowstone Coalition finds Hellroaring Creek to be outstandingly remarkable for its wildlife habitat.

Management Recommendation

Hellroaring Creek should be an eligible Wild and Scenic River with a Wildlife ORV.



<u>Objection 3: The Forest Service fails to recognize the unique scenic beauty of Taylor Creek. Taylor Creek deserves a Scenery ORV.</u>

The Custer Gallatin National Forest's response to comments from the public about additional rivers listed with a scenic ORV is ambiguous and insufficient. The Appendix H Response to Comments says: "No additional rivers were found eligible after public comments were reviewed. Scenery was proposed as an

outstandingly remarkable value for a long list of rivers that should be added to the list of eligible rivers. All comments and provided information was reviewed by the specialist based on the definition used." (pg. 131)

The Taylor Creek is remarkable and unique for its scenery alone. Nowhere else on the Custer Gallatin National Forest can you drive up an undeveloped valley for twelve miles and see only one guest ranch inholding surrounded by an open sage brush and grassland valley, and healthy willow stands leading up to alpine peaks capped with snow for most of the year. A couple of the scenery ORV definitions of the forest service refers to: *Rock, land and water forms: Visually striking cliffs, canyons; Visually strong and easily discernible examples of geologic forms and processes; visually distinctive strata layers or differential erosion* (Appendix E Forest Land Management Plan 2020 pg. 240). In entering the Taylor Creek watershed a visitor drives over a terminal moraine from an ancient glacier. Then, while on top of the moraine, that visitor can park and look down at the steep river canyon of the Taylor Creek to the north where only three years ago a giant rock formation collapsed from a canyon wall into the river and has now created a brilliant waterfall in the middle of the canyon with a beautiful, placid pool behind the rock obstruction. While packrafting the Taylor Creek during its short runoff period in late May or early June, one finds a combination of massive meandering Class I waters followed by swift continuous splashy Class II for miles. And right before the entry into the Class II section, the creek splits in an open meadow north of the road and forms a 30-meter-wide waterfall that pours back on to itself. Hiking up the trail to the headwaters of Taylor Creek, one encounters massive alpine peaks with lakes strewn in the high country, only miles from an undeveloped, open sage valley below. For the Custer Gallatin National Forest, the Taylor Creek has outstandingly remarkable scenery.

Management Recommendation

- *Taylor Creek should be an eligible Wild and Scenic River with a Scenery ORV.*

Objection 4: The Forest Service failed to acknowledge the "unique, exemplary and rare" recreational opportunities of Taylor Creek.

In Appendix E of the Custer Gallatin National Forest Proposed Action—Revised Forest Plan, the Forest Service explains that the Recreation ORV can include:

> "Unique/outstanding/exemplary recreation opportunities such as premier fishing, renowned rapids, or nationally designated trails related to the river corridor.
>
> River-related recreation opportunities: such as rivers or corridors used for premier whitewater opportunities or destination ice climbing." (pg.8)

The Taylor Fork of the Gallatin River provides a unique Class II whitewater packrafting opportunity that cannot be found anywhere else on the Custer Gallatin National Forest. The experience is only available during two to three weeks of the year. This usually occurs during peak flows in May to early June when the run-off from snowmelt is highest. Putting in at the upper bridge by the Taylor Creek trailhead, one first encounters swift Class I+ paddling with lots of woody debris and braided channels to navigate. The river cuts through willow and patches of conifer forest. The paddle typically requires portages around

log jams and some quick maneuvers to avoid obstacles. Meanwhile, the views of the upper Taylor Fork's alpine peaks of the Madison Range, laced with meandering chutes, couloirs, and steep faces are world class. After crossing under the first bridge, the Taylor Creek then opens into a slower, broad and meandering plain with sage brush above the banks and views of a wider, lower elevation grassland valley. This mile or two of river includes a spectacular 30-meter wide waterfall that is formed by the creek splitting in two sections, and one of the braids then flowing back onto the main channel as a short, albeit wide waterfall. From here, the channel straightens and the current turns into continuous Class II splashy whitewater for several miles. These two sections combine for a fantastic entry level whitewater creek for packrafting. As the creek carves through an ancient terminal moraine in the last mile of the stream before the Gallatin River confluence, the Taylor Fork runs through an even narrower canyon section with a 10-15-foot waterfall that was recently created by a landslide a few years ago.

The quality of this recreation experience is hands down, world class. It is also *outstanding, unique and exemplary* on the Custer Gallatin National Forest. There is no place like it. And to add to the allure, like powder skiing or high-quality ice climbing, the flows required for paddling are only available for a limited time. It is important for the Forest Service to recognize the *quality* of this experience. The agency has placed its attention on the Recreation ORV where the *quantity* of recreation use is high. Examples include Hyalite Creek, one of the most popular recreation zones in Montana, and Pine Creek, one of the most popular hikes in Park County due to the waterfall and alpine lake. It is our interest to recognize and protect the *quality* of the recreation experience on the Taylor Creek. It is worthy of a Recreation ORV and Wild and Scenic Rivers eligibility status.

Management Recommendation

Taylor Creek should be an eligible Wild and Scenic River with a Recreation ORV.

Packrafting Taylor Creek June 7, 2020. Photo by Ryan Cruz. Greater Yellowstone Coalition

Additional Recommended Wilderness Areas

Objection 1: The 2020 Land Management Plan removes Recommended Wilderness status for Lionhead despite its existing wilderness character.

The omission of Lionhead from Alternative F's wilderness recommendations is deeply upsetting. As stated in the DROD (p. 16), the Lionhead area "been managed under the 1987 Gallatin plan as a recommended wilderness area for more than 30 years." However, during this time, mountain bikes have been allowed to use 18 miles of trails that access the core of the area. While the DROD acknowledges that the area is "highly valued by wilderness advocates and enthusiasts … of quiet recreation" and is "not heavily used" by mountain bikes, the Forest Service nonetheless chooses to drop its longstanding wilderness recommendation for Lionhead.

The DROD states that a Backcountry designation in Lionhead "will protect the current character of the area" and that existing uses (mountain biking) will "continue as long as they do not degrade the character of the area" (DROD p16). This second statement seems to refer to adaptive management, implying that uses would be disallowed should they degrade Lionhead's wilderness character. Yet we find no monitoring questions to detect this possible degradation nor plan components to substantiate this promise of adaptive management in the 2020 Land Management Plan. The only monitoring of recreational "travel incursions" will focus on motorized travel (MON-REC-02) and signage near designated wilderness and RWAs (MON-REC-02), not mountain biking in Backcountry Areas (LMP p. 200).

Aside from the possibility of mechanized uses degrading the area's wilderness character replacing the Lionhead RWA with a backcountry designation is problematic for several additional reasons. First, it would allow for timber harvest without plan components to protect the secure grizzly and wolverine habitat found there. It also sets a bad precedent for other areas in the forest, sending the message that, when non-wilderness uses take place in areas meant to be managed for potential entry into wilderness system, the area's chances of wilderness designation are all but eliminated regardless of its wilderness character. If the presence of non-wilderness uses effectively revokes an areas wilderness eligibility, then the allowance of those uses arguably circumvents the proper regulatory process for RWA status removal.

GYC has healthy partnerships with the mountain biking community in and around West Yellowstone, including with the local shop Freeheel and Wheel, and we understand the significance of the rides that pass through Lionhead. That is why we have urged the Forest Service in our previous comments to opt for the designation suggested in the Proposed Action, which essentially combines the boundaries of Alternative B with Alternative C's language to disallow mechanized uses in RWAs. The Lionhead RWA boundary would recede northward to allow continued access for mechanized recreation along the Continental Divide Trail and Mile Creek trails and eliminating mechanized access along Sheep Lake/Creek trail to the north. This compromise would ensure continued mountain biking opportunities on arguably the more widely used of the two trails in question while maintaining the RWA and setting a more positive precedent for other RWAs in the landscape. Other groups including The Wilderness Society support this decision as well.

Management Recommendations:

- *Maintain the Lionhead RWA as recommended by the Proposed Action, combining the boundaries of Alternative B with Alternative C's component to not allow non-conforming uses in recommended wilderness.*

Objection 2: The 2020 Land management Plan fails to designate the Dome Mountain or Chico-Emigrant Recommended Wilderness Areas as proposed by Outdoor Alliance Montana without clear reason.

In our public comments on the Draft Revised Forest Plan and DEIS, GYC voiced support for recommended wilderness in the Chico Peak, Dome Mountain, and Emigrant Peak roadless areas as mapped by Outdoor Alliance Montana. This recommendation was a slightly modified version of Alternative D.

These areas offer world-class recreation opportunities including hunting and backcountry skiing, yet they are only a 30-minute drive from Livingston. As a result, recreational use here has grown significantly in the past decade, particularly in the Emigrant Gulch area, and will likely continue to do so. Chico, Dome, and Emigrant also provide high quality habitat for wildlife including wolverine, elk, and grizzly, and all three species have been regularly observed in these roadless areas. We therefor believe that this area presents a valuable addition to the Absaroka-Beartooth Wilderness.

Unfortunately, we find no response to this request in the FEIS response to comments, aside from a general discussion of recommended wilderness forest wide. We are therefore unclear why the Forest Service chose not to recommend this specific area for wilderness.

Management Recommendations:

- *Include the Chico Peak, Emigrant Peak, and Dome Mountain Recommended Wilderness Areas as defined and called for by Outdoor Alliance Montana.*

Closing Remarks

Thank you for considering our objections. The Custer Gallatin National Forest's revised forest plan is critical to support the health of Greater Yellowstone's northern edge and rest of the ecosystem it is connected to. The Greater Yellowstone Coalition and our supporters thank you for the opportunity to participate in this process and we look forward to working through objection resolution meetings as an interested party. Climate change, growing recreational demand, conflicting user needs and more present new challenges to the forest every day. Through a robust planning process, the Custer Gallatin can be well equipped to tackle these issues.

GYC staff Ryan Cruz, Darcie Warden, Brooke Shifrin, Shana Drimal, Charles Drimal, and Joe Josephson contributed to this document. These objections will be submitted both electronically through the CGNF

online portal, as well as physically at the Bozeman office. Our physical submission will also include objections from GYC's supporters that have standing.

GYC supports the Custer Gallatin National Forest in the pursuit of a healthy, resilient landscape. Please reach out to us with any questions regarding our objections or recommendations.

Sincerely,

Darcie Warden
Montana Conservation Coordinator
Greater Yellowstone Coalition

Ryan Cruz
Montana Conservation Organizer
Greater Yellowstone Coalition

Appendix A

GYC's Comments on proposed 2016 Grizzly Bear Delisting Rule

Submitted May 10, 2016

GREATERYELLOWSTONE.ORG
LOCATIONS IN MONTANA, IDAHO & WYOMING

HEADQUARTERS
215 South Wallace Avenue
Bozeman, Montana 59715
406.586.1593

Public Comments Processing

Attn: Docket No. FWS-R6-ES-2016-0042

U.S. Fish and Wildlife Service, MS: BPHC,

5275 Leesburg Pike, Falls Church, VA 22041-3803

RE: Fish and Wildlife Service (FWS) Proposed Rule: Endangered and Threatened Wildlife and Plants: Removing the Greater Yellowstone Ecosystem Population of Grizzly Bears from the Federal List of Endangered and Threatened Wildlife FWS-R6-ES-2016-0042

Submitted electronically at https://www.regulations.gov

May 10, 2016

Dear Director Ashe,

The following comments address the Proposed Delisting Rule, the Draft Grizzly Bear Recovery Plan Supplement: Revised Demographic Criteria and Draft 2016 Conservation Strategy, released on March 11th, 2016 for public review.[1] These comments are submitted on behalf of the Greater Yellowstone Coalition (GYC), which has offices in Idaho, Montana and Wyoming and has been working on grizzly bear conservation issues in the Greater Yellowstone Ecosystem (GYE) for over three decades.

GYC's mission is to work with people to protect the lands, waters and wildlife of the GYE, now and for future generations. GYC was founded in 1983 on a simple premise: An ecosystem will remain healthy and wild only if it is kept whole and we advocate for the idea that ecosystem level sustainability and science should guide the management of the region's public and private lands. This vast ecosystem

[1] United States Department of the Interior, Fish & Wildlife Service, Endangered and Threatened Wildlife and Plants; Removing the Greater Yellowstone Ecosystem Population of Grizzly Bears from the Federal List of Endangered and Threatened Wildlife, 81 Fed. Reg. 13174 (Mar. 11, 2016) https://www.gpo.gov/fdsys/pkg/FR-2016-03-11/pdf/2016-05167.pdf.

includes 20 million acres of wild country that includes Yellowstone and Grand Teton National Parks, parts of five national forests, five national wildlife refuges, and state and private lands in Wyoming, Idaho, and Montana.

GYC works to ensure that a thoughtful and holistic approach is taken to managing natural and wildlife resources in harmony with people and modern development. We work to shape a future where wildlife populations maintain their full diversity and vitality, where ecological processes function on public lands with minimal intervention, where exceptional recreational opportunities abound for visitors and residents alike, and where communities can enjoy a healthy and diversified economy. GYC is based in Bozeman, MT with offices in Wyoming and Idaho, and over 40,000 members and supporters from within the Northern Rockies and across the country.

The Service has invited Tribal and governmental agencies, the scientific community, industry, and other interested parties to submit comments or recommendations concerning any aspect of this proposed action. Our comments are arranged into five separate sections within this document; 1) General Comments on Process and our goals for grizzly bear management within the ecosystem; 2) Concerns regarding the Proposed Delisting Rule; 3) Concerns regarding the draft 2016 Conservation Strategy; 4) Comments addressing the draft Grizzly Bear Recovery Plan Supplement: Revised Demographic Criteria for the Greater Yellowstone Ecosystem; and 5) Comments regarding State Management Plans. Additionally, we have provided Appendices of our previous comments: Appendix A: *Greater Yellowstone Coalition and Defenders of Wildlife comments on Proposed Forest Plan Amendment to integrate the Northern Continental Divide Ecosystem (NCDE) Grizzly Bear Conservation Strategy (GBCS) into the forest plans for the Helena, Kootenai, Lewis and Clark, and Lolo National Forests.);* Appendix B: *Greater Yellowstone Coalition's Comments on Wyoming's draft Wyoming Grizzly Bear Management released on March 15th* ; and Appendix C: *Greater Yellowstone Coalition (GYC) on the Grizzly Bear Management Plan for Southwestern Montana, Draft Programmatic Environmental Impact Statement (EIS).*

Greater Yellowstone Coalition has a 30+ year organizational history of work on grizzly bear conservation and management in the GYE. We have a strong interest in grizzly bear delisting and future management in the GYE. Our members and staff relish the opportunity to view grizzly bears and to experience the wild places that grizzly bears represent. Living and recreating in grizzly bear country requires an awareness of your surroundings, it requires changing human behavior and it heightens your senses and experiences in a unique way that is difficult to describe. Grizzly bears are simply different than other wildlife and require respect and humility. Our organization challenged an attempt in 2007 to remove protections for grizzly

bears in the GYE [2] under the Endangered Species Act [3] (ESA) because of concerns over the future viability of grizzly bears.

We recognize the efforts on behalf of grizzly bears made by the Service, states, federal agencies, conservation groups and the communities of the Greater Yellowstone that have made grizzly bears a conservation success story. Today, we now have grizzly bears in places they haven't been in more than 80 years. We thank all of the federal and state wildlife managers, non-governmental organizations, and landowners who have contributed to this success. This success also highlights the effectiveness of the Endangered Species Act. After a thorough review of the released documents, we are concerned that the Service has proposed a delisting rule that risks undermining these successes. We offer the below comments to improve the process and the various flaws we have identified.

I. Flawed Process and General Comments on Proposed Action

a. Procedural Concerns

Unfortunately, the proposed action is deeply flawed in terms of the process of removing the very protections and coordinated efforts that have made this success possible. As written, this rule and the associated plans unravel decades of efforts, in a hasty attempt to transition to state management that appears uncoordinated between state and federal agencies and contains many flaws and inconsistencies that we highlight throughout these comments. We recommend that the Service halt this process until all of the necessary pieces are in place, including functional and enforceable regulatory mechanisms that will allow for the continued recovery and stability of the grizzly bear population.

The proposed rule is legally deficient under the ESA and the Administrative Procedures Act (APA).[4] Despite assurances of maintenance of a stable population post-delisting, it is clear that post-delisting, the proposed rule allows for a managed population decline of the grizzly bear population based upon changes to the Conservation Strategy and State plans.

The Service can only make a reasonable decision about future threats to grizzly bears and adequate regulatory mechanisms once state plans are complete. It is confusing to the public and in violation of the APA, to request input on this process until it is clear how the population will be managed post-delisting by the states. Wyoming wants to assume authority on private land inholdings within park boundaries, in violation of federal law. Montana's plan doesn't commit to allowing separate bear populations to connect

[2] *Greater Yellowstone Coalition, Inc. v. Servheen*, 672 F. Supp. 2d 1105, 1125 n. 9 (D. Mont. 2009), 665 F.3d 1015, 1020 (9th Cir. 2011).

[3] 16 U.S.C. § 1531, et seq

[4] 5 U.S.C. 551(1), Pub.L. 79–404, 60 Stat. 237

with each other and expand into other existing recovery areas, in particular the Selway-Bitteroot Ecosystem. Idaho's plan hasn't been updated since 2002 and is missing key regulatory frameworks around mortality thresholds. The proposed action relies heavily upon state and federal plans that are currently unavailable, out-of-date or under review.

The proposed action does not address concerns raised by the National Park Service (NPS) publicly [5] and other members of the Yellowstone Ecosystem Subcommittee (YES) of the Interagency Grizzly Bear Committee (IGBC). During the April 13-14, 2016 meetings, various committee members raised significant concerns around the proposed action and inconsistencies within the Conservation Strategy. The committee proposed convening subcommittee work groups that will meet during the summer and fall of 2016. It is irresponsible for the Service to forge ahead without agreement from these sister agencies who all play critical roles in managing grizzly bears and their habitat. The meeting notes and final dates of these work groups have yet to be released. [6]

b. Habitat Protections

Equally concerning is the fact that habitat protections are in a complete state of confusion. The proposed Forest Plan Amendments are outdated and inadequate for protecting the places where bears live today. These amendments must undergo public review and contain adequate protections for federal lands to sustain a stable population of bear. Grizzly bears now occupy approximately 44,624 sq. km (17,229 sq. mi) [7] and the Primary Conservation Area (PCA), where habitat protections ensure continued secure habitat for grizzly bears, only comprises 23,853 sq. km (9,210 sq. mi), [8] barely half of the currently occupied habitat. The proposed Forest Plan Amendments, only impact habitat within the PCA, and are inconsistent with current federal actions and planning direction.

Similarly, the National Forests in the GYE (Beaverhead-Deerlodge, Bridger-Teton, Caribou-Targhee, Galatin-Custer and Shoshone National Forests) have an obligation to manage habitat that allows for sustainable populations of native species. Under the Conservation Strategy, it is suggested that through Forest Plan revisions, bears may be identified in the future as a "sensitive species." [9] Currently, each of the above forests is in various stages of forest planning and the "sensitive species" designation no longer exists under current planning direction. In the 2012 Forest Planning Rule, the National Forests are directed to: "Provide habitat for plant and animal diversity and species conservation. The requirements are intended to keep common native species common, contribute to the recovery of threatened and

[5] http://www.bozemandailychronicle.com/news/wildlife/agencies-raise-concerns-with-yellowstone-grizzly-delisting-plan/article_9065f16e-ad60-5459-9433-e6289634e7d5.html

[6] http://igbconline.org/yellowstone-subcommittee/

[7] *Id. at* 13191.

[8] *Id. at* 13187.

[9] *Id.* at 13198.

endangered species, conserve proposed and candidate species, and protect species of conservation concern."[10] Grizzly bears are an umbrella species and a conservation reliant species.. These factors should warrant designation and the accompanying protections as "species of conservation concern" within Forest Plan Amendments.

c. Economic Impacts

Similar to concerns raised by the NPS, we believe that grizzly bears in National Parks and adjacent to the Park Service units are worth more alive to the American public, than they are as a hunted species. Research on economic impacts from National Park Service planning, has been used to estimate the income and employment generated in the local economy due to visitation to public lands. These impacts result from the amount of money non-local visitors spend in the local economy on their trips, which provides a measure of the significance of a regional resource such as Yellowstone.[11] For instance, in 2012, non-local visitors to Yellowstone National Park spent over $398 million, supporting 5,594 jobs in the local economy and generating more than $164 million in labor income.[12] Researchers found that if bears were discouraged from roadways, spending in the local economy by Park visitors could decrease by about $10.1 million, resulting in a loss of 155 jobs.[13] It's important to note that bears are not contained by park boundaries and management actions adjacent to Park Service units may change grizzly bear behavior and distribution within Park boundaries. Additionally, visitors to Yellowstone National Park are willing to pay around $41 more in Park entrance fees to ensure that bears are allowed to remain along roads within the Park. The States and Service should consider these results in future funding discussions for grizzly bear management.

d. Funding

Maintaining a successful recovery for grizzly bears into the future is dependent on adequate funding for both the state and federal agencies involved. Inadequate post-delisting funding for monitoring of grizzly bears and their habitat, and management and prevention of human-bear conflicts is a threat to the long-term survival of grizzly bears. Because of this we ask the Service to incorporate the action items below into a future proposed delisting rule and conservation strategy to ensure long-term recovery for the Greater Yellowstone grizzly population.

[10] 36 CFR 219.26 consistent with the 2012 Planning Rule (SCC, 12.52d-2b 2012 Planning Handbook p.36).

[11] Duffield, J, C. Neher and D. Patterson. 2006. Wolves and People in Yellowstone: Impacts on the Regional Economy.

[12] Cullinane, Thomas, C., C. Huber, and L. Koontz. 2015. 2014 National Park visitor spending effects: Economic contributions to local communities, states, and the Nation. Natural Resource Report NPS/NRSS/EQD/NRR—2015/947. National Park Service, Fort Collins, Colorado.

[13] Richardson, Leslie, Tatjana Rosen, Kerry Gunther, and Chuck Schwartz. 2014. The economics of roadside bear viewing. Journal of Environmental Management. 140:102-110.

The Service has a responsibility to proactively address funding shortfalls before bears are delisted. We suggest that a mechanism/s be determined that would provide long-term secure funding for the monitoring and management of grizzly bears and their habitat post-delisting. It is our understanding that the Interagency Grizzly Bear Committee (IGBC) is currently working to set up a Grizzly Bear Conservation Fund through National Fish and Wildlife Foundation. We strongly encourage this approach but feel that other mechanisms may also be possible. There is also commitment by the conservation community and our Greater Yellowstone Coalition to 1) Support the implementation of a Grizzly Bear Conservation Fund, and; 2) seek new, long-term, funding sources that are attached to non-traditional users of wildlife, and; 3) continue funding projects that increase tolerance for grizzly bears and prevent bear-human conflicts from occurring.

e. Distinct Population Segment (DPS)

The Service must recognize the potential problems that would arise with respect to the remainder of the original grizzly bear listing if a Yellowstone DPS is designated and delisted. It is important for the Service to address this issue concurrently with the Yellowstone delisting proposal in a transparent way that outlines the Service's commitment to recovery of grizzly bears in the lower 48 states.

This delisting rule follows the same course that was attempted in 2007, and one that caught the attention of the courts. The courts raised cautions (*Greater Yellowstone Coalition, Inc. vs. Servheen*) that "[u]nder such an interpretation, the Service could simply remove virtually any species from the threatened and endangered list simply by designating it a DPS."

Similarly, it was determined that the Service's designation of a Distinct Population Segment (DPS) for purposes of delisting the Upper Great Lakes population of Gray Wolves was illegal (*Humane Society of the United States v. Jewell)*. The USFWS has chosen to ignore this decision, which is being appealed, and attempts to follow the same flawed process for GYE grizzlies.

We ask the Service to publish an Advance Notice of Proposed Rulemaking, that explains how the Service will address the remainder of the grizzly bear listed unit, sets forth a timeline for initiation and completion of such action and solicits public comment on possible ways under which the grizzly bear could be reclassified. In particular, we are concerned that the proposed rule and conservation strategy must clearly articulate the regulatory mechanisms that will allow for connectivity of bears with the Northern Continental Divide (NCDE) populations and how bears will eventually be recovered in the Selway-Bitterroot Ecosystem. This would allow for linkage and connectivity between all populations of grizzly bears in one interconnected Northern-Rockies metapopulation.

f. Sport Hunting of Grizzly Bears

Greater Yellowstone Coalition recognizes that hunting is an acceptable management tool that is used to

manage thriving population of hunted species under the North American Model of Wildlife Management. In fact, many of our staff and members are avid hunters of upland birds, deer and elk. Unfortunately the proposed delisting rule and the insistence of the Service that States finalize frameworks governing sport hunting of grizzly bears has directed a spotlight on the center of one of the most controversial aspects of delisting – the possibility of future sport hunting.

To be clear GYC opposes sport hunting of grizzly bears. We also realize that this is the most manageable threat that bears face. In 2015 alone, 61 bears were killed from various human conflicts in the GYE without hunting, while under the protections of the ESA.[14] We ask the USFWS to require a 5-year delay in the hunting of grizzly bears and eliminate discretionary hunting mortality within the PCA. There are sound biological reasons for prohibiting hunting within the PCA, such as ensuring that Criterion 2 goals of 16 of 18 BMU's occupied by females with young is met. Also, this area has relatively few conflicts and could be described as "source" habitat to ensure that other criteria are met, and would direct discretionary mortality only into areas with chronic conflict. The PCA is also described as having the habitat security to maintain a grizzly bear population within the Greater Yellowstone Ecosystem and potential hunting could quickly erode the security of this "secure habitat."

Additionally, grizzly bears are what is known as a "conservation reliant" species, in that they will perpetually require efforts to conserve them on the landscape. [15] This reliance and the relatively limited occurrence of bears within their historic range in the lower 48 requires additional caution compared to other species that are routinely hunted. We don't believe hunting will reduce conflicts on a large scale or provide for "social tolerance" as has been promoted. Studies on gray wolves post delisting have not supported the theory that social tolerance increases with hunting.[16] The creation of hunting seasons similarly has not reduced human conflicts with black bears.[17] No current science supports hunting as a biologically necessary tool to manage the population. However, we recognize that some or all of the three states might incorporate sport hunting into their management strategies. For all of these reasons, delaying the onset of hunting and eliminating the potential for hunting bears within the PCA should be adopted within the final rule.

[14] https://www.usgs.gov/data-tools/2015-known-and-probable-grizzly-bear-mortalities-greater-yellowstone-ecosystem

[15] Scott, J. M., Goble, D. D., Wiens, J. A., Wilcove, D. S., Bean, M. and Male, T. (2005), Recovery of imperiled species under the Endangered Species Act: the need for a new approach. Frontiers in Ecology and the Environment, 3: 383–389.

[16] Treves A., Naughton-Treves L. & Shelley, V. S. (2013). Longitudinal analysis of attitudes toward wolves. Conservation Biology 27, 315 – 323.

[17] Obbard, M. E., E. J. Howe, L. L. Wall, B. Allison, R. Black, P. Davis, L. Dix-Gibson, M. Gatt, and M. N. Hall. 2014. Relationships among food availability, harvest, and human–bear conflict at landscape scales in Ontario, Canada. Ursus 25(2):98-110.

II. Proposed Rule

The grizzly bear is currently listed as a threatened species under the ESA in the conterminous 48 states.[18] Prior to any delisting attempt, the Service must determine that this species (or any population proposed for delisting) is no longer threatened by the five factors outlined in 16 U.S.C. § 1533(a)(1). These five factors include the present or threatened destruction, modification, or curtailment of the grizzly bear's habitat or range; the inadequacy of existing regulatory mechanisms; and other natural or manmade factors affecting the species' continued existence.

a. Discrepancies with the Proposed Rule's Demographic Criteria

The proposed rule is inconsistent in population and mortality management when compared with the Conservation Strategy, as well as with the documents that have been made publicly available in state plan modifications. This inconsistency appears to intentionally allow the states to manage for a post-delisting population decline of the grizzly bear. This intent is contrary to the ESA and the years of conservation effort and financial investments that were required to bring this species back from the brink of extinction.

Table 1 provides the post-delisting population and mortality management framework describing how the model averaged Chao2 population estimator will be used as the population measurement tool, that Chao2 population estimate for 2002–2014 was 674 (average lower 95% CI = 600; average upper 95% CI = 747), and that should the population fall below 600 all discretionary mortality cease. [19]

Two important footnotes are contained within Table 1:

> "Consistent with USFWS Director Dan Ashe's letter of September 25, 2015, to the state directors, if the model-averaged Chao2 population estimate is less than 674, the total mortality rate for independent females and dependent young will be less than 7.6 (emphasis added)%.
>
> Total mortality: Documented known and probable grizzly bear mortalities from all causes including but are not limited to: management removals, illegal kills, mistaken identity kills, self-defense kills, vehicle kills, natural mortalities, undetermined-cause mortalities, grizzly bear hunting, and a statistical estimate of the number of unknown/unreported mortalities."

The intent of the proposed rule is clear. Setting the mortality threshold for independent females and dependent young at EQUAL to (instead of less than) 7.6% will cause the population to decline. As it stands, the Conservation Strategy allows the mortality of independent and dependent young at ≤7.6%. In

[18] 40 Fed. Reg. 31,734 (July 28, 1975)

[19] Id. at 13188

addition to the Conservation Strategy, this figure is cited in Wyoming Game and Fish Department's (WGFD) Draft Grizzly Bear Management Plan on page 4, and in proposed regulation modifications by Montana Fish Wildlife and Parks (MFWP) that are currently up for Commission review.[20,21,22] All of the state plans, Final Conservation Strategy, and Draft Supplement: Draft Revised Demographic Criteria for the Yellowstone Ecosystem must contain the important direction within these footnotes. Should the population drop below 674, which arguably is the goal of the proposed thesholds, there is critical disagreement on how discretionary mortality will be managed allowing the population to rebound. We are opposed to an arbitrary post-delisting reduction of the GYE grizzly bear population and the Service must revisit these proposed limits.

b. Mortality Thesholds are Arbitrary

We are very concerned that the proposed mortality thresholds are too high at ≤7.6 to prevent the population from falling. Grizzly bear numbers would likely always be controlled below 674 and no growth in the population would be possible. The Service has stated numerous times and in numerous places that the goal is to maintain a stable grizzly bear population. If so, it seems logical that all discretionary mortality would cease if the population falls below 674, rather than at 600 as proposed. Alternatively, if discretionary mortality were to continue to be allowed, this threshold should be reduced to the previous thresholds that allowed for population growth prior to 2007. [23] The protocol in place at that time ensured that:

"Known human-caused mortality was not to exceed 4% of the conservative, minimum population size index based on the most recent 3-year sum of unduplicated FCOY. Mortality limits were set at 4% of Nmin, with no more than 30% of this 4% (1.2% of the population) to be females. The 4% total mortality and 30% female values came from simulation work conducted by Harris (1986), suggesting that a population of grizzly bears similar to those in the U.S. Northern Rockies sustaining approximately 6% added human-caused mortality (to an assumed background level of natural mortality) would have a very low probability of decline (on average, 70% of simulated mortalities were of males). Further, to account for the likelihood that not all dead bears would be known and thus enter the calculations, it was assumed that 1 additional bear died for each 2 that were documented. This was accomplished by further reducing the mortality limit from 6% to 4% annually."

[20] Draft Conservation Strategy, pg. 35-36

[21] https://wgfd.wyo.gov/WGFD/media/content/Wildlife/Hot%20Topics/FINAL-DRAFT-GB-Mgmt-Plan-3-15-16.pdf

[22] http://fwp.mt.gov/doingBusiness/insideFwp/commission/meetings/agenda.html?coversheet&topicId=37482185

[23] Interagency Grizzly Bear Study Team. 2012. Updating and evaluating approaches to estimate population size and sustainable mortality limits for grizzly bears in the Greater Yellowstone Ecosystem. Interagency Grizzly Bear Study Team, U.S. Geological Survey, Northern Rocky Mountain Science Center, Bozeman, Montana, USA.

We would like to see a scientific explanation of the proposed total mortality thresholds for population estimates between 675-747 and >747. There is little explanation of the derivation of the higher mortality limits proposed by the Service in Criterion 3. What will be the cumulative impacts of mortality rates of 9-10% for females or 20-22% for males if the population is above 675 or 747, respectively? Our concern is these arbitrary thresholds allow the population to decline and reducing mortality to ≤7.6 cannot in response to this anticipated decline will not correct a decline allowing the population to continue downward even after reducing mortality. There must be some scientific justification for these mortality limits and the models used to derive these thresholds must be released to the public for independent peer review.

c. Total Discretionary Mortality Discrepancies

The Proposed Rule defines total mortality to include documented known and probable grizzly bear mortalities from all causes including but are not limited to: Management removals, illegal kills, mistaken identity kills, self-defense kills, vehicle kills, natural mortalities, undetermined- cause mortalities, grizzly bear hunting, and a statistical estimate of the number of unknown/unreported mortalities that will count against the proposed mortality thesholds. [24] However, the Conservation Strategy and updated recovery criteria are ambiguous and contain subtle, but critical differences, in how post-delisting mortality will be accounted for. These inconsistency have been passed down and embellished in flawed state plans. All known, probable, and a statistical estimate calculating unreported human-caused mortalities must count against mortality thresholds as defined in the Proposed Rule and this definition must remain certain in all associated documents. This inconsistency represents the inadequacy of the proposed regulatory mechanisms as the USFWS has failed to maintain a consistent criteria

We also have concerns for how discretionary mortality will be allotted to each individual state and the need for discretionary mortality within NPS, USFWS and tribal lands. The Draft State MOU (Appendix P of the Conservation Strategy, to be added upon completion) has not been appended to the Conservation Strategy. To be considered regulatory mechanisms these must be in place by law and regulation for delisting to occur. In review of Wyoming's plan (which released a draft MOU), the direction appears to only include discretionary mortality between the states. Appendix I, IV, A, page 36:

> "Allocate discretionary mortality available for regulated harvest for independent males and females to each management jurisdiction as provided in the following table. The Parties may agree to adjust the allocation of discretionary mortality based on management objectives and spatial and temporal circumstances.

[24] *Id. at* 13203

Management Jurisdiction	% of DMA outside NPS Lands
WY inside DMA	58%*
MT inside DMA	34%
ID inside DMA	8%

*Four percent (4%) of the DMA outside of National Park System lands in Wyoming is under the jurisdiction of the Joint Business Council of the Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation"

The Service in finalizing Appendix P, the MOU between the states, must provide for further limits on how discretionary mortality is distributed. Discretionary mortality is necessarily only required by the states, but for the National Park Service units and Wind River Indian Reservation. Discretionary mortality should consider agency take or management removals that occur as a result of a federal action or in response to conflicts that are non-human threatening. The Park Service should be included in conversations of allowable discretionary mortality in response to existing known incidental take statements within Park Service lands. These additions to discretionary mortality must be subtracted from the overall allowable discretionary mortality that is allotted to the states.

Finally, the phase "discretionary mortality" must be clearly defined and reflected in all associated management documents. The only definition provided states: "Discretionary mortality: Mortalities that are the result of hunting or management removals." [25]

This is critical because the Proposed Rule states" [b]elow 600: No discretionary mortality would be allowed unless necessary to address human safety issues." [26] Further the Service proposes "[s]uspending all discretionary mortality inside the DMA, except if required for human safety, if the model-averaged Chao2 population estimate falls below 600." [27] Is the Service ensuring that no management removals will occur if the population is below 600 with the exception of for human safety purposes? How will "human safety" be defined? We have already seen the actions of the states, permitted by the service, to preemptively remove bears from locations with high possibility for human conflicts. There are very blurred lines between human conflict and human safety and the potential exists for the states to continue management removals in response to conflicts that they perceive as human safety concerns, even if the

[25] *Id. at* 13226.

[26] *Id. at* 13201.

[27] *Id. at* 13203.

population drops below 600. Criterion 3 cannot be considered an adequate regulatory mechanism until these discrepancies are clearly defined.

d. Status Review Triggers

We remain concerned that states' post-delisting commitments to sustainably manage grizzly bears are unenforceable, and the Proposed Rule, as written, lacks a clear mechanism for returning bears to protected status if current threats worsen or future threats arise.

The proposed rule states: [28]

> "Should we finalize this proposal and delist the GYE grizzly bear population, we will use the information in IGBST annual reports and adherence to total mortality limits as per tables 1, 2, and 3, above, to determine if a formal status review is necessary. Because we anticipate the YGCC and IGBST are fully committed to maintaining GYE grizzly bear population management and habitat management through implantation of the draft 2016 Conservation Strategy and State and Federal management plans, and to correct any problems through the process established in the draft 2016 Conservation Strategy and described in the preceding section, we created a higher threshold for criteria that would trigger a formal Service status review.
>
> Specifically, the following scenarios *would result in a formal status review* by the Service: (1) Any changes in Federal, State, or Tribal laws, rules, regulations, or management plans that depart significantly from the specifics of population or habitat management detailed in this proposed rule and significantly increase the threat to the population; or (2) if the population falls below 500 in any year using the model- averaged Chao2 method, or counts of females with cubs fall below 48 for 3 consecutive years; or (3) if independent female total mortality limits as per tables 1, 2, and 3, above, are exceeded for 3 consecutive years and the population is fewer than 600; or (4) if fewer than 16 of 18 bear management units are occupied by females with young for 3 consecutive 6-year sums of observations. For example, if independent female total mortality limits were exceeded in 3 of 4 years, but they were not 3 consecutive years, the Service would conduct a status review.
>
> Status reviews and relisting decisions would be based on the best available scientific and commercial data available. *If* a status review is triggered, the Service would evaluate the status of the GYE grizzly bear population to determine *if* relisting is warranted. We would make prompt use of the Act's emergency listing provisions if necessary to prevent a significant risk to the well-being of the GYE grizzly bear population. We have the authority to emergency relist at any time, and a completed status review is not necessary to exercise this emergency relisting authority."

[28] *Id. at* 13225.

However, previously in the document it states "[if]f this proposed rule is made final, the Service *may* initiate a formal status review and *could* emergency relist the GYE grizzly population until the formal status review is complete under the following conditions." [29]

Also, should the Interagency Grizzly Bear Study Team detect demographic, habitat, or food source changes it could result in actions that, "*may* involve increased habitat protection, increased mortality management*, or a status review and emergency relisting* of the population if management actions are unable to address the problems." [30]

The Service *can also initiate* a status review independent of the IGBST or the YGCC should the total mortality limits be exceeded by a significant margin or *routinely* violated or *if substantial* management changes occur *significant enough to raise concerns* about population level impacts. [31]

The final rule must clearly state how and when a formal status review will happen, not "if" or "may" occur. This subjective language around "routine, substantial, and significant" must be quantified in an enforceable manner. The ambiguity and uncertainty that is introduced by using this type language of language makes these statements unenforceable regulatory mechanisms.

If any of the above scenarios occurred, it is critical that the Service conduct a formal status review that is published in the Federal Register and if the population were to fall below 600 or initiate an emergency relisting, because as we've documented above, discretionary mortality would still be allowed to occur.

III. Draft Conservation Strategy

a. Connectivity

The grizzly bear was listed as a threatened species in the *contiguous* lower 48 states under the ESA, and should be recovered and managed as a large, well-connected Northern Rockies metapopulation. Historic evidence supports the existence of a true meta-population structure for grizzly bears in the contiguous United States, including connectivity between the NCDE and the GYE, as well as other populations. [32,33,34] "The future of grizzly bear persistence in southwest Canada and northwest USA is likely dependent

[29] *Id. at* 13204.

[30] *Id. at* 13215.

[31] *Id. at 13225.*

[32] Craighead, F.L., and E. Vyse. 1996. Brown/grizzly bear meta-populations. In: D. McCullough (Ed.) Metapopulations and Wildlife Conservation Management. Island Press, Washington DC and Covelo CA. Chapter 14: pp. 325-351.

[33] Picton, H. D. 1986. A possible link between Yellowstone and Glacier grizzly bear populations. Int. Conf. Bear Res. and Mgmt. 6:7-10.

[34] Merriam, C.H. 1922. Distribution of grizzly bears in U.S. Outdoor Life 50:405-406. Miller, C.R., and L.P. Waits. 2003. The history of effective population size and genetic diversity in the Yellowstone grizzly (Ursus arctos): Implications for conservation. Proceedings of the National Academy of Sciences 100:4334-4339.

on management actions that promote and ensure meta-population function." [35]

Pursuant to the five-factor analysis, the Service must consider how the currently isolated GYE grizzly bear population can qualify as recovered without regulatory mechanisms that provide for connectivity between this population and the Northern Continental Divide Ecosystem (NCDE) population. In fact, the Service's direction is in direct conflict with other agency regulations, violating the National Forest Management Act (NFMA), National Environmental Policy Act (NEPA), and APA. Revising the Conservation Strategy to commit to and provide for connectivity must be done in order to bring this critical issue and the associated Forest Plan Amendments into compliance with existing laws.

Section 219.9 of the 2012 Forest Planning Rule [36] implements this statutory mandate, and provides for a "complementary ecosystem and species-specific approach to maintaining the diversity of plant and animal communities and the persistence of native species in the plan area." As part of this approach, plans must include, inter alia, "components to maintain or restore [ecosystem] structure, function, composition, and connectivity (emphasis added)." [37] The components outlined in a plan must be sufficient to conserve threatened and endangered species and maintain viable populations of species of conservation concern; if the components are insufficient in this regard, additional, species-specific components must be included. [38]

The Conservation Strategy is also in direct conflict with the long-term goal for other listed grizzly bears. As stated by the Service, the goal is to "achiev[e] connectivity and manag[e] grizzly bear populations in the northern Rockies as subpopulations of a metapopulation." [39] In the Proposed Rule and Conservation Strategy the Service must not only consider connectivity as a threat to the GYE grizzly bear population, but also to other recovery areas under Section 7 of the ESA.

Connectivity provides for the adaptation of species to the effects of climate change and is critical to the conservation of species diversity. [40] Simply put, connectivity will be crucial as climate change modifies habitats. It is also generally accepted that isolated populations are at greater risk of extinction over the long term, and the largest and rarest species tend to disappear first. [41] Some level of movement and gene

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[35] Proctor M., B. McLellan, D. Paetkau, C. Servheen, W. Kasworm, K. Kendall, G. Stenhouse, M. Boyce, and C. Strobeck. 2005. Delineation of sub-population boundaries due to anthropogenic fragmentation of grizzly bears in southwest Canada and northwest usa using genetic analysis. Oral presentation. International Bear Association 16th annual conference. Trentino, Italy.

[36] 77 Fed. Reg. 21,162, 21,265 (Apr. 9, 2012), to be codified at 36 C.F.R. § 219.9

[37] 36 C.F.R. § 219.9(a)(1)

[38] 36 C.F.R. § 219.9(b)

[39] 72 FR 19549 2011 Grizzly Bear 5-Year Review, p.14

[40] Heller, N. E. and E. S. Zavaleta. 2009. Biodiversity management in the face of climate change: a review of 22 years of recommendations. Biological Conservation. 142(1): 14-32

[41] Soulé, M.E., editor. 1987. Viable populations for conservation. Cambridge University Press, New York.

flow between geographically separate populations however, decreases the probability of extinction, promotes population persistence, mitigates genetic erosion, and allows for immigration and emigration in response to random genetic, demographic, and environmental changes, including disease epidemics, cyclical food shortages, climate change or large scale fire events. [42,43,44]

A metapopulation is a population of spatially separated populations whose range is composed more or less of isolated patches that are interconnected through patterns of movement between them. [45] Boyce et al. demonstrated the importance of multiple "connected" populations to the survival of the grizzly in the Northern Rockies, and metapopulation theory directs that connectivity is the best long-term strategy to increase the resiliency and probability of persistence of remaining grizzly bear populations in the lower 48 States.[46,47]

The lack of connectivity is a concern for the long-term genetic health of the isolated GYE population. [48] Studies indicate that 1-2 male migrants every 10 years (i.e., genetic rescue) may be adequate to maintain current levels of genetic diversity in the GYE. Previously, because genetic exchange had not yet occurred, the FWS suggested that human assisted techniques (i.e. translocation of bears from other ecosystems to the GYE) be employed if natural connectivity/genetic exchange has not occurred by the year 2020. [49] We appreciate the shift in focus to natural movements of bears between ecosystems, rather than solely relying upon human assisted translocation as in the previous rule: [50]

> "However, the Service recognizes that the long-term viability of the GYE grizzly bear population will benefit from occasional gene flow from nearby grizzly bear populations like that in the NCDE. Thus, efforts will continue to facilitate occasional movement of male bears between the NCDE and Yellowstone in the intervening areas between the GYE and the NCDE. To increase the

[42] Hanski, I. 1999. Meta-population ecology. Oxford University Press, Oxford, U.K. Harrison, S. 1994. Meta-populations and conservation. Pages 111-128 in P. J. Edwards, R. M. May and N. R. Webb, eds. Large-scale ecology and conservation biology. Blackwell Scientific Press, Oxford, U.K.

[43] Hedrick, P.W., and M.E. Gilpin. 1996. Meta-population genetics: Effective population size. In I. Hanski and M. Gilpin, (Eds.) Meta-population dynamics: Ecology, genetics, and evolution. Academic Press, New York. Pp. 1-29.

[44] Breitenmoser, U., C. Breitenmoser-Wurston, L. Carbyn, S. Funk. 2001. Assessment of carnivore reintroductions. In J. Gittleman, S. Funk, D. MacDonald, and R. Wayne (eds.) Carnivore conservation, pp. 241-281. Cambridge University Press.

[45] Lande, R. and G.F. Barrowclough. Effective population size, genetic variation, and their use in population management. Pp. 87-123. in M. Soule (ed.) Viable Populations for Conservation. Cambridge University Press. New York, New York.

[46] Boyce, M. S., B. M. Blanchard, R. R. Knight, and C. Servheen. 2001. Population viability for grizzly bears: a critical review. International Association for Bear Research and Management, Monograph Series 4.

[47] Boyce, M.S. 2000. Meta-population analysis for the Bitterroot population. Appendix 21C. Pages 6-242 – 6-246 in Grizzly bear recovery in the Bitterroot ecosystem, Final Environmental Impact Statement. U.S. Fish and Wildlife Service, Missoula, MT, USA.

[48] Haroldson, M. A., C. C. Schwartz, K. C. Kendall, K. A. Gunther, D. S. Moody, K. Frey, and D. Paetkau. 2010. Genetic analysis of individual origins supports isolation of grizzly bears in the Greater Yellowstone Ecosystem. Ursus 21:1–13. BioOne

[49] *Id. at* 13212

[50] *Id. at* 13191

likelihood of occasional genetic interchange between the GYE grizzly bear population and the NCDE grizzly bear population, the State of Montana has indicated they will manage discretionary mortality in this area in order to retain the opportunity for natural movements of bears between ecosystems. Translocation of bears between these ecosystems will be a last resort and will only be implemented if there are demonstrated effects of lowered heterozygosity among GYE grizzly bears or other genetic measures that indicate a decrease in genetic diversity."

Despite these modifications, we are concerned that the Conservation Strategy, as currently drafted, does not provide specifics or details on how this level of connectivity well be secured between the GYE and NCDE will occur because of habitat protections or state management plans (detailed on pages 27-28). Similarly, we have raised concerns in comments that we provided on the NCDE Draft Conservation Strategy and Forest Plan amendments around clarity in how habitat between the two primary conservation areas of the two ecosystems will be managed to allow for genetic exchange. Additional comments we provided on these Draft Amendments and additional science that may be missing or excluded from the Draft Conservation Strategy but is very relevant for the purposes linkage and genetic connectivity have been included in Appendix A of these comments.

See Appendix A*: Greater Yellowstone Coalition and Defenders of Wildlife comments on Proposed Forest Plan Amendment to integrate the Northern Continental Divide Ecosystem (NCDE) Grizzly Bear Conservation Strategy (GBCS) into the forest plans for the Helena, Kootenai, Lewis and Clark, and Lolo National Forests.*

e. Linkage Zones and Modifications in the DMA

The Draft Revised Demographic Recovery Criteria for the Yellowstone Ecosystem states, "grizzly bear occupancy will not be actively discouraged outside the DMA and grizzly bears will not be persecuted just because they are present there." [51] Where is this language compatible with state plans or the Conservation Strategy? This language should be specific and enforceable rather than left open to interpretation or flexible as "adaptive management."

Unfortunately, the lands outside of the PCA but within the DMA, and outside of the DMA, and within important linkage zones lack key protections to allow them to be functional or to prevent bears from being "discouraged" or "persecuted." The intervening lands that support connectivity between the various populations are considerably fragmented, [52] requiring significant habitat protections for the remaining

[51] Draft Supplement: Draft Revised Demographic Recovery Criteria for the Yellowstone Ecosystem, pg. 8

[52] Servheen C., J.S. Waller, and P. Sandstrom. 2001. Identification and Management of Linkage Zones for Wildlife between the Large Blocks of Public Land in the Northern Rocky Mountains.

blocks of undeveloped/public lands. Characteristics associated with effective linkage zone function for large carnivores and ungulates include low open road density, low concentrations of human occupancy and development, an abundance of productive foraging habitat, and a healthy mix of forested and non-forested lands. [53,54,55,56]

Appendix A of these comments summarizes the best available corridor assessments and linkage modeling results, and each study corroborates the importance of an effective linkage area (based on current conditions or with improved habitat protections) for grizzly bears between the GYE and NCDE. We have recommended in the past that Zone 2 and Zone 3 protections for the NCDE be increased to include special provisions that more closely resemble those suggested for the two existing Demographic Connectivity Areas (DCAs) proposed in the NCDE Forest Plan Revisions, "including road density and site development restrictions to support grizzly bear occupancy and eventual dispersal to the GYE." Similarly, it would be prudent for the Service to designate Zone 2 and Zone 3 protections for the lands between the two ecosystems within the Yellowstone DPS in southwest Montana. We propose the USFWS modify the Conservation Strategy to include similar protections as the NCDE for the GYE grizzly population, specifically creating Zone 2 and 3 protections in the landscape of southwest Montana, between the two isolated populations (see example below in Figure 1).

Additionally, the DMA should be expanded to all designated wilderness lands adjacent to the proposed DMA. At least in one location, in the Southern Winds, these lands have erroneously been withdrawn from the DMA and clearly provide biologically suitable habitat for grizzly bears.

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[53] Craighead, A.C., E.A. Roberts, and F.L. Craighead. 2001. Bozeman Pass wildlife linkage and highway safety study. Progress Report. Craighead Environmental Research Institute. Bozeman, MT

[54] Walker, R. and L. Craighead. 1998. Corridors: key to wildlife from Yellowstone to Yukon. Pages 113-121 in L. Wilcox, B. Robinson, A. Harvey (editors). A Sense of Place: An Atlas of Issues, Attitudes, and Resources in the Yellowstone to Yukon Ecoregion. Yellowstone to Yukon Conservation Initiative. Cranmore, Alberta.

[55] Servheen, C., J.S. Waller, and P. Sandstrom. 2003. Identification and management of linkage zones for wildlife between the large blocks of public lands in the northern Rocky Mountains. Updated July 8, 2003. USDI, Fish and Wildlife Service, Missoula, MT. www.cfc.umt.edu/research/MFCES/programs/GrizzlyBearRecovery/Linkages_Report_2003.pdf

[56] Olimb, S. and E. Williamson. 2006. Regional habitat connectivity analysis: crown of the continent ecosystem. American Wildlands, Bozeman, MT. 29 pp. www.wildlands.org

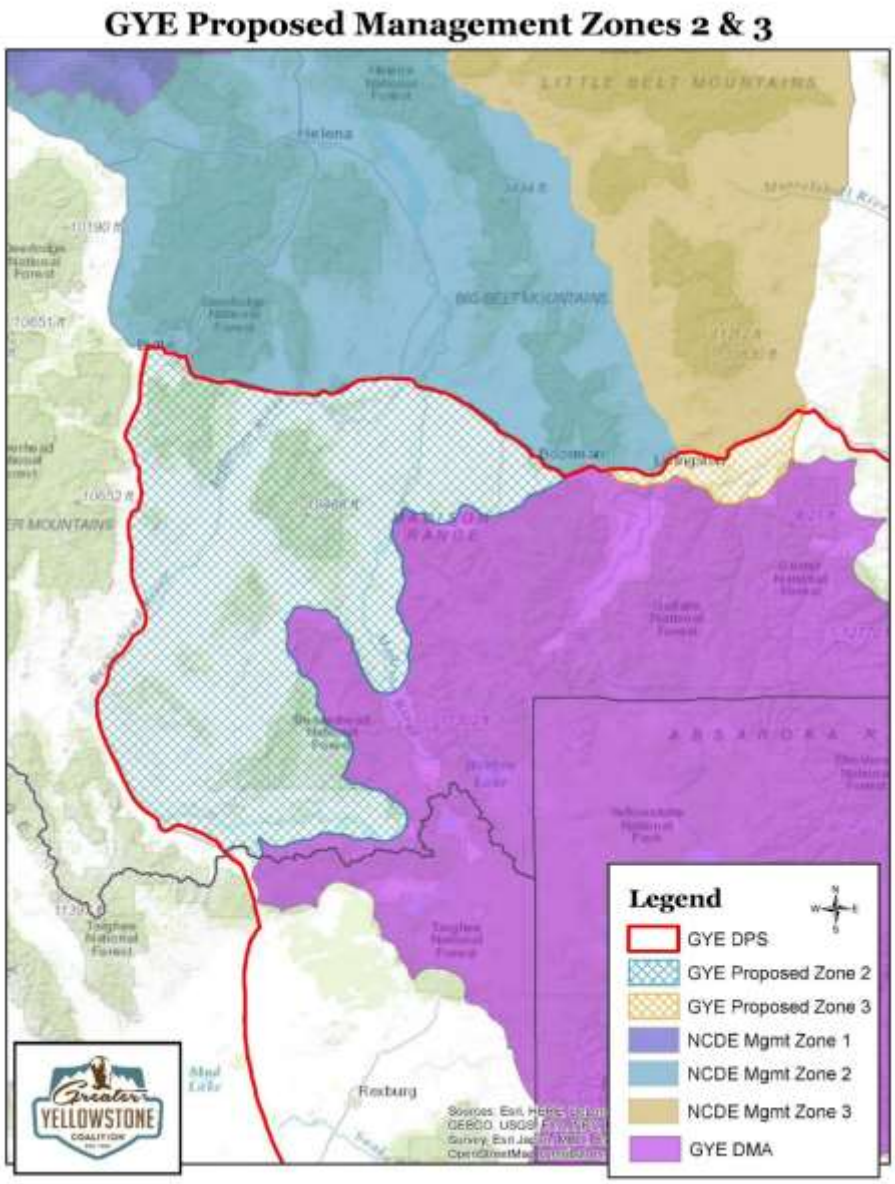

Figure 1. GYC proposed Zone Protections for GYE

f. Current and Future Counting Methodology

It must be clear that if a new population estimator is adopted, the new estimator would follow direction in Appendix C of the Draft Grizzly Bear Conservation Strategy: Calculation of Total Population Size and Mortality Limits. “If another population estimator was adopted as per the Conservation Strategy procedures described above, this new population estimator will be applied to the 2002-2014 data to estimate the average population size 2002-2014. The new population estimates would be inserted in Table 1 to reset the population size numbers with the same sliding scale, with the intent to maintain the

population goal of the average population size 2002-2014." [57] This language should memorialize this objective in order to potentially recalibrate future methodologies to Chao2, the Table 1 proposed mortality thresholds, and the objective of maintaining a stable population within the DMA. We would also add that the population should be managed as stable to increasing because some lands within the DMA are currently unoccupied. [58]

g. Nuisance Bear Standards

As we've described previously, there must be clarity in how management removals are considered "discretionary" vs. "non-discretionary." Similarly there are nuisance bear standards identified within the Draft Conservation Strategy that should reflect spatially where and how nuisance bears will be addressed. [59] For example, within the PCA, "Management of nuisance bear situations will emphasize removal of the human cause of the conflict, when possible, or management and education actions to limit such conflicts." [60]

It is critical that removal, relocation and conflict management procedures described in the Conservation Strategy are implemented on all lands within the DMA. The population today is now dependent upon the continued maintenance of the grizzly bear beyond the PCA boundaries, or within the DMA. Because of this, the final Conservation Strategy must adopt the same nuisance bear standards throughout these lands. Conservative and cautious management of this species, while preventing sources of mortality, is key to ongoing recovery and continued expansion of the population. The Conservation Strategy states that "if the population declined to 500, more than one third of the suitable habitat in the DMA would be unoccupied (van Manen 2015, *in litt*.), and, therefore, the grizzly bear population could not be considered demographically recovered. [61] What measures have been put in place to ensure that grizzlies within the DMA but outside of the PCA will be managed in a consistent method between the three states ensuring that nuisance bears do not exceed mortality thresholds, Criterions 1-3 are met, and facilitates genetic connectivity?

h. Habitat Protections within the Conservation Strategy

The Conservation Strategy for grizzly bears contains grizzly bear habitat standards that are implemented through Forest Plan Amendments that go into effect post-delisting. However, as we noted earlier, the

[57] Draft Conservation Strategy, Appendix C, pg. 2

[58] Bjornlie, D.D., D.J. Thompson, M.A. Haroldson, C.C. Schartz, K.A. Gunther, S.L. Cain, D.B. Tyers, K.L. Frey, and B.C. Aber. 2014. Methods to estimate distribution and range extent of grizzly bears in the Greater Yellowstone Ecosystem. Wildlife Society Bulletin 38: 182–187. Doi: 10.1002/wsb.368.

[59] Draft Conservation Strategy, pg. 90

[60] Draft Conservation Strategy, pg. 92

[61] Draft Conservation Strategy, pg. 52

proposed Forest Plan Amendments are outdated and inadequate for protecting the places bears live today. These amendments must undergo public review and contain protections for management of federal lands to sustain a stable population of bears. The proposed Forest Plan Amendments, only impacting habitat within the PCA, are inconsistent with current federal actions and planning direction. Should grizzly bears be delisted in the future, for planning and management purposes, we suggest that they be considered by the Forest Service as a Species of Conservation Concern. As a Species of Conservation Concern across its range, the Forest Service should begin to consider the ecological conditions necessary to maintain and contribute to grizzly bear populations that will "persist over the long term with sufficient distribution to be resilient and adaptable to stressors and likely future environments."[62]

i. Habitat Protections inside the Primary Conservation Area

The National Forests in the GYE (Beaverhead-Deerlodge, Bridger-Teton, Caribou-Targhee, Gallatin-Custer and Shoshone National Forests) have an obligation to manage habitat that allows for sustainable populations of native species and bears should be identified in the future as a "species of conservation concern" regardless of where they're located on forest lands. Since 2007, there have been many positive modifications in grizzly bear habitat and changes that have occurred on some of these lands include recent travel planning and forest planning. We recommend that the USFS assess the general status of habitat security within the PCA and update the 1998 baseline.

ii. Habitat Protections Within the DMA (Outside of PCA)

Since the 2007 Conservation Strategy, the grizzly bear population has expanded its distribution far beyond the boundaries of the PCA where habitat standards would apply. In fact, the PCA only encompasses about half of the suitable habitat, as defined by the Service, and grizzly bear distribution continues to expand beyond this artificial line. It's critical that forest habitat standards apply to the geography that bears have expanded into, which is in part because of the loss of a primary food source, whitebark pine. In 2011, the 9th circuit court of appeals found that, "[b]ased on the evidence of a relationship between reduced whitebark pine seed availability, increased grizzly mortality, and reduced grizzly reproduction, it is logical to conclude that an overall decline in the region's whitebark pine population would have a negative effect on its grizzly bear population." [63]

The 2005 Record of Decision (ROD) for the Forest Plan amendments contained few standards, and those standards only apply to inside the PCA. Outside of the PCA, there are no enforceable standards. Instead, there are "guidelines" for managing grizzly bears. [64] Whether the 2005 regulations apply or not,

[62] Greater Yellowstone Coal., Inc. v. Servheen, 665 F.3d 1015, 1026 (9th Cir. 2011)

[63] 36 CFR 219.19

[64] Forest Plan Amendment for Grizzly Bear Habitat Conservation for the Greater Yellowstone Area National Forests. Final Environmental Impact Statement. April 2006.

these “guidelines” are discretionary and thus legally unenforceable. The Service and Federal Agency partners are obligated to implement increased habitat protections that reflect the current distribution of grizzly bears in the proposed delisting rule and in Forest Plan Amendments before delisting is finalized. These protections should also include new protective measures that have occurred since 2007. For example, expanding food storage orders for GYE forests to include all of the five forests and BLM lands. Similarly, standards should include road density, secure habitat, and no surface occupancy stipulations that currently exist on Federal Lands. These modifications would reflect positive changes that have occurred within the DMA, including recent travel planning, forest planning and protections included in the Wyoming Range Legacy Act. [65]

This point is indeed critical. Expanding the habitat standards, which were designed to protect grizzly bears, to the area that grizzly bears will be counted towards the population and therefore recovery goals, is logical and necessary to ensure a stable population. The Service and its Federal Agency partners have a commitment to protect suitable habitat for grizzly bears post-delisting. This is critical to both bears residing in core habitat and bears attempting to disperse to other populations. Proper food storage directly reduces human-bear conflicts and increases human safety. Road density and secure habitat standards ensure that the population remains robust and helps avoid hitting mortality thresholds. Roads and developed sites are the two strongest indicators of grizzly bear survival.

iii. Habitat Protections for Connectivity

Managing the landscape to reduce hazards to bears requires balancing road density standards with the amount of secure habitat available. [66] “[I]f road densities become too great, secure areas become isolated islands surrounded by heavily roaded areas. Travel among secure islands then becomes more hazardous, effectively fragmenting the landscape.” [67] These secure islands are critical for the movement of bears between the NCDE and GYE (See Appendix A)

We contend that connectivity can be accomplished with improvements in habitat protections in the Conservation Strategy and in Forest Service Plan Amendment (yet to be released or available for public review.) The U.S. Forest Service must consider the potential for connectivity for grizzly bear according to the 2012 Planning Rule. Otherwise, the Service and Forest Service must provide justification for ignoring the best available science on connectivity.

[65] S.22 - Omnibus Public Land Management Act of 2009

[66] Summerfield, B., W. Johnson, and D. Roberts. 2004. Trends in road development and access management in the Cabinet–Yaak and Selkirk grizzly bear Recovery Zones. Ursus 15:115–122.

[67] Schwartz, C. C., M. A. Haroldson, G.C. White. 2010. Hazards Affecting Grizzly Bear Survival in the Greater Yellowstone Ecosystem. Journal of Wildlife Management 74(4):654-667.

The Forest Service must consider that roads (permanent or temporary, open or closed) and site development will increase human-bear conflicts and grizzly bear mortality. “Potential effects of highway improvements, such as increased motorized access, higher traffic volume, and higher speed limits, are known to increase grizzly bear mortality, reduce habitat connectivity, and potentially inhibit gene flow among nearby populations (Mace 2004, Summerfield et al. 2004, Proctor et al.2012). Certain road designs and road improvements potentially discourage bear crossings, may lead to increased mortality from vehicle collisions, and may cause habitat fragmentation. The potential impact of highways on demographic and genetic connectivity of grizzly bears in the GYE is a key consideration in the transportation planning process.” [68] While we support this language, there are key issues that make it unenforceable. First, State Highway Departments of Transportation are not a member of the IGBC. Second, these lands that are critical to the demographic and genetic connectivity are beyond the PCA boundaries. It is critical that the Service work with the respective Forest’s to implement the above language. The scope of this language must also include standards for all types of roads, including illegal ORV routes, system trails, Forest Service maintained travel routes, county roads, state highways, and interstate highways. Forest Plan amendments are the only enforceable regulatory mechanism within the Conservation Strategy that can address this critical issue on Federal lands and therefore must be expanded.

Ensuring habitat connectivity between the GYE and NCDE would benefit not only grizzly bears, but multiple wildlife species, and would be consistent with language within the Draft NCDE Grizzly Bear Conservation Strategy, USFWS Grizzly Bear Recovery Plan (pp. 24-25), the Grizzly Bear Management Plan for Western (pp. 54-56) and Southwestern Montana (p. 41), the Western Governors’ Association Resolution 07-01 (2007), and the interagency statement of support for the concept of linkage zones signed by the state wildlife agencies in Montana, Washington, Idaho, and Wyoming and the USFS, USFWS, USGS, NPS, and BLM (IGBC 2001).[69, 70, 71, 72,73] Similar to the draft Conservation Strategy, these plans have recommendations, but lack regulatory mechanisms thereby rendering them unenforceable..

[68] Draft Conservation Strategy, pg. 85

[69] US Fish and Wildlife Service. 1993. Grizzly bear recovery plan. Missoula, MT.

[70] Montana Fish, Wildlife and Parks (MFWP). 2006. Grizzly Bear Management Plan for Western Montana. Final Programmatic Environmental Impact Statement 2006-2016.

[71] Montana Fish, Wildlife and Parks (MFWP). 2013. Grizzly bear management plan for Southwestern Montana 2002-2013. Helena, Montana, USA.

[72] https://www.nature.nps.gov/biology/migratoryspecies/documents/WGAWildlifeCorridorsInitiative.pdf

[73] Interagency Grizzly Bear Committee. 2001. Support for the concept of linkage zones, signed memo.

Ensuring grizzly bear occupancy in connectivity areas will also help ensure compliance with NFMA, which requires Forest Plans to "provide for diversity of plant and animal communities" and "maintain viable populations." [74] In 1982, the Forest Service promulgated regulations to ensure such diversity:

> "Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed within the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area." [75]

Both NEPA and ESA require that the effects of the future proposed habitat amendments on grizzly bears be determined. NFMA requires that these effects be evaluated in terms of diversity and viability requirements, while the ESA requires a determination of whether the effects of the amendments will contribute to the recovery of the species, range wide. These analyses require a clear presentation of the amendment's decisions and effects, and where they apply in relation to important habitat (including connectivity lands proposed as Zone 2 on page 18 above). After completing these required analyses, the Forest Service may find that it must provide more specific and proactive guidance for management of connectivity. Areas to be managed for connectivity should be defined and identified in the amendments, and a map of areas to be managed for connectivity should be included.

IV. Draft Supplement: Revised Demographic Recovery Criteria

a. Criterion 1

Specific to Demographic Recovery Criterion 1, the Criterion update is to "reflect the demographic goal of maintaining a population size of at least 500 grizzly bears." The update also includes an important footnote "This number is required to maintain short-term genetic fitness in the next few decades. It is not a population target, but a minimum." [76] This important footnote must be reflected in the Conservation Strategy, Final Delisting Rule and final MOU with the states. Unfortunately, after of state management plan documents review and participation in state planning process, it is clear that the concept of a 500 grizzly bear population floor is pervasive. The Proposed Rule even describes "[t]he Recovery Plan target for a minimum population size of 500 animals inside the DMA to assure genetic health has been met since at least 2007, using the conservative model-averaged Chao2 estimate," [77] contradicting its own

[74] 16 U.S.C. § 1604(g)(3)(B)

[75] 36 C.F.R. § 219.19.

[76] Draft Supplement: Draft Revised Demographic Recovery Criteria for the Yellowstone Ecosystem, pg. 2

[77] *Id. at* 13221

language from the Revised Demographic Recovery Criteria that "500 is not a population target." The states must clearly articulate how they will manage for a grizzly bear population objective well above this criteria, which may trigger a status review. [78]

It also seems that Criterion 1 is inconsistent with Criterion 3 below. The language around "maintaining a population size of at least 500 bears" seems to undermine the language in Criterion 3 that says "if any annual population estimate falls below 600, this criterion will not be met." [79] Criterion 1 should reflect the same population minimum of 600 bears rather than set two separate population floors and Criterion that directly contradict each other.

b. Criterion 2

Criterion 2 is largely unchanged from previous language in the Recovery Plan. We continue to have concerns that the timeframe proposed will be insufficient to address declining numbers and documented occupancy of reproductive females in the PCA. "If less than 16 of 18 bear management units are occupied by females with young for 3 consecutive 6-year sums of observations this criterion will not be met." Potentially, this means that this criterion could allow for long-term reduction of occupied BMU's (nearly 18 years) before the Criterion would be considered unmet. This criterion should include a shorter timeframe to avoid a slow, long-term decline in the population that will take years and considerable resources to reverse.

c. Criterion 3

We have specific concerns over the definitions and language contained in Criterion 3. The Criterion states, "[t]hese adjustable mortality rates were calculated as necessary to manage the population to the model average of 674 bears which occurred during the time period that this population's growth stabilized." [80] How and when will these rates be adjusted? These rates are the very foundation of regulatory mechanisms that the Service believes will maintain a stable population of grizzly bears and is using to support the proposed delisting (pending a Final MOU available to public review) and that future populations will be maintained by. To allow these rates to be adjustable in the future by the states reflects a lack of enforceable regulatory mechanisms in the Draft Supplement.

The Criterion goes on to state, "[if]f mortality limits are exceeded for any sex/age class for three consecutive years and any population estimate falls below 612" there will be some management

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[78] *Id. at* 13204

[79] Draft Supplement: Draft Revised Demographic Recovery Criteria for the Yellowstone Ecosystem, pg. 3

[80] Draft Supplement: Draft Revised Demographic Recovery Criteria for the Yellowstone Ecosystem, pg. 3

response from the IGBST. Our first concern here is the “and” should be replaced by an “or.” Secondly, the management response by the IGBST should not be so discretionary and ambiguous as the “appropriate” management response suggests. Instead, this should trigger a status review consistent with our previous comments.

Criterion 3 must also reflect the intent of the proposed mortality thresholds, which is to maintain a stable population based upon the past 12 years average population estimate under Chao2. It is critical that this criterion’s objective is described as maintaining a stable population because of potential shifts in counting methodologies in the future.

V. State Management Plan Concerns

All regulatory mechanisms that are meant to ensure the continued management and recovery of grizzly bears must be in place by law and regulation for delisting to occur. The state regulations referred to within the Conservation Strategy and Proposed Rule are in various stages of agency process, and yet to be finalized and adopted as regulation. [81] Similarly, there is no final or draft version of the State Memorandum of Understanding appended to the Conservation Strategy, even as it appears in various documents released by the states with apparent modifications. The final plans of all of the states must contain the exact language included in Table 1 of the Proposed Rule. We also have additional concerns with the direction of the state plans and the Service’s dependence on these plans, which we believe are flawed. There are inconsistencies between the Proposed Rule and assurances from the states, and in some instances violation of the law governing our National Parks.

Further, the Service’s statements seem uncertain whether these documents will be finalized prior to a final delisting decision. “It is our expectation that these adequate regulatory mechanisms as described above will be finalized prior to the publication of any final rule resulting from this proposal.” [82] “We expect that State wildlife commissions would also promulgate regulations with commitments to coordinate hunting limits within the DMA among jurisdictions and within the total mortality limits calculated annually by the IGBST.” [83] The Service must have more than expectations about the regulations in the form of an MOU that are instrumental to grizzly bear recovery. Documents the public will never have the chance to review, are insufficient to enable FWS to move forward with delisting.

Each of the states must clearly articulate that 500 is not a population target, noting that the Service will initiate a formal status review and could emergency relist the population if the population falls below

[81] *Id. at* 13202.

[82] *Id. at* 13204.

[83] *Id. at* 13211.

500.[84] These changes would clarify to the public, to future managers and especially the state Commission's and legislative bodies, the objective for managing the population is clearly above the minimum estimate of 500 under Chao 2.

a. Wyoming Plan Concerns

GYC continues to be concerned with Wyoming's interpretation of management authority over grizzly bears in the John D. Rockefeller Jr. Memorial Parkway (JDR), a unit of the National Park System. The JDR Parkway is the 24,000-acre connection between Yellowstone and Grand Teton National Park (GTNP). This area is a crucial connection north and south between Yellowstone National Park and GTNP and east to west between the Greater Yellowstone Ecosystem and Central Idaho/Northwest Montana. Wyoming must explicitly withdraw this jurisdiction from the state's management authority and future hunting plans. In our opinion, the National Park Service (NPS) has sole authority to manage grizzly bears in the JDR Parkway, and sole authority for establishing regulations within Park Service boundaries and managed units. The NPS Organic Act mandates that the NPS promote and regulate park use.

> "The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." [85]

The NPS also has authority to address hunting and wildlife management in the JDR Parkway as provided by the enabling act:

> "The Secretary [of the Interior] shall permit hunting and fishing in the area described by section 1(a) of this Act in accordance with applicable laws of the United States and the State of Wyoming, except that the Secretary may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment…" [86]

We continue to have concerns over other elements of the Department's management strategies. For example, the occupancy of bears in Wyoming should not be limited based merely on social acceptance or tolerance for bears. We recognize that conflict potential is fluid and could be reduced in the future allowing for occupancy. Therefore, we think that a priority should be placed on reducing conflicts and also

[84] Draft Conservation Strategy, pg. 120

[85] *The Organic Act*. See 16 U.S.C. Sec. 1

[86] *Id.* See Pub. L. 92-404, Sect 3(b)

allowing conflict to dictate potential future distribution rather than lines drawn within this plan based on arbitrary assessments of social tolerance.

The PCA, which includes Yellowstone National Park, a portion of Grand Teton National Park and the John D. Rockefeller Memorial Parkway, should have the greatest protections for grizzly bears in a post-delisting environment. In addition, grizzly bears should not be hunted within Grand Teton National Park (GTNP), including park inholdings, or on the National Elk Refuge. These areas are excellent locations for managing for wildlife watching opportunities rather than hunting opportunities and have minimal conflicts. "The PCA will be a secure area for grizzly bears, with populations and habitat conditions maintained to ensure a recovered population is maintained for the foreseeable future and to allow bears to expand outside the PCA." [87] The addition of hunting mortality is simply not compatible with ensuring that this area will continue to be secure habitat for grizzly bears into the future.

Another flaw with Wyoming's plan is the description of areas within the state that may not meet essential requirements for occupancy of bears such as the Sierra Madres, Snowy Range, Laramie Range and the Black Hills. These areas are actually well outside the proposed DPS boundary and in areas where grizzly bears would continue to be listed as threatened if the Proposed Rule is adopted. We think it's inappropriate for Wyoming to dictate within their state plan the acceptance of occupancy for bears where they have no authority, especially since conflicts will limit bear distribution from occurring in these areas.

Finally, we feel that it is critical that consultation be broadened and formalized with all involve agencies. We request that the state of Wyoming enter into a Memorandum of Understanding with the National Park Service, Wind River Indian Reservation, and U.S. Forest Service to formalize this collaboration and consultation process because of the issues we have raised above. Attached to this document are our full comments on Wyoming's plan. Appendix B: *Greater Yellowstone Coalition's Comments on Wyoming's draft Wyoming Grizzly Bear Management released on March 15th*

b. Montana Plan Concerns

MFWP went through a public process and updated their grizzly bear management plan for SW Montana in December 2013, however the Draft Conservation Strategy only includes the outdated plan from 2002 within its appendices. This leads us to believe that Montana has yet to finalize its 2013 plan. We raised significant concerns during the public comment period and public meetings around modifications between the 2002 and 2013 plans. Our primary concerns raised were that the plan did not promote connectivity through explicit goals and improved management in linkage zones and concerns over the management of post-delisting grizzly bear hunting.

[87] Draft Conservation Strategy, pg. 3

These concerns are again brought to light by the lack of clear direction about how Montana will manage for connectivity as described within the Conservation Strategy and as relied upon in the Proposed Rule. "The State of Montana has indicated they will manage discretionary mortality in this area in order to retain the opportunity for natural movements of bears between ecosystems." [88, 89]

This is a critical component of the Proposed Rule and the adequacy of the regulatory mechanisms in place to ensure that future natural connectivity will occur and that existing threats to the population are diminished, no longer requiring human intervention. Montana's revised plan states, on page 8, "[a]s part of this revision the area beyond the suitable habitat line and out to the CMA boundary has become irrelevant to management decisions. Therefore, this final plan, discusses management only along the Demographic Monitoring Area (DMA) line and the Recovery Zone line." Our concern is this plan does not apply between the suitable habitat line and the previous Conservation Management Area and it doesn't apply to the management of bears between the two ecosystems that the Service has ensured would be managed to retain the opportunity for natural movements of bears between.

Montana made significant changes to its 2002 plan regarding post delisting hunting. MFWP's 2002 grizzly bear plan very clearly articulated that hunting of bears would not be suitable in certain geographies and would not occur immediately post-delisting. FWP's plan removed language describing geographies that may not be suitable for the hunting of grizzly bears, such as linkage zones or areas of core grizzly bear habitat adjacent to Yellowstone National Park. The previous plan also delayed hunting of bears a minimum of one-year post-delisting. The benefits of these measures allowed Montana to develop an ecosystem approach to coordinating management between states regarding the continued monitoring of populations, mortality, and food sources.

Finally, Montana should plainly describe how hunting and post-delisting management of grizzly bear mortality will be coordinated between three states, two National Parks, National Wildlife Refuges, and a variety of stakeholders. The updated plan does not include the mortality framework in Table 1 of the Proposed Rule and it doesn't appear that Montana is considering updating its plan before prematurely embarked on a regulation making process. [90]

Attached to this document are our full comments on Montana's plan. Appendix C: *Greater Yellowstone Coalition (GYC) on the Grizzly Bear Management Plan for Southwestern Montana, Draft Programmatic Environmental Impact Statement (EIS).*

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[88] *Id. at* 13191.

[89] *Id. at* 13204.

[90] http://fwp.mt.gov/doingBusiness/insideFwp/commission/meetings/agenda.html?coversheet&topicId=37482186

c. Idaho Plan Concerns

Idaho's plan is the most ambiguous and concerning of all of the three states. The plan is badly outdated, not having been updated since 2002. [91] Significant new scientific information and proposed modifications to the Conservation Strategy and recovery criteria are not addressed within this current plan. For example, the plan pre-dates the development of the DMA and only addresses the management of bears within the PCA.

Idaho's plan also has serious flaws surrounding the use of bear baiting within occupied habitat. The Idaho Fish and Game Department (IDFG) proposed modifying their bear baiting regulations to reduce the potential for human conflicts at bear baits (both for the hunting and non-hunting public) and reduce the potential for mistaken identity mortalities by bear hunters in 2015. The action would also have addressed safety concerns by reducing potential for food conditioning and creation of nuisance bears in grizzly bear habitat where it is currently legal to use bait to hunt black bears in eastern Idaho. [92] Unfortunately, Idaho failed to enact the proposed rules and baiting continues to occur in occupied grizzly habitat in eastern Idaho.

The Idaho Plan also states "[T]he Idaho Fish and Game Commission should consider promulgating a regulation which prohibits the baiting of grizzly bears for any purpose, including hunting, photography, viewing, etc." [93] To our knowledge, no such regulation has ever been promulgated. The Service is flawed in their assumption that grizzly bears will be protected by adequate regulatory mechanisms in Idaho's plan because "[b]aiting and use of hounds are not allowed within the PCA in Idaho." [94] Occupied grizzly habitat has greatly increased in eastern Idaho as predicted in the state's plan and the ongoing baiting and use of hounds within the DMA represent a significant threat to grizzly bears in this portion of the ecosystem. Idaho's plan must prohibit the use of baiting and hounds for the purposes of hunting grizzly bears.

The plan also critically lacks information on how the agency will fund and staff grizzly bear management activities. To move forward with the proposed delisting rule without a plan that makes the commitments outlined within the Conservation Strategy and the Proposed Rule, particularly around monitoring and management of discretionary mortality would be arbitrary and highlights our concerns with this flawed process.

[91] Draft Conservation Strategy, Appendix K, pg. 245

[92] https://fishandgame.idaho.gov/public/about/?getPage=33

[93] Draft Conservation Strategy, Appendix K, pg. 262

[94] Draft Conservation Strategy, pg. 31

As we have on other state plans, we look forward to the opportunity to engage with Idaho Fish and Game in an update of their 2002 plan and provide more substantive comments.

Conclusions

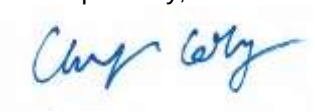
On behalf of the Greater Yellowstone Coalition, I appreciate the opportunity to submit these comments on Proposed Delisting Rule, the Draft Grizzly Bear Recovery Plan Supplement: Revised Demographic Criteria and Draft 2016 Conservation Strategy. Yellowstone's grizzly bear is one of the great conservation success stories of our time. We urge the Service to abandon this proposed rule until all facets of recovery are complete, including the implementation of functional and enforceable regulatory mechanisms that will allow for continued recovery of grizzly bears and maintains adequate protections to allow the GYE population of bears to remain resilient into the future.

Once near extinction in the GYE, protections afforded by the Endangered Species Act allowed the grizzly population to rebound from less than 200 to an estimate of more than 700 grizzly bears today. GYC has been a voice for Yellowstone grizzly bears in Greater Yellowstone for more than thirty years. Grizzly bears embody the mystique of Yellowstone and define what sets Yellowstone apart from the rest of the West. They can only thrive where their habitat remains vast and with continual management of human-caused mortality. We are determined to ensure that Yellowstone remains a stronghold for bears for generations to come.

We ask that the Service please seek to improve the final documents with the above suggestions. The Service must release all of the final documents for further public review before issuing a final determination. Unless the key issues raised above are adequately addressed before delisting is occurs, we believe the proposed delisting rule and accompanying documents are flawed and legally vulnerable. We recommend that the Service halt this process until all of the necessary pieces are in place, including functional and enforceable regulatory mechanisms that will allow for the continued recovery and stability of the grizzly bear population.

Thank you for your consideration of these comments.

Respectfully,



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