

Yellowstone Ecosystem Subcommittee Conservation Strategy Meeting Minutes

Monday, Oct. 3, 2016, 10:00-4:00

Jackson Lake Lodge, Moran, WY

Members present:

Mary Erickson, Custer Gallatin National Forest

Melany Glossa, Beaverhead-Deerlodge National Forest

Dan Wenk, Yellowstone National Park

Brian Nesvik, Wyoming Game and Fish Department

Tricia O'Connor, Bridger-Teton National Forest

Frank van Manen, USGS Interagency Grizzly Bear Study Team

Sue Consolo-Murphy, Grand Teton National Park and the John D. Rockefeller, Jr. Memorial Parkway

Leander Watson, Shoshone Bannock tribes

Delissa Minnick, BLM – Wyoming

Jeff Gould, Acting, Idaho Department of Fish and Game

Jodi Bush, USFWS, MT

Sam Sheppard, FWP, MT

Ken McDonald, FWP, MT

Jennifer Fortin-Noreus, USFWS

Jim White, ID Department of Fish and Game

Garth Smelser, Caribou-Targhee National Forest

Jeff Hagener, FWP (rep ID, WY state directors)

Loren Grosskopf, Wyoming County Commissioners Association - Park Co

Welcome and Introductions: Mary Erickson

- Introductions and roll call
- Reminder-meeting info, agenda, notes are posted on the IGBC website

Steering Committee Updates: Brian Nesvik

Brian-Thanks again to the Steering Committee:

States-Brian Nesvik-Steering Committee Lead

FS-Tricia O'Conner

Counties-Loren Grosskopf

Park Service-Dan Wenk

FWS-Jodi Bush (Jennifer Fortin-technical advisor)

BLM-Delissa Minnick

Tribes-Leander Watson

I would like to thank the steering committee for all the time and work they have put in. Thanks also to the three people who worked on the three themes, Joe Alexander-Agency

Coordination/Conflict Management, Jeff Gould-Population Management, and Ken McDonald-Habitat.

The charge of the committee: Identify recommended changes and present them to the YES committee and identify the process used to work through the changes.

Need attention by Sept. 20

- Edits/definitions
- Sensitive species language-FS
- Miscellaneous edits throughout
- Term of CD
- 1998 baseline
- App C recalibration
- Background mortality
- Review parameters Chapter 6

Chapter 1

- Two versions of maps (one is in track changes--will go away)
- Interactive map needs some amplification
- Add reference to pg 24 interactive map link-may be in exhibits
- Pg 37 secure habitat at 98 levels—should be at or above 1998 levels (is in final)

- Votes? Yes (Claudio Blanco-policy rep for tribes/Leander Watson in general agree but abstain from voting)
- Brian-Move to OK Chapter 1 edits
- Loren-Second
- Passed

Chapter 2

- Loren Pg 51 another figure
 - Add description separating the two on pg 51 graph
- Jen Outside demographic area marked to be deleted-1st figure is final and only figure
- Tricia pg 49 statement goes to figure 3-doesn't make sense
- Jen will change reference to figure 3 to previous sentence
- Ken Motions to remove 2nd sentence that was added that says minimum population size will be 500 to ensure genetic health and referenced Miller Watts 2003 that was added Sept. 8.
- Jeff Second

Votes to remove: 9 in favor; 4 opposed
Passed to strike from the CS

Additional edits to Chapter 2

Dan final vote set up based on App C and the way it currently reads-may change

Brian speculating on the hypothetical-asking today in its current form

Brian Move committee adopt Chapter 2 edits

Loren Second

Votes: 11 in favor; 1 opposed

Passed

Chapter 3

Ken Motion from pg 71/72, move we adopt that paragraph with the language that is currently struck out, and restore it

Mary Second

Vote: 13 in favor; 1 abstain

Passed

Ken pg 101 in the section called Managing for Habitat Connectivity, transportation planning- delete the changes and revert back to what was in Sept 8 version with heading Transportation Planning, that part in track changes should not be there. Connectivity is addressed in Chapter 2; this makes no sense here.

Jodie One assignment was handed out on connectivity...food storage orders and how they address them. We worked with teams on this to address some of the comments and concerns raised.

Jeff This is the only place where we talk about movement between GYE and NCDE. The idea of food storage and transportation is all good; this was inserted that talks about beyond GYE and I would agree with Ken that is not appropriate to address here.

Melanie Motion pg 102 "loss of connectivity" ..."existing road survey" change to "highway" survey

Brian Second

Passed

Mary There was some language provided by FWS around adding clarity on management of habitat connectivity

Jodi Motion to include the sentence, "To improve prospects for grizzly bear movement to the north it's important to minimize anthropogenic barriers to movement of wildlife."

Loren Second

Mary Hesitant to call for a vote on this because we are struggling on wording about connectivity to the north and how you manage for connectivity.

Ken States concerned it creates expectations beyond the scope of the Conservation Strategy

Mary Is the compromising language-minimizing barriers within the GYE?

Mary Jodi, are you willing to modify the motion to keep language to minimizing barriers within the GYE; delete reference to Continental Divide to North?

Loren Second

Vote: 12 in favor

Brian Move to accept Chapter 3 as amended and voted upon

Loren Second

Passed

Tribal speakers: Chief Stanley Grier, Piikani Nation, Blackfoot Nation (see attached comments); Ben Nuvamsa, President of Kiva Institute, Hopi Bear Clan; Brian Jackson, Councilman of Piikani Nation.

Chapter 4

Jodi mostly updates, pg 111/112, no longer collecting hunter numbers

Brian Move to vote to adopt Chapter 4 with no amendments

Loren Second

Passed

Chapter 5

Brian Move to adopt Chapter 5 with no amendments

Loren Second

Passed

Chapter 6

Jodi Page 122 need to add in a bullet on triggering a review for conditions

Jodi Motion to change "2" to "3" in info about establishing 48 females with cubs of the year for 3 consecutive years

Loren Second

Ken At the last IGBC meeting it wasn't clear that YES goes away and YGCC forms. In the introductory part it talks about that. It seems we need concurrence with IGBC before we make that decision, just to be aware of that.

Rick Correct, after 5 years IGBC may go to something else but hasn't been determined

Mary The challenge is what language do we land on in the CS because we're trying to show the commitment to a cross boundary agency body that would work closely post delisting. But we would also be bound to what is represented in the CS as long as it is in effect. If IGBC no longer had this subcommittee under IGBC, the interagency would continue to exist. It's less about the wording we have in the CS. We'll make note that

we will follow up with IGBC to make sure that they understand the way the CS is worded and there is no disconnect and then we'd use the YGCC wording. We will send this language so they are aware of that. Also one place it refers to GYCC that should be changed to YGCC.

Brian Move to adapt Chapter 6 as proposed with GYCC to YGCC and added bullet about 3 consecutive years.

Loren Second
Passed

Chapter 7

Delissa Move to add language provided by BLM on sensitive species after delisting

Rick Second

Brian Move to adopt Chapter 7 with one amendment

Loren Second
Passed

Executive Summary

Jodi Motion-Pg 7 and 19 additional language "adopt for foreseeable future" well beyond delisting, for how long the CS remains in effect.

Loren Second

Brian Concern on the legal connotation of "foreseeable future" as in the ESA

Jodi Took it to legal and they agreed it was not a legal issue

Ken State also doesn't like the legal connotation

Mary This came from the "in perpetuity" language, which we decided we shouldn't use
Call for vote to modify language to "foreseeable future"

Vote: 9 in favor; 6 opposed

Mary Let's move through the rest of the executive summary to see if people can live with it in total.

Other executive summary and intro edits

Loren pg 10 3rd bullet: maintaining at least 500 bears in the GYE. (strike rest to the sentence, to insure, etc.

Ken Motion to strike the rest of the sentence after GYE in 3rd bullet on pg 10

Loren Second
Passed

Loren Pg 14 6th bullet-took out of Chapter 6-delete here also

Loren Motion to delete 6th bullet

Brian Second

Vote: 2 opposed

Passed

Brian Move that committee adopt executive summary and intro as amended

Loren Second

Vote: Passed, no opposition

Brian Discussion related to App C; discuss proposed changes except for C. Discuss YES phone meeting in late October so final is ready for signature.

Mary: Concerns with Appendix C

Discussions outside this forum to get agreement. YES will look at those agreements and discuss at an end of Oct. call, then make CS available on IGBC website for anyone who wants to see it, once everything else is resolved. Talk about other appendices besides C. Late Oct call if we have a proposal to look at from decisions from higher levels. If there is a proposed resolution, it comes back in front of the entire YES committee to vet within your organization.

Mary: Propose Oct. 28 from 1:00 – 3:00 to look at any decisions/agreement from higher levels to approve. We also need to talk about other appendices, Forest Plans, the Nov. meeting, and any loose ends.

Three Appendices have had edits: App D, to be considered with food monitoring; App E, corrections to tables; App H, existing regulatory mechanisms and update for new state regulations.

Tricia Issue budget-make sure consistent with what we will monitor-Jennifer will check

Ken Reason for App F-cost estimate?

Jodi The comment period that was reopened for peer review and state regulations ends Oct. 7. We

Will have to address any new comments on the CS. We will ask the states for help on the comments we get on state regulations.

Mary Forest Service will adopt new CS language into Forest Plans. If/when there is a decision on delisting-triggers language that existed on Forests in plan amendments. Following direction in 2007 strategy. Would need to crosswalk new CS and existing plans to determine a process to update Forest Plans.

Mary: November Meeting

Post CS and Appendices on IGBC website before Nov. 10

Meeting will be at the Buffalo Bill Center at the West in Cody on Nov. 16/17

Virtual or real process for signing in November

Routine Business for Nov. Meeting

Conflict management

2017 action plan-Dan Tyers will work with staff

Summary of state management plans

Public Comment

Kelly Nokes-Wild Earth Guardians-Concerns based on the conversations held today. CS is the post delisting framework for managing the Greater Yellowstone Ecosystem grizzly bear population. I'm concerned with the subcommittee's refusal to include additional explanations and clarifications for mortality limit calculations and maintain minimum population sizes to ensure the genetic integrity of the population. This type of detail belongs in CS regardless if it is also addressed in the final rule. The CS is a management plan moving forward and should include relevant details including these explanations and clarifying points. Second, it appears the subcommittee is proceeding to eliminate from the strategy all language about management that will ensure connectivity. The government's mandate under ESA requires the recovery across the range and not solely an isolated population. Proceeding with a rushed CS revision process in order to meet politically based deadlines for publication of a final delisting rule by the end of the year is in error. I encourage the FWS reconsider its proposal to delist at this time, especially in light of last year's alarming mortality levels despite federal protections being in place. The state's intentions to manage the population downward from current levels conflicts with the Congressional directive that endangered and threatened species be given the highest of priorities and that the government proceed with a precautionary approach to wildlife and ecosystem management.

Chris Caligan-GYC-It's very challenging to give meaningful comments on a draft the public hasn't seen. It's also very challenging for public to sit through this line item process on a document the public hasn't seen. It's vital that this committee take public comments on CS when it's finalized, and in respect for the peer review process, having those peer reviewers who have already considered the validity of this conservation strategy have a look at the modifications that are made. We think these are substantive. These difficult decisions are still in debates at higher levels. That leaves fundamental questions about this process on managing for a stable population or a fixed number. How can we have a conversation about this CS and simultaneously comment on a delisting proposal without the adequacy of regulatory mechanisms. We don't feel that this process is serving the public or the federal agencies well. It's actually dividing the agencies and in many ways uniting the public in what is a very confusing and flawed process. I'm happy to take a look at this on the website when it's posted and provide comment at future meetings, but we think a formal public peer review process is appropriate. We're concerned that the language seems to have been modified

around having some connectivity details in the CS. That's vital to commit to connectivity to ecosystems, but also could be incorporated into Forest Plan amendment as each Forest is thinking a bout that.

Chief Stanley C. Grier's Speech to the Interagency Grizzly Bear Committee (IGBC) – Yellowstone Ecosystem Subcommittee.

Chief Grier is Chief of the Piikani Nation of the Blackfoot Confederacy.

Jackson Hole - October 3, 2016.

The Piikani Nation's relationship with the United States is enshrined by treaty. The Piikani Nation, the Blood Tribe, and the Blackfeet Nation have held a government-to-government relationship with the United States since entering into the 1855 Lane Bull Treaty. As every member of this body is aware, more than fifty federally recognized Indian tribes, supported by the Assembly of First Nations, oppose the delisting of the grizzly bear in Greater Yellowstone – and the inevitable attempt to delist the grizzly bear in the Northern Continental Divide Ecosystem, the heart of Blackfoot Confederacy Country.

Yesterday, in this very location, a historic treaty was signed: **“The Grizzly: A Treaty of Cooperation, Cultural Revitalization and Restoration.”** This treaty offers innovative solutions and sweeping reforms to the so-called “management” practices of the states that are poised to take control of the destiny of Yellowstone's grizzly bears if, as expected, as early as November, the US Fish and Wildlife Service removes Endangered Species Act protections from the Great Bear. The treaty is rooted in a cultural foundation, and harmonizes ceremonial and traditional knowledge with contemporary scientific discipline and exploration to provide an alternative to what will be the government-sanctioned, state-oriented policy of “gun sight grizzly management” rejected by tribes.

All of you on this body now realize that 99% of the American people oppose trophy hunting, which is why you have tried to change the focus in the press

by saying trophy hunting is not a certainty upon delisting – but it is too late; people have read your plans, and read your hunting quota MOU, and remember your statements from prior days. If you think there was public outrage when Cecil the lion was trophy killed in Africa, wait until the first grizzly in Greater Yellowstone is trophy hunted.

A tribal alternative was presented to Fish and Wildlife Service Director Dan Ashe and Deputy Secretary of the Interior Mike Connor last November - instead of delisting and trophy hunting this sacred being, the grizzly should be reintroduced to sovereign tribal lands where biologically suitable habitat exists in the Great Bear's historic range – this would provide cultural, environmental, economic and vocational revitalization to tribal communities from the Rockies to the Pacific Coast...And remove any excuse or possible rationalization for trophy hunting. Director Ashe subsequently wrote that he looked forward to talking to us about this proposal, quote, “in the coming days” – yet nearly 11 months later we are still waiting.

In response to the Tribal Nation's alternative, Wyoming Game and Fish official, Brian Nesvik, recently told *WyoFile*: “We haven't given that a lot of consideration,” and “I wouldn't say it's something we wouldn't consider.” The truth is, you are not going to consider it because you are determined to pursue delisting, and to do it your way – the way that satisfies your constituents - a tiny minority of the population. And another truth is that it really does not matter what a state thinks, because states have no jurisdiction on Indian lands. Our sovereignty existed before states, as the US Supreme Court defined in 1823. Our government-to-government relationship is with the federal government, but herein is an example of how this issue impacts our sovereignty due to a fundamental misunderstanding of the fiduciary responsibility of the United States to Tribal Nations, and its trust responsibility.

The Fish and Wildlife Service has tried to present to the press that the Eastern Shoshone, the Shoshone-Bannock, and the Northern Arapaho support delisting the grizzly bear – the most recent attempt being in this weekend's Reuters coverage of the Grizzly Treaty, and prior to that, another

WyoFile article. Those Tribal Nations have all issued or been party to resolutions opposing delisting, going back to December 2014 – as the Fish and Wildlife Service well knows. Now those Tribal Nations have reaffirmed their opposition to delisting by signing the treaty – yesterday, right here, in this building - so it is time to cease and desist with this misrepresentation.

Another of the many misrepresentation has been the Fish and Wildlife Service’s claim that it has contacted every tribe “west of the Mississippi” about consultation on this issue. I have here a declaration the Navajo Nation recently sent to Interior Secretary Jewell, asking for formal, government to government consultation – the Navajo Nation is the largest tribal nation not just west of the Mississippi - but in the entire US - so they would be hard to miss if you were sincere in wanting to open consultation with “every tribe west of the Mississippi.” I am the chief of a treaty tribe, and like the Navajo, I have not received a formal request to open government to government consultation on this issue.

Through information obtained via Freedom of Information Act requests it is now apparent that the motivational factors behind both the delisting of the grizzly bear and the construction of the Dakota Access Pipeline are closely aligned. Following the denial of relief to the Standing Rock Sioux Tribe in US District Court, the Department of Interior (DOI) in conjunction with the Department of Justice (DOJ) and the Department of the Army (DOA) announced a “pause” in the construction of the Dakota Access Pipeline to implement what, to all intents and purposes, is a moratorium on the issue, to “invite tribes to formal, government-to-government consultations” to “better ensure meaningful tribal input” into decisional reviews “and the protection of tribal lands, resources, and treaty rights,” and to deduce if “new legislation be proposed to Congress to alter that statutory framework and promote those goals.”

The articles cited by the DOI, DOJ and DOA are ostensibly those that some fifty-plus Tribal Nations have petitioned the Dept. of Interior to address in relation to the delisting of the grizzly bear. In its recent declaration, the Navajo Nation requested “an immediate moratorium to be instituted” by the

Department of Interior for those critical issues to be fully accounted for and resolved within the context of a “meaningful” consultation process, which has yet to be undertaken in respect to the delisting of the Yellowstone grizzly bear. The Piikani Nation fully supports the Navajo Nation’s call for a moratorium, and a “pause” in the Fish and Wildlife Service’s fast track to remove federal protections from the Yellowstone grizzly bear.

The necessity for such a “pause” is now imperative; federal mandates require government-to-government consultation to be “meaningful,” a standard that has not been met in this instance, and “pre-decisional.” We predict that at this meeting, this body will approve the post-delisting regulatory mechanism, the Conservation Strategy. All Tribal Nations, including the federally recognized Associated Tribes of Yellowstone, have been excluded from the Conservation Strategy, despite continued appeals for inclusion – one of which was made by tribal leaders - in person - to Director Ashe. Clearly, no consultation can be categorized as “pre-decisional” now, as the outcome is, and has been for a considerable period of time, predetermined – a fact the official record demonstrates, despite parsed denials. The DOI, DOJ and DOA joint Dakota Access statement references how Tribal Nations have expressed “heartfelt concerns about the environment and historic, sacred sites.” We hereby do the same in relationship to Greater Yellowstone, where, if protections are removed from the grizzly bear through delisting, what protections exist for the land will be relaxed or removed. Greater Yellowstone contains innumerable sacred and historic sites to not only the Piikani Nation and our sister tribes of the Blackfoot Confederacy, but also to the other Associated Tribes of Yellowstone. As many Tribal Nations have emphasized in their respective resolutions opposing the delisting of the grizzly bear, Tribal Historic Preservation Offices must be engaged to survey, determine, and catalog these many sacred and historic sites before delisting is implemented, for if they are not, these sites will be subject to desecration and ultimately lost, resulting in irreparable injury to a multitude of tribes.

We do not need to elaborate upon the impact the trophy killing of a being we consider to be fundamental to our culture and spiritual well-being will have on our people and their ability to practice their religion, or how that will be exacerbated if that killing is committed on sacred land in proximity to sacred sites, but we do need to raise the specter of the destruction of these sacred sites if, as appears inevitable, corporate energy development is initiated on the lands the grizzly presently protects through its ESA status. Unless Congress repeals the 1872 General Mining Act, that law will hold primacy in respect to the 28 mining claims with operating plans in Yellowstone that the Fish and Wildlife Service references in its grizzly bear delisting rule. Those mines are in core grizzly bear habitat, and it remains unclear how many such claims exist throughout Greater Yellowstone. Any relaxation of land usage restrictions following delisting will threaten environmental harms to Tribal Nations' sacred and historic sites, and to treaty lands in the region, therefore the National Historic Preservation Act and the National Environmental Policy Act must be observed and adhered to.

Adding to this concern is that USFWS chose one of the world's largest oil and gas services multinationals, Amec Foster Wheeler, to manage the scientific peer review of the delisting rule. That a former Halliburton executive, Jon Lewis, is now CEO of this company, is just one reason why the Oglala Sioux Tribe has petitioned for a Congressional investigation into this delisting process. Not only do questions exist about the influence of special and corporate interests on the delisting decision, but also associations between high-ranking Fish and Wildlife Service officials and trophy hunting giant, Safari Club International, which are all on the record. The Piikani Nation fully supports the Oglala Sioux Tribe in its call for a Congressional investigation, and we have formally brought this matter to the attention of the House Natural Resources Committee. What is occurring here bears out the 2015 survey conducted by the Union of Concerned Scientists – that found 73% of Fish and Wildlife Service scientists conceded that “political interests” influenced decisions such as this.

I am not going to dignify comments that have been made to the effect that tribes do not understand “the science.” We are descended from those who

lived within this environment when it was complete; when the biomass was at its fullest. We have a term for the “best available science” – and that term is “balance” – our ancestors did not just talk about it - or theorize upon it, they lived it. – Quote: “I may be missing something, but this recommendation seems at odds with the ‘best available’ science standard of ESA.” – those aren’t my words, that is what Fish and Wildlife Service Director Dan Ashe wrote in an email to his assistant, Gary Frazer, in the midst of this delisting process - An email that was obtained via the Freedom of Information Act.

The DOI, DOJ and DOA concluded their Dakota Access statement by saying, “It is now incumbent on all of us to develop a path forward that serves the broadest public interest.” We believe that same sentiment must now be applied to the delisting of the grizzly bear in Greater Yellowstone. We remain the stewards of the land, and our ancestors and spiritual practices will forever be the conscience of the land. Water is the lifeblood of our Mother Earth, and the grizzly bear is the guardian of both.

CHIEF STAN GRIER, PIIKANI NATION.