July 21, 2016

Jeff Gould, Chief, Bureau of Wildlife
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Re: Negotiated Rule Making: Hunting Rule Proposals for Greater Yellowstone Grizzly Bears

Dear Mr. Gould,

Please consider the following comments on the negotiated rule making process establishing hunting regulations for Greater Yellowstone Grizzly Bears and adoption of the Tri-State Memorandum of Agreement. Our organizations have been following this process closely in all three Greater Yellowstone Ecosystem (GYE) states. Similarly, in March 2016, the U.S. Fish and Wildlife Service (USFWS) proposed “delisting” of the Yellowstone area grizzlies, publishing a proposed delisting rule and revised Conservation Strategy detailing regulatory mechanisms and strategies for ensuring successful long-term conservation of grizzlies (FWS-R6-ES-2016-0042). We have raised significant concerns with the USFWS direction in this proposed rule and the adequacy of the proposed regulatory mechanisms.

The Idaho Conservation (ICL) is Idaho’s oldest and largest conservation organization. We represent over 25,000 supporters have a deep personal interest in preserving iconic wildlife across Idaho. Many of our members care deeply about grizzly bear management, the proposed de-listing of this species, and the rules and regulations that Idaho Fish and Game Department (IDFG) may implement and oversee regarding this species.
The Greater Yellowstone Coalition (GYC) has over 40,000 supporters, both in Idaho and nationally, that have a continued interest in the management of grizzly bears in Idaho and surrounding states. GYC’s mission is to protect the lands, waters and wildlife of the Greater Yellowstone Ecosystem (GYE), now and for future generations. The 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. GYC works to ensure that a thoughtful and holistic approach is taken to managing the national 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.

Our organizations raised concern with your office, that IDFG has not adequately provided public input opportunity on this issue. This drastic shift in management of grizzly bears after more than 40 years as a protected species under the Endangered Species Act, to potentially a hunted species, should involve public discussion. This public discourse is important to all Idahoans, but particularly to the people who live in grizzly bear habitat in Eastern Idaho where bears would be potentially hunted. The public should be given every opportunity possible to provide comments including public meetings. Public meetings should be held as part of the current process and we request those meetings be held in Boise and in communities from within occupied grizzly bear habitat such as the Teton Valley and Island Park. We remain concerned that this process continues to be move forward without robust public involvement and once introduced to the legislature will have even fewer opportunities for improvement or modification.

We have broken our comments down around general comments on hunting of grizzly bears and the delisting process, areas within the negotiated rule making that we support, areas that require improvement, and additional regulations that should be considered.

Opposition to grizzly bear hunting

To be clear, our organizations oppose sport hunting of grizzly bears. We also realize that hunting 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. This mortality exceeded thresholds for independent females with cubs in 2015. Before introducing hunting, Idaho should focus on reducing conflicts and maintaining a stable population.

We don’t believe hunting will reduce conflicts on a large scale or provide for “social tolerance” as has been promoted.¹ Studies on gray wolves post delisting have similarly not supported the theory that social

tolerance increases with hunting. Also, the creation of hunting seasons is not likely to reduce conflicts between grizzly bears and people, as this theory has been rebuffed for black bears. No current science supports the need for hunting grizzly bears as a biologically necessary tool to manage the population, like may be seen in ungulate species that may have detrimental impacts to their habitat.

Finally, consistent with our past comments, we ask IDFG to require a 3-5-year moratorium on the hunting of grizzly bears. Rather than feed the narrative that states are rushing to hunt bears as soon as they are removed from the ESA, we ask Idaho to delay the onset of hunting which would allow for an open dialogue on the future of recovery and grizzly bear distribution and avoid the distraction hunting creates in the proposed delisting process.

**Idaho’s outdated management plan**

Idaho’s grizzly bear management plan is the most ambiguous and in need of significant revision of all of the three GYE states. The plan is badly outdated, not having been updated since 2002. 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 Demographic Monitoring Area (DMA) and only addresses the management of bears within the Primary Conservation Area (PCA). There have been changes made to the draft Conservation Strategy and within the proposed delisting rule that are inconsistent with Idaho’s plan specifically around the management of discretionary mortality. These inconsistencies could mean that Idaho’s management plan would not qualify as an “adequate regulatory mechanism.” The 2002 plan also critically lacks information on how the agency will fund and staff grizzly bear management activities.

Similar to our request above for public meetings for this negotiated rule making process, we feel it is necessary to engage the public in discussions to update Idaho’s management plan so that it represents the best-available science and so that there is a clear understanding of how bears would potentially be managed post-delisting.

**Broader recovery of bears**

Part of the concern over Idaho’s plan is that it lacks a larger vision of recovery for bears in the state and ignores that bears outside of the Yellowstone Distinct Population Segment would remain listed. One of the concerns we have raised with the U.S. Fish and Wildlife Service is the broader recovery of grizzly bears.

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bears beyond the GYE and how bears will eventually be recovered in the Selway-Bitterroot Ecosystem. Idaho should seek to revise its grizzly bear management plan to allow for natural movements of bears into these other recovery areas.

Support for Elements of the Proposal

Our groups support specific rules proposed in this process for the taking of grizzly bears in Idaho pursuant to this agreement. We support IDAPA 13.01.08.260.03, IDAPA 13.01.08.350, and IDAPA 13.01.08.320

24 Hour Reporting Criteria (IDAPA13.01.08.420)

Idaho should adopt a similar regulation as Montana with a 12-hour reporting criteria rather than 24 hours. A 12-hour reporting period is more appropriate for dealing with the once-in-a-lifetime license and is easy to accommodate by hunters today with proper preparations. This limitation could also direct hunting into more accessible locations (i.e. roaded areas) that may have less suitable habitat for bears or encourage hunters to have additional members in their party to reach a phone, which could be an added safety precaution. Most importantly, this would further ensure that mortality is coordinated between the three states and seasons are closed not only in Idaho, but also in Wyoming and Montana, should any of the mortality thresholds be exceeded.

Tri-State MOA (IDAPA13.01.08.300)

We have significant concerns over the proposed Tri-State Memorandum of Agreement (MOA). The proposed mortality thresholds for all demographic classes appear to arbitrarily reduce bear populations and still await independent peer-review. We have raised these concerns with other states involved in the MOA and with the USFW.

The mortality thresholds proposed within the MOA are too high to prevent the population from falling. Grizzly bear numbers would likely always be controlled below 674 limiting growth of the population and possible range expansion that would allow for connectivity. The USFWS has stated numerous times and in numerous places within the Conservation Strategy and Proposed Delisting Rule 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. The Department also must consider that the population estimate is a point estimate and the lower bounds of a 90% confidence interval could easily fall below the 600 criteria for allowing discretionary mortality. IDFG needs to provide scientific explanation of the proposed total mortality thresholds for different population estimates. 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? These arbitrary thresholds allow the population to decline and reducing mortality to ≤7.6 will not correct a decline allowing the population to continue downward even after
reducing mortality. There must be scientific justification for these mortality limits and including disclosure of the models used to derive these thresholds. Modeling must undergo thorough peer review before being adopted by the states. Finally, all mortality thresholds also have not been finalized or endorsed by the USFWS.

The MOA is missing the National Park Service, a critical federal partner who also manages grizzly bears within the ecosystem. By not including discretionary mortality for the parks or withdrawing the population that lives within Yellowstone and Grand Teton National Park from calculations to determine hunting quotas, hunting mortality will disproportionately occur along park boundaries and decrease populations outside of National Parks. Historical accounts of hunting and bear management point to this scenario as a contributing factor that led to the Yellowstone population of grizzly being listed as threatened under the ESA.

The Montana Fish Wildlife and Parks Commission adopted the Tri-State MOA on July 13th, 2016 with subtle changes from the previously introduced version, addressing some of the concerns above. On May 17, 2016, the Idaho Fish and Game Commission signed a Memorandum of Agreement with the states of Montana and Wyoming regarding the management and allocation of discretionary mortality of grizzly bears in the Greater Yellowstone Ecosystem. It is critical that the Idaho Fish and Game Commission approve the exact same language as the Montana Commission. Because of the modifications that were made, it is unclear what language is included in the MOA IDAPA13.01.08.300. The modifications are available at:


IDAPA 13.01.08.500 Add grizzly bear to the list of species that may not be hunted within 200 yards of any designated dump ground or landfill.

Idaho’s plan also has serious flaws surrounding the use of bear baiting within occupied grizzly bear habitat. First, it is unconscionable that Idaho would allow grizzly bears to be hunted in such close proximity to any dump ground or landfill. This distance is basically within the range of any capable hunter’s shooting ability and would allow a hunter to use these sites as an attractant, basically a defacto permitting of the baiting of grizzly bears.

IDFG also 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. Unfortunately, Idaho failed to enact the proposed rules and baiting continues to occur in occupied grizzly habitat in eastern Idaho. Even more concerning is the Department’s intention to modify black bear baiting regulations in areas across the state in a manner that would reduce road and trail setbacks for baiting locations from a current 200 yard setback from roads and trails to a 200 foot setback. These actions, adopted anywhere across the state of Idaho, would increase the potential for human-bear conflict, food conditioning, and creation of nuisance bears. Rather than reducing human conflict, IDFG would be condoning a practice that possesses serious concerns for human and wildlife safety.

Both of these actions, allowing hunting near landfills and allowing baiting, are inconsistent with Idaho’s outdated plan which 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.” To our knowledge, no such regulation has ever been promulgated. In the proposed delisting rule the USFWS stated “[b]aiting and use of hounds are not allowed within the PCA in Idaho.”

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 broader occupied region beyond the PCA represents a significant threat to grizzly bears in this portion of the ecosystem. Idaho also has never passed a rule to prohibit the baiting of grizzly bears, even within the PCA as the USFWS has stated. There have been multiple examples of grizzly bears being killed in mistaken identity cases over legal black bear baits in recent years, supporting the need for changes in Idaho’s bear baiting regulations. We point out that Montana has outright banned the use of bear baiting across the state, instead promoting more sportsman-like hunting practices. We strongly suggest that Idaho adopt a similar policy for bear baiting. At a minimum, Idaho needs to undergo a negotiated rule making process to address these issues and adopt the language from Idaho’s own plan explicitly prohibiting the baiting of grizzly bears for any purpose anywhere in Idaho and restrict black bear-baiting in grizzly occupied habitat.

**Additions to the negotiated rulemaking process**

Idaho has an excellent bear identification exam available on their website. Idaho should include in their regulations the requirement of a similar mandatory bear hunter education program for any licensed grizzly bear hunters. This is important because of the need for accurate identification of males vs. female bears, age classes of cubs and between species of black bears and grizzly bears. With the addition of grizzly

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5 https://fishandgame.idaho.gov/public/about/?getPage=33
6 Draft Conservation Strategy, Appendix K, pg. 262
7 Draft Conservation Strategy, pg. 31
hunting, the bear identification exam should also be a requirement for black bear hunters as well and could be integrated easily into the website and certification.

Lastly, Idaho should consider regulations that would require any person possessing a grizzly bear license is required to carry bear spray and have it available.

Conclusions
On behalf of the Greater Yellowstone Coalition and Idaho Conservation League, we appreciate the opportunity to submit these comments on the negotiated rule making process establishing hunting regulations for Greater Yellowstone Grizzly Bears and adoption of the Tri-State Memorandum of Agreement. We urge the Department and Commission to broaden the public discussion on the future management of grizzly bears in Idaho. We’re happy to answer any questions or discuss these comments further.

Respectfully,

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