



July 30, 2020

Grizzly Bear Advisory Council
Montana Fish, Wildlife and Parks
1420 E. 6th Avenue
Helena, MT 59620

Members of the Grizzly Bear Advisory Council:

We submit the comments below, in addition to the detailed comments we previously submitted to the Council on July 20, on behalf of more than 2,600 active Sierra Club members in Montana and 3.7 million members and supporters across the country who are deeply invested in grizzly bear recovery. These comments are specifically in regard to the “Consolidated Draft Recommendations” posted to the Council web site on July 24 and the proposed changes in that draft.

We are extremely concerned about, and strongly oppose, Recommendations 18(e), 28, 29 and 30, and Guiding Principles 9 and 15. All of these are in regard to delineating areas of Montana where grizzly bears are deemed unimportant to achieving connectivity, where bears would be more “strictly managed”, and where relocation or removal of grizzly bears would be prioritized. We urge the Council to reject all of these potential additions. These are controversial guiding principles and recommendations, and we strongly object to their being proposed at this late date in the Council’s process.

Guiding principle 9 regarding lands east of the Rocky Mountain Front and north of I-90 is unclear and inaccurate. As the Council knows, it is critical to achieve natural connectivity between the Northern Continental Divide and the Yellowstone grizzly bear populations, and the June 2018 Conservation Strategy for the Grizzly Bear in the Northern Continental Divide Ecosystem (NCDE Conservation Strategy) expressly created Zone 2, north of I-90, for that reason as well as to provide connectivity and eventually reestablish a grizzly bear population in the Bitterroot. Additionally, at the Council’s November 2019 meeting Montana Fish, Wildlife and Parks biologists presented and explained [maps](#) that expressly showed grizzly bear linkage areas between the NCDE and Yellowstone populations that are north of I-90. The NCDE Conservation Strategy also established Demographic Connectivity Areas to encourage connectivity between the NCDE and Cabinet-Yaak populations and to help bring grizzly bears back to the Bitterroot recovery area. While we believe that protections in these linkage areas need to be stronger than what is required by the NCDE Conservation

Strategy, these areas were established over a long period of time by all of the agencies involved in grizzly bear management in these ecosystems as part of the overall recovery plan for grizzly bears, required by the Endangered Species Act. It is inappropriate and inconsistent with the NCDE Conservation Strategy for the Council to recommend that FWP establish new “lines” or zones where grizzly bears are deemed unimportant/disposable and where their relocation or removal would be prioritized, as stated in Recommendation 30. Such action would undermine the NCDE Conservation Strategy and could potentially be seen as such by the courts in any future delisting efforts.

Additionally, the Conservation Strategy states for Zone 2 that:

“Attractant storage rules will be implemented on most Federal and State lands. Grizzly bears will not be captured and removed unless there are conflicts that can only be solved by capture and relocation or removal of the offending bear.”¹

Even in Zone 3, located east of the Rocky Mountain Front and north of I-90, the NCDE Conservation Strategy states that:

“[I]n Zone 3, grizzly bear occupancy will not be actively discouraged. Grizzly bears will not be captured and removed just because they occur in Zone 3, nor will they be captured and removed from Zone 3 unless there are conflicts that can only be resolved by capture and relocation or removal of the offending bear. Grizzly bears will be managed primarily through conflict response.”²

Thus, conflict prevention measures are essentially required before bears can be relocated or killed (as a last resort) in both Zone 2 and Zone 3.

Recommendation 30 would charge FWP and “relevant entities” to identify areas that are not “critical to the long-term vitality of grizzly bears.” It is unclear what this means: What is “long-term vitality” and how is that defined? What criteria would be used to judge what bears are unimportant? This recommendation should be withdrawn, as should Recommendations 28 and 29.

These last-minute proposed recommendations imply that there should be zones or areas of Montana where grizzly bears are disposable. As the Council states in the Preamble:

“[A]s grizzly bear populations have been reduced or extirpated throughout much of their historic range over the past century, the populations that continue to reside and expand in Montana are perceived by many from our state and around the world to

¹ Conservation Strategy for the Grizzly Bear in the Northern Continental Divide Ecosystem . June 2018. p. 31

² Ibid p.32

hold both intrinsic and ecological value and are considered essential to the continued recovery of the species.”

All grizzly bears have intrinsic value, particularly to Indigenous people, which the Preamble also acknowledges, but the Council is now proposing that there be areas where the relocation or killing of bears is prioritized.

We oppose inclusion of Guiding Principle 15, which assumes that some areas of Montana will forever remain unprepared for the presence of grizzly bears and that no resources will be devoted to those areas for outreach and education and conflict prevention. Expansion of grizzly bear range is not a static situation; it is fluid. Resources should not be constrained to a hard line on where grizzly bear presence will be supported and where it won't. This guiding principle is in direct contrast to other guiding principles of the Council, including 1, 2 and 5:

“[A]ll those living in or visiting Montana should expect the potential presence of grizzly bears, and should be able to access education, assistance, and resources involved with coexisting with grizzly bears.

Proactive measures are often an effective and efficient means of preventing and/or reducing conflicts and should be encouraged and supported.

Voluntary, incentive-based conservation efforts on private lands should be encouraged and supported.”

Additionally, courts have ruled that landowners should expect to live with Montana's abundant wildlife and that there may be impacts to private property. In *State v. Rathbone*, the court said:

“[M]ontana is one of the few areas in the nation where wild game abounds. It is regarded as one of the greatest of the state's natural resources, as well as the chief attraction for visitors. Wild game existed long before the coming of man. One who acquires property in Montana does so with notice and knowledge of the presence of wild game and presumably is cognizant of its natural habits. Wild game does not possess the power to distinguish between *fructus naturales* and *fructus industriales*, and cannot like domestic animals be controlled through an owner. Accordingly a property owner in this state must recognize the fact that there may be some injury to property or inconvenience from wild game from which there is no recourse.”³

³ *State v. Rathbone*, 110 Mont. at 242, 100 P.2d at 93.

Many different types of entities including non-profit organizations contribute to public outreach and education and conflict prevention efforts; it is not the role of the Council to assume or to recommend that some areas of the state will never be prepared for the presence of grizzly bears.

New language in the hunting section below the “Considerations” section is confusing and sends a mixed message. We are glad that the Council acknowledges that “[h]unting is not likely to be an effective tool for conflict prevention or reduction.” However, in the first bullet point following that statement, the Council states:

“[W]e encourage the take of bears where the desired outcome is a lower bear density, recognizing that it will not mean no bears in those areas, but where the management challenges are significant.”

We assume that the language regarding “management challenges are significant” primarily means where they are many conflicts. If the Council recognizes that hunting is not an effective tool to prevent conflicts, why is the Council encouraging the take (killing) of bears and a “lower bear density” through a grizzly bear hunt?

Finally, we request that there be specific language in the public comment section detailing how the Council considered public comment and took the public’s views into account in developing its vision, guiding principles, and recommendations.

Thank you for your consideration of these additional comments. These proposed additions are a significant step backward from the previous version of the draft recommendations. It is disappointing and very concerning that these controversial guiding principles and recommendations were added at this late stage in the process, undermining transparency and public accountability within the Council’s process. We urge the Council to withdraw Recommendations 18(e), 28, 29 and 30, and Guiding Principles 9 and 15.

Sincerely,

A handwritten signature in blue ink that reads "Bonnie Rice". The signature is written in a cursive, flowing style.

Bonnie Rice, Senior Representative
Greater Yellowstone-Northern Rockies Regions – Our Wild America Campaign