

Meeting Date: January 27, 2022

Agenda Item No. 5H

Agenda Item: Grizzly Bear Update; Delisting Petitions (**Action**)

Bureau Chief Approval:

Prepared by: Jim Fredericks

Background:

At its December 16, 2021 teleconference, the Commission reviewed and approved a revision to the 2016 Tri-State Memorandum of Agreement (MOA) among Idaho, Montana and Wyoming concerning grizzly bears in the Greater Yellowstone Ecosystem (GYE). The revised agreement addresses management, genetic health, and allocation of discretionary mortality of GYE grizzly bears. The Commission also adopted a revision to a 2016 proclamation, to formalize Idaho-specific measures related to the Tri-State MOA. The Montana and Wyoming Commissions also adopted the Tri-State MOA revisions.

The Tri-State MOA revisions originated with the State of Wyoming’s communicating its intent to petition the delisting of GYE grizzly bears. Wyoming is expected to submit its petition for delisting the GYE to the U.S. Fish and Wildlife Service by the time the Commission meets on January 27.

Staff recently learned that the State of Montana submitted a petition to the U.S. Fish and Wildlife Service on December 17, 2021 to delist grizzly bears in the Northern Continental Divide recovery area.

Based on scientific and regulatory information, as well as recent court decisions interpreting the Endangered Species Act, it is appropriate to revisit the 1993 U.S. Fish and Wildlife Service delineation of the “ecosystems” for recovery in the U.S. Northern Rocky Mountains.

Recovery areas identified by the Service in the 1993 Recovery Plan, including the Selkirk, Cabinet-Yaak, and the Northern Continental Divide (located in Northern Montana), are in fact the southern extremities of a larger, connected population in Canada, with documented movement of bears between the areas and to areas outside of core habitats as the population has grown. There is also documented bear presence and movement in the Kootenai(y) and Moyie river valleys, as well as the Purcell Trench, which supposedly separate the “ecosystems.”

Notably, the 1993 Recovery Plan defines the Selkirk Recovery area as nearly 50% in Canada, under which jurisdiction grizzly bears are not an ESA-listed species. It’s apparent that this definition was made because only the southern-most portion of the Selkirk Range, which harbors a portion of the Selkirk grizzly population, is in the U.S. and was too small on its own to include in the lower-48 recovery plan. The continued artificial division of these areas and the Service’s undersized management units for these areas is inconsistent with best available science and produces incorrect conclusions as to population status. Continued designation of these as separate “ecosystems” is an outdated construct and does not serve conservation, management, and assessment of grizzly bears in Idaho.

Statutory Authority and/or Policy Issues:

A listing/delisting framework that prevents state management of species that is not threatened or endangered from a scientific standpoint is counter to effective

conservation. Grizzly bear conservation depends on local community tolerance at a minimum, and preferably local community support. Idaho and its sister states have invested decades to support increase grizzly bear populations, and they are of sufficient size and distribution that they no longer merit federal ESA protection. Because of increased conflict that occurs with increasing grizzly bear population size and extent, delisting and management flexibility are important to continued state and community support.

Recent court decisions interpreting the ESA make it important to ensure that delisting of populations from within a “lower-48” listed entity do not create situations where the remaining part of the listed entity becomes a legal orphan subject to perpetual listing.

Staff Recommendation:

Staff recommends the Commission support the Department’s coordination with the Idaho Governor’s Office of Species Conservation to promptly draft and submit a petition to delist/revise the current “lower-48” listing so that grizzly bear populations are assessed appropriately from a scientific standpoint, and that artificial divisions preventing conservation, management, and delisting of recovered populations are removed.