

Appendix D

Montana, Fish, Wildlife and Parks Grizzly Bear Management Plan for Southwestern Montana Draft Programmatic Environmental Impact Statement

Summary of Public Comments

The draft Grizzly Bear Management Plan for Southwestern Montana was released for public comment on August 15, 2013. Montana Fish, Wildlife and Parks solicited public comment through three open houses held August 26, 27, and 28 in Bozeman, Helena and Billings respectively. Thirteen individuals attended the open houses. Written comment was accepted. The original comment period of 30 days was extended twice, ultimately resulting in a comment period of 57 days, ending October 11. Over 3,000 written comments were received from across the country. Of those 3,000 comments fewer than 350 were from Montana citizens. 322 of those comments came in via the Survey Monkey web tool.

Comments were used to improve the final plan. Where noted in the following, language has been edited in the draft plan to answer direct questions, provide emphasis, correct minor errors, or clarify confusing statements. Additional maps and figures have been added to the final plan in attempts to clarify and expand discussions where appropriate.

Major comments and issues along with our response are as follows (all page numbers are page numbers from the final plan):

Population Monitoring

Comment: The current population size is too small for genetic diversity because it is an island population.

We disagree. The GYA grizzly population is of sufficient size and adequate genetic diversity to be sustainable. Furthermore, the US Fish and Wildlife Service believes the population is vital enough to be delisted and proposed such in March 2007. Montana District Judge Molloy later stated in the 2009 district court finding that ‘The Service has provided reasonable explanation for its conclusions about genetic diversity and population size, and the concerns about long-term genetic diversity do not warrant a continued threatened listing for the Yellowstone DPS.’ (CV 07-134-M-DWM, Greater Yellowstone Coalition, Inc. vs USFWS et al.)

Comment: Some analysis using new methods to estimate population size and trend indicate the population is actually declining.

FWP supports science by the Interagency Grizzly Bear Study Team to include being an active member of team discussions and in many cases, co-authors on publications. The current methods being used by the study team are peer reviewed and rigorous (IGBST 2012). There is no evidence to date of a population decline however there is evidence of a slowing rate of population increase. FWP, along with the study team will continue to monitor the population and the trend based on the best available science.

Comment: Mortality limits are being regularly exceeded ecosystem wide.

While mortality limits have been exceeded in a number of years as shown on Table 3 in the draft plan, the limits have not been exceeded to the extent or frequency to cause the population to decline. In fact, new information from the Interagency Grizzly Bear Study Team shows the number of males in the population has increased resulting in a higher number of male mortalities than allowed under the old limits. New male mortality limits, as described in the plan, are more aligned with the actual makeup of the population. Management of mortalities into the future within southwestern Montana will continue to consider mortality limits based on the best available science.

Comment: This plan should not be approved until results of the million dollar hair snare study to estimate population size are summarized.

Hair snare studies have only been conducted in the Northern Continental Divide Ecosystem and the Cabinet-Yaak Ecosystem. A systematic hair snare study has not been conducted within the GYA because other methods have been sufficient to establish baseline population estimates. Furthermore, the information gathered from a hair snare study gives a population count for only one point in time. Monitoring of grizzly bears through existing methods in the GYA will provide adequate measures of population density, occupied range, reproduction, and survival as it has for 30 years.

Comment: We don't need more grizzly bears in Sanders County or other counties in northwest Montana.

This plan covers the seven county area of southwest MT depicted in Figure 2. This plan does not cover management actions or conservation planning for the 17 counties covered under the Grizzly Bear Management Plan for Western Montana (2006-2016) which include Lincoln, Flathead, Glacier, Pondera, Teton, Lewis and Clark, Powell, Missoula, Lake, Sanders, Mineral, Ravalli, Granite, Deer Lodge, Silver Bow, Jefferson, and Broadwater counties. The management plan for western Montana can be accessed at <http://fwp.mt.gov/fishAndWildlife/management/grizzlyBear/managementPlan.html>.

Comment: FWP needs to manage predators to allow for maximum ungulate hunting opportunity.

As described in Montana Code Annotated (MCA) 87-5-302 (1) The commission may: (a) pursuant to subsection (2), regulate the hunting of grizzly bears, ...2) When special grizzly bear licenses are to be issued pursuant to [87-2-701](#), the commission shall establish hunting season quotas for grizzly bears that will prevent the population of grizzly bears from decreasing below sustainable levels and with the intent to meet population objectives for elk, deer, and antelope. The Commission is tasked with following this policy and determining the appropriate balance between grizzly bear harvest and ungulate population sustainability. FWP conducts annual surveys for big game, as well as grizzly bears, to provide the Commission with current and relevant data so that sound species management and hunting decisions can be made.

Comment: The plan is built on a philosophy that predation by large carnivores drives big game populations.

This plan is built on the management and conservation needs of one species within the management and conservation needs of a host of other wildlife species FWP is mandated to manage. While the FW Commission is tasked with following the policy to balance grizzly bear harvest and ungulate population sustainability, it is also tasked to honor the goals to manage for a recovered grizzly bear population.

Comment: Why can't bears be moved between the GYA and Northern Continental Divide Ecosystem systems to ensure genetic health of the populations rather than imposing land use restrictions on habitats between the two systems to encourage natural dispersal of bears?

FWP has no concerns pertaining to the genetic viability of the GYA grizzly bear population at this time (Miller and Waits 2003), so there has been no need to move bears between ecosystems to infuse genetic material. Promoting an avenue for natural dispersal, through habitat connection is a less intrusive approach than forced translocations. No new land use restrictions are being proposed within this plan. With documentation of bears moving south from Northern Continental Divide Ecosystem and bears from the GYA moving slowly west and north, it is expected that there will be genetic interchange between the populations at some point.

Boyce et al. (2001) demonstrated that in light of the uncertainty surrounding factors out of our control (e.g., environmental variability or changes in food sources due to changing climatic conditions) natural connection between wildlife populations is best for healthy populations.

Habitat

Comment: The plan area too closely aligns with the proposed wilderness areas in the Forest and Recreation bill of Senator Tester.

Any similarity between the conservation boundaries described within this plan and the wilderness areas identified in Senator Tester's bill is merely coincidental. The proposed updates to the FWP grizzly bear management plan for southwest Montana are in no way related to the Forest and Recreation legislation. These areas and boundaries depicted in this plan were developed through efforts of the Interagency Grizzly Bear Study Team based on grizzly bear habitat use and population monitoring. FWP does not take a position on increased wilderness area within this document as that would be outside the scope and authority of a species management plan.

Comment: Lines on the maps within this plan will limit land uses in the future. More restrictive policies on public land use are unacceptable.

The land management agencies within the seven county area of this plan have already met the minimum requirements for food storage and road densities as described within the Conservation Strategy. The Conservation Strategy is the guiding document for federal land management agency decisions relative to grizzly bear habitat management.

FWP does not have jurisdiction over road densities or area closures on most public land but is committed to continued multiple use of the landscape; 'FWP views fish and wildlife habitat on public land, as valuable property that preferably remains open to hunters, anglers, and other public users. Accessibility to public lands will be balanced with the year-round requirements of fish and wildlife, while maintaining a functioning road system. By implementing this program, FWP can maintain grizzly bears while still providing for other appropriate uses' (page 35).

FWP has no jurisdiction over private lands (language has been added to this effect on page 37) but is committed to working with private landowners as FWP acknowledges 'Private lands are vital to the areas's agricultural economy and provide important habitat for a variety of fish and wildlife' (page 37). Finally, 'It is FWP's opinion that expanding the current level of habitat restriction and programs to bear occupied areas outside the Primary Conservation Area would not generate social acceptance for the bear and its further recovery.' (page 39).

Comment: State clearly how you will ensure suitable and functional habitat connectivity essential for bear recovery and survival.

The current minimum requirements for food storage and the limits on mortality have proven adequate for restoration of the grizzly population to date and are expected to do so into the future. In addition, a number of already protected areas can be found throughout southwest Montana that provide suitable habitat for dispersing bears (see new Figure 3). For these reasons FWP believes suitable and functional habitat is currently available for bear recovery and survival.

Comment: FWP needs to spell out a process for working collaboratively with federal land managers to assure the maintenance of core grizzly habitat and the restoration of degraded habitats.

The collaborative efforts to manage grizzly bears and their habitat among the federal land management agencies, state management agencies, and national park service are described in the Final Conservation Strategy for the Grizzly Bear in the Greater Yellowstone Area (2007). FWP is a signatory to that document and will continue to be a participating member of the multi agency coordination body, currently known as the Yellowstone Ecosystem Subcommittee that meets twice a year, even after delisting.

Comment: Would like to see the park develop some artificial grizzly bear feeding programs during periods of low food.

The management of wildlife within Yellowstone National Park is beyond the jurisdiction of FWP. Regardless, wildlife managers generally avoid supplemental feeding of wildlife. Bears in particular habituate quickly to unnatural or illegal supplemental feeding programs resulting in food conditioned, often human habituated, and potentially dangerous bears. Additionally, artificial feeding can lead to an artificial population that is not regulated by the natural factors that all species must deal with.

Comment: Climate change should not be included nor addressed in this plan.

While the impacts of a changing climate may not negatively impact grizzlies due to their omnivorous nature, the potential effects of a changing climate are a real concern for the health of fish and wildlife populations overall. It is unknown what the long term result will be with climate change; while some food sources may lessen, others (e.g. berries) may increase. Not mentioning some potential impact to the habitat of the grizzly bear due to climate change would be irresponsible of the wildlife management agency mandated to manage all wildlife in the state.

In fact, the 9th District Circuit Court finding against the US Fish and Wildlife Service on the original GYA grizzly bear delisting rule focused partly on the failure by the Service to adequately consider the effects of declines in whitebark pine related to climate change. Consideration of all relevant factors must occur in these types of environmental assessments, to include this type of plan, before the US Fish and Wildlife Service or the courts will accept this plan as adequate for delisting.

Comment: The state needs a long term research plan for addressing the issue of climate change and the potential impact of climate change on bear distribution.

There are currently no resources within FWP budgets to develop a long term research plan of this sort but the following statement in the final plan does commit FWP to monitoring and mitigating negative changes when possible, 'Monitor changes to habitat or bear behavior suspected to be climate change related and mitigate when possible' (page 35). FWP in cooperation with the Interagency Grizzly Bear Study Team monitors all scientific publications to ensure relevant, new information is considered when making management decisions.

Future Distribution

Comment: There is no need or justification for an expansion of the grizzly bear population.

FWP is following the recommendations of the Governor's Roundtable to 'Support expansion of grizzly bears beyond the Primary Conservation Area in areas that are biologically suitable and socially acceptable.' There is no intent to force grizzlies to expand beyond what they are naturally doing.

There are no areas beyond the Demographic Monitoring Area where grizzly bear presence is required nor are there lines on the map that grizzly bears cannot disperse beyond. The creation of such a line would not be viewed by the US Fish and Wildlife Service as adequate for management nor would it be acceptable to many who agree with the Governor's Roundtable recommendation. Grizzlies are wide ranging species that have the ability to move long distances. Natural expansion will continue to occur as it has in the past and FWP will do its best to manage conflicts to include lethal removal of grizzlies in some conflict situations.

Comment: An ever expanding grizzly bear population amounts to a taking of my private property.

Similar to the natural movements and dynamic populations of other species such as deer and elk, natural grizzly bear expansion onto private lands does not constitute a taking of private property. The Montana Supreme Court affirmed in *Sackman v. State Fish & Game Commission* that wildlife is a natural part of the landscape, and that the rights and privileges of private property ownership also come with the challenge and benefits associated with having wildlife on the landscape. The court stated, "Wild game existed here long before the coming of man. One who acquires property in Montana does so with the notice and knowledge of the presence of wild game."

Comment: Define biologically suitable and socially acceptable habitat. Remove grizzly bears found outside the socially acceptable line as they do in Wyoming.

The biological suitability of a particular habitat is fluid through time. Many areas where whitebark pine stands are no longer productive may be less suitable habitat for grizzlies now than in the past. Habitat once occupied by domestic sheep may become suitable when sheep are no longer present. The same applies to the social acceptability of an area. As land ownership and/or land use practices change over time, so too can the social acceptance of grizzlies in the area. FWP cannot speak for groups of individuals such as all private landowners and thus cannot make statements such as 'grizzly presence on any private lands is socially unacceptable.' Social acceptance of any species must be determined by individuals. In many areas of southwest Montana to include private lands, grizzly presence is acceptable when appropriate conflict prevention and response programs are in place. Note: Wyoming is not mandated to remove bears found outside of any line, they respond to bear issues as FWP does, i.e. on a case by case basis. A grizzly bear found in an area where it provides little biologic value and has a high probability of conflict may or may not be removed depending on the circumstances.

Comment: FWP is in violation of MCA 87-5-301 by not proactively moving grizzlies to control grizzly distribution and prevent conflicts.

FWP disagrees. FWP bear specialists have moved grizzly bears out of areas where human safety concerns were identified or the current situation pointed to an imminent conflict. For example, a grizzly bear was captured and removed from the population in West Yellowstone due to concerns of the bear's old age, its propensity to be involved in conflicts due to its condition, and its proximity to a school. During the last 20 years throughout Montana, multiple bears have been captured and relocated as a preventative measure to avoid potential conflicts. Proactively moving wildlife to limit natural expansion and population distribution is inconsistent with FWP's goal to protect, perpetuate, and enhance wildlife resources for public benefit now and in the future. Proactively relocating a grizzly that has wandered far from the core recovery area and is clearly outside of biologically suitable habitat where conflict is

imminent is an action FWP would undertake under the auspices of conflict prevention. Furthermore, resources are simply not available to capture and relocate any grizzly that wanders far from the core area but is not involved in any grizzly/human conflict. Very few people are even aware of the presence of grizzly bears that remain out of conflict.

FWP believes any approach to ‘limit distribution’ is logistically impossible and biologically undesirable. In order to maintain population resilience to habitat changes, social tolerance and other factors, bears need to occupy a broad landscape. Grizzly bears cannot be confined to designated zones because there are not barriers to contain them and it is impossible to know the location of every animal all the time. Drawing lines for a population to stay within has been demonstrated to complicate population management, e.g., Yellowstone National Park bison. Furthermore, FWP believes drawing acceptable occupancy lines on a map violates the intent of the Governor’s roundtable recommendation: ‘Support expansion of grizzly bears beyond the PCA in areas that are biologically suitable and socially acceptable.’ Declaring a ‘no grizzly bear occupancy’ area of any kind would likely be found inadequate for delisting by both the US Fish and Wildlife Service and the courts.

In response to concerns that we are in violation of MCA we have added the following statement to the Human Safety section (page 49): ‘Consider preemptively relocating a grizzly bear to avoid conflicts when there is a demonstrated threat to human safety’.

Comment: Identify specific linkage zones for grizzlies between the different ecosystems i.e., Greater Yellowstone Area and, Northern Continental Divide Ecosystem.

As stated in the Final Rule (72 CFR 14866) and upheld by the Courts, connectivity is not mandatory to ensure genetic isolation will not threaten the GYA grizzly bear population. That being said, allowing the opportunity for animals to move into or out of the GYA is desirable because it increases the ability of the population to respond to changes in environmental conditions and/or other factors that we have no authority or control over such as private land development. We do expect bears to gradually reoccupy habitat between the GYA and the Northern Continental Divide Ecosystem in the Highland and Tobacco Root mountain ranges as bear captures, mortalities, and observations have been documented in the Deer Lodge/ north Butte areas over the past ten years. Current evidence indicates grizzly bears in these areas have been bears genetically linked to the Northern Continental Divide Ecosystem but GYA grizzly bears are expected to eventually move north into these areas as well. To allow the opportunity for non-nuisance grizzly bears to reoccupy these mountain ranges at low densities, grizzly bears will not be captured and removed unless there are conflicts or demonstrated threats to human safety. Management emphasis will be on conflict prevention and response. Attractant storage rules are in place on National Forest lands. Additional habitat protections are not necessary for recovery.

Furthermore, the identification of specific linkage zones is complicated by ever changing habitat conditions, human presence and land use. Past radio collared grizzly movement has pointed to specific areas that are biologically suitable for grizzly presence but individual bears demonstrate diverse preference for habitat and different tolerances for human presence. For these reasons and for simply not wanting to draw circles on a map potentially highlighting private property FWP does not plan to identify specific linkage zones. Rather, FWP will pursue opportunities for habitat conservation or restoration in areas between the GYA and Northern Continental Divide Ecosystem systems as they arise. Grizzly bears will naturally explore and utilize habitats that are biologically suitable. Overtime, habitat use by individual bears will point to the best linkage areas.

Comment: Concern was expressed over the specific mention of the Tobacco Root and Highland Mountains as areas within which presence of grizzly bears would assist in maintaining genetic linkage between the GYA and Northern Continental Divide Ecosystem populations.

While this statement is true, FWP has no intention to artificially increase populations in the area through grizzly bear relocation. The following language has been added to the final version of the plan to clarify mention of these two specific mountain ranges (page 44): ‘Management of non-conflict grizzly bears in areas between the Northern Continental Divide Ecosystem management area and the demographic monitoring area of the GYA (see new Figure 7) will be compatible with maintaining some grizzly occupancy. Maintaining presence of non-conflict grizzly bears in areas such as the Tobacco Root and Highland Mountains would likely facilitate periodic grizzly movements between the Northern Continental Divide Ecosystem and GYA.’ We do expect bears to gradually reoccupy habitat between the GYA and the Northern Continental Divide Ecosystem in the Highland and Tobacco Root mountain ranges as bear captures, mortalities, and observations have been documented in the Deer Lodge/ north Butte areas over the past ten years. Conflict management and removal of problem grizzly bears will remain a priority within these areas like in the rest of Montana. Human safety will always be prioritized over facilitation of grizzly movement for genetic connection between the ecosystems.’

Comment: Many of the areas proposed in the plan are not suitable grizzly bear habitat. These mountains contain significant deeded private property, are covered in roads, used by recreationists, loggers, etc. and have active cattle allotments.

No specific areas have been ‘proposed’ for grizzly bear reintroduction within this plan. Grizzly bears will however be allowed to occupy biologically suitable and socially acceptable habitats through natural expansion. Grizzly bears are opportunistic omnivores with very flexible habitat requirements. They currently occupy a wide range of habitats throughout the GYA with roads, private land, people, and livestock. FWP works with land management agencies, private landowners, ranchers, and recreationists to prevent conflicts when possible and resolve conflicts when they do occur. Many Montana mountain ranges do contain suitable habitat, but due to high human activity and presence it is unclear if grizzly bears will be able to or even desire to utilize these habitats.

Comment: FWP should not delineate new core areas as suggested in bullet 11 of the habitat section that states ‘Work with local community groups to identify and promote habitat characteristics that benefit bears such as maintaining core areas.’

FWP has no intention of delineating new core areas for grizzlies within southwest Montana. FWP does intend to continue working with local community groups to identify and promote habitat characteristics that benefit bears such as neighborhoods free of accessible garbage that can ultimately result in food conditioned bears, property damage and human safety concerns. The text suggesting maintenance or even an increase of core areas has been deleted from this bullet point.

Nuisance Bears

Comment: FWP should have a list of relocation sites prepared in advance of needing a site, that is approved by local communities.

FWP currently works from a list of public land sites that have been used historically for grizzly relocations and have been preapproved by the land management agency. All relocations are conducted in conjunction with the US Fish and Wildlife Service and with approval of the involved land management agency. No site is used if there is current high levels of public use or human activity or if the risk of continued conflict is high. Relocation sites are chosen to minimize the chance of repeat conflicts so the particular type of conflict is important in the consideration of the relocation site. No relocations occur or would occur on private land without prior landowner permission. There has been only one relocation of a grizzly bear to private land in the past 20 years.

Comment: Collect specific location information on all grizzly bear mortalities in addition to information on timing and cause as stated in bullet 3 in the Population Monitoring section ‘Monitor bear mortalities including timing and causes and gather survivorship data in cooperation with the Interagency Grizzly Bear Study Team.’

Information on the location of all grizzly mortalities is collected and language has been added in several places throughout the final document to reflect the importance of location information. All bear mortalities are investigated and annually reported through FWP and the Interagency Grizzly Bear Study Team. Additionally, there is a current mortality data base on the study team website and grizzly bear management removals are reported on the FWP website.

Comment: The State should continue to participate in local working groups that work to reduce grizzly/human conflicts and use data from past work to improve these efforts.

FWP agrees. Throughout the final document are statements demonstrating FWP's commitment to work with local communities and NGO groups working to reduce grizzly/human conflicts such as; 1) ‘continue to work with *city and* (added) county governments on requirement of bear-resistant garbage containers for homeowners in bear country’ (page 50), 2) ‘work with private organizations, wildlife advocacy groups and other interested parties to promote ‘living in bear country’ messages including safety tips for recreating in bear habitat and the utility and proper use of bear spray’ (page 65), 3) ‘encourage interest groups to work together with FWP to minimize problems and increase tolerance for bears’ (page 53). The following language was added to clarify intent to cooperatively work on preventing livestock conflict (page 52): ‘FWP anticipates continued partnership with outside groups offering technical assistance and materials to private landowners in order to prevent livestock loss.’

Lessons from past efforts of working with local communities and NGO groups are considered when conducting new efforts. It is beneficial to have local communities support when conducting efforts to increase public awareness/safety and reduce conflicts, potential human injuries and bear mortalities. An example of this is the sanitation effort implemented by FWP through US Fish and Wildlife Service funding in the Gardiner area. A local community group was formed and general support has been gained. The placement of over 200 bear-resistant containers in the area has greatly reduced garbage associated residential conflicts.

Comment: This plan should articulate specific preventative actions FWP will take to reduce grizzly/human conflicts. FWP should continue to work with outside partners on prevention efforts.

While it is difficult to list specific preventative actions in specific locations FWP does engage routinely in the following; 1) press releases prior to big game seasons reminding hunters of grizzly presence, 2) hunter education course lessons specific to hunting in grizzly country and the differences between grizzlies and black bears, 3) distribution of 'living/recreating/hunting in bear country' education materials to appropriate user groups, 4) cooperative work with counties and cities to obtain and place bear resistant garbage receptacles in areas of potential conflict and bear-proofing commercial garbage collection sites, and 5) use of aversive techniques (e.g. electric fencing) to alleviate or prevent conflicts, while increasing public safety and reducing bear mortalities.

FWP works with agencies of the Yellowstone Ecosystem Subcommittee to release information throughout the ecosystem particularly in poor food years when conflicts over unnatural foods could be high.

Periodic review of the causes of conflict and human-caused mortality such as the 2009 Yellowstone Mortality and Conflicts Reduction Report by the Interagency Grizzly Bear Study Team ensures the causes of conflict and grizzly mortalities are being addressed with the most up to date management actions. This report specifically made 21 recommendations and implementation suggestions to reduce hunter-conflict related mortalities; 4 recommendations to reduce mistaken identification mortalities, and 8 recommendations to reduce mortality from other causes. FWP was involved in the mortality review in 2004 and in 2009. FWP has put extensive effort into reducing unnecessary bear mortalities and reducing grizzly/human conflicts. The Montana portion of the GYA has been very consistent in the number of annual grizzly bear mortalities for over 20 years. There is always annual variation in total mortalities, but the average has remained four mortalities per year over the past 21 years. Additionally, the average rate has not changed from the period of 1991-2001 to the period of 2002-2012. This is very significant considering the increase in the overall bear population, bear distribution and human use of the landscape. Montana has kept bear mortalities as low as could be expected and it would be naïve to believe that there will be no bear mortalities from human or natural causes.

Comment: FWP needs to run a detailed analysis on conflict data in order to prioritize conflict prevention efforts.

FWP regularly reviews information relative to conflicts in attempts to identify hot spots, human activities contributing to the conflicts, and appropriate preventative actions. Annual data collection by FWP and the Interagency Grizzly Bear Study Team ultimately results in a spatial, temporal and cause specific look at conflicts. Preventative actions are prioritized based on this review as well as population expansion information.

Periodic review of the causes of conflict and human-caused mortality such as the 2009 Yellowstone Mortality and Conflicts Reduction Report by the Interagency Grizzly Bear Study Team ensures the causes of conflict and grizzly mortalities are being addressed with the most up to date management actions.

Comment: Bears and humans do not mix. The danger to humans is too great. The plan should include more data on human injuries and mortalities.

Since completion of the 2002 plan there have been 22 human injuries and one human death from grizzly/human interactions in the Montana portion of the GYA. Three additional incidents involved a bear making physical contact with a person, but no injuries were received. This is an average of two human injuries per year in MT's portion of the GYA, from 2002 thru 2012. During the previous 11 year period (1991–2001), an average of one person per year was injured. During 1993, 1998, 1999, 2005 and 2006 no human injuries were reported or investigated. Of the people actually injured during a grizzly bear(s) encounter from 2002 thru 2012, five were recreationally hiking, three were recreationally camping/sleeping during nighttime hours, one was mountain biking, six were archery hunting, six were rifle hunting and one was severely injured from being shot by his hunting partner. Nearly all (19) injury incidences involved surprise encounters with female bears and cubs. A wide array of situations precipitated these events and this is why it is so difficult to predict or eliminate these chance encounters. Some individuals had been unwisely tracking the bear(s), some encountered bears at a food source, some were either rapidly or quietly moving, and some were scent/visually camouflaged while hunting.

Concern was raised by some that FWP does not have all of the information on human injuries caused by grizzly bears. While we do not believe this is true, we can only report on the number of incidents reported to us. To FWP's knowledge all grizzly bear caused human injuries have been reported and investigated. This information is annually reported through the Interagency Grizzly Bear Study Team yearly reports and covered by local and sometimes national media. (The above information has been added to the final document.)

Comment: Problem bears need to be dispatched period. Bears that cause problems should never be relocated.

Since being listed as a threatened species and under the US Fish and Wildlife Service jurisdiction, we have been obligated under the Recovery Plan for the Yellowstone grizzly bear to follow guidelines regarding the relocation or removal of nuisance bears. In the entire GYA, all conflict situations are considered on a case by case basis. Records indicate some individual conflict bears remain out of trouble after being relocated to an area without the stimulating conflict factor, e.g. available human garbage. Regardless, FWP always considers the severity of the conflict, the circumstances leading to the conflict, and the potential for repeat offense by the conflict bear when making decisions on conflict resolution. Again, throughout the GYA, depending on the conflict type, age/sex of bear(s) and location, some bears are candidates for relocation and some are not. Relocation of problem bears has become more challenging as the density of bears within the ecosystem has increased. FWP does not move conflict bears to areas outside of currently occupied habitat. Conflict bears that cannot be relocated due to the severity of the conflict, history of the bear, or lack of a suitable relocation site are euthanized or placed in zoos.

Comment: Problem bears should be driven off using non-lethal methods such as bear dogs rather than lethal methods.

In the earlier days of grizzly bear recovery, non-lethal solutions to include the use of bear dogs to address conflict situations were preferred. However, as the population has recovered some lethal removal has proven necessary. This is particularly true in situations when non-lethal removal measures have been unsuccessful or the severity of the conflict has been such that lethal removal seemed most prudent, e.g. cases involving human injury or death, repetitive property damage or history of chronic conflicts. It does not improve social tolerance of bears to leave problem bears on the landscape. The population as a whole can suffer from the actions of a few conflict bears if they are not dealt with under appropriate management program guidelines.

Hunting

Comment: The basic parameters of a hunting season should be articulated in this plan to foster realistic expectations and strengthen the plan against litigation.

Parameters of a hunt such as season framework (i.e., quota or limited tags, open hunt areas), license fees, allowable non-resident take, etc. will be determined under Commission rule to include the standard public participation process.

Comment: How will grizzly bears be classified under state authority post de-listing?

MCA 87-2-101 defines all of the following as ‘game animals’; deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

Comment: The presence of grizzly bears in an area will result in the elimination of black bear hunting seasons.

FWP has had many years of experience in maintaining black bear seasons in occupied grizzly bear habitat from our management of grizzly bears in northwest Montana. MCA 87-1-217 states ‘In managing large predators, the primary goals of the department, in order of listed priority, are to: (a) protect humans, livestock, and pets; (b) preserve and enhance the safety of the public during outdoor recreational and livelihood activities; and (c) preserve citizens’ opportunities to hunt large game species.’ While large game species within this statute are defined to include deer, elk, mountain sheep, moose, antelope, and mountain goats, FWP will not limit hunting opportunity for any huntable species, to include black bear, due to the presence of a listed species or a large predator. The dispersal of a grizzly bear or grizzly bears into a previously thought to be unoccupied area would not result in an automatic closure of any open black bear season. As grizzly bear populations have increased and expanded in the past 20 years, no black bear hunting seasons have been closed due to grizzly presence.

MCA 87-1-304 (4): The FW Commission may declare a closed season on any species of game, fish, game birds or fur-bearing animals threatened with undue depletion from any cause. The mere presence of grizzly bears in a zone with open black bear hunting would not be sufficient reason to close the season.

The concern over mistaken identity killings of grizzlies by black bear hunters has been addressed through extensive hunter education programs, increased enforcement, and implementation of the mandatory bear ID test, described on page 65. The 2002 US Fish and Wildlife Service Biological Opinion regarding incidental take of grizzly bears (e.g., mistaken identity or self defense killing by big game and black bear hunters) stated: ‘The impact of the recent levels or reduced levels of mortality [from big game and black bear hunting programs] will not appreciably diminish the survival or recovery potential of the GYA grizzly populations.’ Mortality from incidental take within the Montana portion of the GYA since that biological finding remains on average less than 1.5 bears per year as it was during the years previous to publication of the finding.

Comment: FWP needs to consider additively the impacts to grizzly populations of influences such as poor food years when setting hunting seasons.

The FW Commission relies on data from field biologists and managers when setting any take season regulations. In addition, management of a species to prevent an ESA listing, or in this case a re-listing is a requirement under Montana code. MCA 87-1-201 states ‘The department shall implement programs that: (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 (state list of endangered species) or under the federal Endangered Species Act.’ The Commission must consider additive impacts to grizzlies from all influences in order to be in compliance with this code.

Comment: Hunting is not a substitute for management.

FWP believes hunting is just one tool among many for managing a species. The plan details many other management tools to include conflict resolution and population monitoring for informed decision making.

Comment: There is no data to show that the hunting of grizzlies improves the public's acceptance of this species, and no reason for FWP to declare hunting of grizzlies as a management goal.

Indeed, while there is no data proving that hunting improves tolerance of a species it is our experience that the allowance for public harvest does improve the social tolerance of the species by at least some segment of the public. The language within bullet #5 on page 61 has been changed to reflect 'tolerance by 'some' of the local publics may be increased'.

FWP recently conducted four separate surveys of resident Montanans regarding Montana's wolf hunt. Survey findings revealed that tolerance with wolves being on the Montana landscape was quite low. At the same time, there was considerable tolerance for the concept of wolf hunting in the state. Other survey findings revealed that public satisfaction with wolf management in the state significantly improved as a result of the 2011 Montana wolf hunt. FWP believes some increase in public satisfaction with grizzly management is important and may in fact result in some increase in social tolerance of the species. During actual on site conflict management, it is often a question and desire of home-owners, campers, ranchers and hunters/outfitters to someday be allowed to hunt grizzly bears.

It is within FWP's goals for grizzly bear management and the recommendations of the Governor's Roundtable to manage the grizzly as a game animal and provide some regulated harvest opportunity. These goals and recommendations were created through collaborative public process and reflect the wishes of the public. In addition, there is simply great public demand for a reinstated grizzly bear hunt that would serve to generate revenue, provide public harvest opportunity, and put the grizzly bear back into the group of species managed in part by sportsmen and women.

MCA 87-2-814 allows the 'FW Commission to issue one grizzly bear license each year through a competitive auction or lottery. (2) All proceeds remaining from the auction or lottery, whether conducted by the Commission or as otherwise authorized by the Commission, must be used by the department for the management of grizzly bears.' The revenue generated by the auction of a grizzly bear license may be needed to fund overall management programs (conflict response, population monitoring, illegal activity investigations, public awareness, sanitation projects, etc.).

Comment: Hunters and recreationists should be legally mandated to carry bear spray while in grizzly bear country.

FWP continues to believe that requiring all hunters or recreationists within the range of the grizzly bear to carry bear spray is an unrealistic and irresponsible approach. As stated on page 62 'FWP believes that there are significant liability and enforcement issues around a "mandatory" approach.In addition, carrying spray can give people a false sense of security and replace common sense and thoughtful backcountry practices. Approved bear spray is a valuable tool, but it cannot replace knowledge of bear behavior and appropriate human behavior in bear encounter situations.....FWP will continue to encourage hunters and recreationists to carry bear spray.' Finally, even if it was mandatory to carry bear spray, there is no current law that would require people to use it.

Comment: Insert language from the 2002 plan that stated ‘there are areas that won’t be hunted.’
The FW Commission will define the regulations for any grizzly bear hunt to include open and closed units (MCA 87-5-302). FWP would likely not institute hunting seasons in areas where bear density is low, harvest mortality is not sustainable and grizzly presence is desired. (This statement has been added to page 61).

Note: Specifics of a hunt such as season framework (i.e., quota or limited tags), license fees, allowable non-resident take, etc. will be determined under FW Commission rule to include the standard public participation process. Page 62 states ‘The justification for any proposed hunt will be available for public scrutiny and comment prior to any decision or possible implementation.’

Comment: Insert language from the 2002 plan that stated ‘hunting will not be proposed immediately after delisting.’

Page 61 states ‘Upon delisting, hunting will be proposed only after all components of the grizzly bear management program and Conservation Strategy are adequately implemented.’ Upon implementation of those programs the FW Commission will determine the appropriate year to reinstate a grizzly bear hunt (MCA 87-5-302) however, FWP does believe the population is secure enough to sustain some amount of limited hunting upon delisting. Any hunting mortalities within the Demographic Monitoring Area will be counted as human-caused mortalities and counted against the annual sustainable mortality limits.

Comment: Hunting should not be allowed in areas important to connecting the GYA grizzly bears to the Northern Continental Divide Ecosystem grizzly bears.

Management of non-conflict grizzly bears in areas between the Northern Continental Divide Ecosystem management area and the Demographic Monitoring Area of the GYA will be compatible with maintaining some grizzly occupancy. Maintaining presence of non-conflict grizzly bears in areas such as the Tobacco Root and Highland Mountains would likely facilitate periodic grizzly movements between the Northern Continental Divide Ecosystem and GYA. Conflict management and removal of problem grizzly bears will however remain the priority within all areas of Montana. Human safety and the protection of private property will always be prioritized over facilitation of grizzly movement for genetic connection between the ecosystems.

FWP would likely not institute hunting seasons in areas where bear density is low and removal of bears would negatively impact the potential for movement of grizzlies between ecosystems when desired and acceptable. (This statement has been added to page 61.)

Enforcement

Comment: Why only ‘limit’ intentional feeding? Bullet 1 from the Enforcement section: ‘Enforce statute that limits intentional feeding of both black and grizzly bears (MCA 87-6-216).’

Response: Language in the statute makes it unlawful to purposely or knowingly attract any bear with supplemental feed attractants. Wording within the 1st bullet under Enforcement has been changed to ‘Enforce statute that criminalizes feeding...’

Education

Comment: The social tolerance of grizzly bears could be significantly improved through extensive, comprehensive, site specific and detailed education programs.

Response: FWP has increased education programs over the last decade to include hunter education course instruction, public service announcements, flyers and handouts, and most recently substantial effort by FWP staff of the Montana Wild center through a ‘Bear Aware’ program. We routinely work with partners to provide educational experiences and materials to groups of various backgrounds, ages, and experience in living with grizzly bears. Education and preventative efforts will continue to be a focus for FWP to include commitments such as the following found throughout the final plan: 1) Increase resource stewardship within grizzly bear habitat through recreationists education and regulations compliance (page 35), 2) Continue to provide information on safety in bear country in the big game hunting regulations, during hunter education courses, through mailings to license holders, and on trailhead informational signs (page 49) 3) Education programs for hunters, recreationists, and homeowners will hopefully limit the number of these incidents and the need to remove bears (page 51).

Costs and Funding

Comment: The costs for grizzly bear management as presented are unrealistic and far too low.

The minimum estimated costs to implement this plan were presented in the draft. These were the costs that could be tied directly to grizzly bear management staff. Clarification has been provided in the final draft as to what other costs are associated with grizzly management and what costs are expected into the future.

Comment: The Environmental Impact Statement should consider the cost of stress and loss of a safe living from grizzly presence.

Recreationists, hunters, and landowners must assume some personal responsibility for their own safety while outdoors. The Montana Supreme Court affirmed in *Sackman v. State Fish & Game Commission* that wildlife is a natural part of the landscape, and that the rights and privileges of private property ownership also come with the challenge and benefits associated with having wildlife on the landscape. The court stated, “Wild game existed here long before the coming of man. One who acquires property in Montana does so with the notice and knowledge of the presence of wild game.”

Secondary and Cumulative Impacts

Comment: FWP should conduct a full economic analysis to determine the cost of grizzlies in new areas.

FWP does not believe an analysis based on assumptions, poorly understood variables, and speculative modeling is required or useful. The assumptions of how much a county may lose based on livestock losses or lost revenue from hunters no longer visiting an area could be as wrong as assumptions of how much a county may gain from an increase in interest by conservationists or easement purchases. Another uncertain variable is all of the direct and indirect costs of grizzly bears remaining on the Endangered Species list versus having enough conservation measures in place to enable delisting.

Furthermore, the assumption that bears are going to inhabit any new areas in any number worth analyzing is false. An economic analysis would indeed seem appropriate if this management plan called for reintroducing grizzlies into currently unoccupied areas and maintaining some minimum population. That action however is not within the alternatives presented in this Environmental Impact Statement. The intent of Alternative II is to allow bears that stay out of conflict situations to inhabit suitable areas.

Defenders of Wildlife provided reimbursement for livestock losses during the period of the previous plan. Data indicated that \$8,500 was paid to producers who lost sheep, cattle or poultry to grizzly bears within the Montana portion of the GYA from 2002-2012. Not all losses are submitted for claims. This information has been added to the Impact section of the plan.

Environmental Impact Statement Development Process

Comment: This plan was conducted in a manner contrary to Montana Environmental Policy Act statutes.

FWP disagrees. Department legal and technical staff were consulted prior to and during the preparation of the draft Environmental Impact Statement to ensure the requirements of the statutes were met.

Scoping: We did not perform any public scoping in preparation of this document. Scoping under the Montana Environmental Protection Act is required to identify issues or concerns that the Department may not be aware of. We believe through ongoing dialogue with all constituents that we are aware of all pertinent issues relative to grizzly bear management and in fact addressed them within the draft document. Many Montana FWP staff were involved in completion of the 2007 Conservation Strategy for the Greater Yellowstone Ecosystem and have remained intimately involved with grizzly bear management. FWP is confident that staff is very familiar with the issues of grizzly management as well as the concerns of the public. While the grizzly population has indeed expanded, the issues of conflict management, habitat use and management, livestock conflicts, property damage, human injuries, etc. remain.

Public notification for release of the draft document: FWP followed the same public notification process for release and review of this document as with all other releases of this nature. What the media picks up to advertise or publish is at their discretion. Press releases were issued August 12th. Letters notifying county commissioners within the seven county plan area and all FWP Commissioners were mailed out at the time the document was released. Notification of the public comment period was on the front page of our website under the 'popular this week' for much of the comment period.

Length of the comment period: The preferred alternative within the draft called for continued responsive and effective management of the grizzly within the working landscapes of Montana. Citizens are generally familiar with this management that includes both proactive conflict prevention and reactive conflict management. FWP believes that current grizzly bear management, even under the federal listing status, has been adequate and thus continued management as proposed is easily understood. We believed a 30 day comment period was adequate with this in mind, as the level of analysis in any environmental assessment is based on the complexity and seriousness of the issue, per ARM 12.2.433. However, to honor requests for extension FWP extended the comment period two times for a total comment period of nearly 60 days.

Meeting with organizations early during the planning process: No organizations were specifically contacted for input during the drafting of this plan with the exception of federal land management agencies and the Interagency Grizzly Bear Study Team. The non-government organizations listed on page 74 of the draft contacted the Region 3 FWP office to meet with staff assuming a re-write would be in process based on the 2002-2012 timeframe of the first plan. Those organizations organized a small meeting that one of the plan authors attended. The organizations provided input and suggestions for the re-write during that meeting but received no early drafts to review. Following release of the draft FWP attended three citizen led meetings to discuss the plan draft. FWP attempts to be responsive to meeting invitations as well as inclusive during processes such as these. In no way was there any attempt to exclude any constituents from plan development and in fact MEPA process for public involvement was followed throughout. Concerns and suggestions by all who commented on the draft were considered.

Comment: Counties were not involved in the re-write of this plan.

All counties within the seven county plan area were notified upon release of this draft. This notification was sufficient to allow for consultation between FWP and the counties during the public review process. Indeed, FWP met specifically with some county commissioners to go over plan components during the public comment period. The language from MCA 87-1-217 (5) 'Policy for management of large predators -- legislative intent' has been added to the final document. This legislation requires some consultation with counties prior to passage of any policy with implications for large predator management. Acceptance of this plan would be considered policy as it will guide management into the future.

Miscellaneous

Comment: What triggers a revision of this state management plan?

Through the yearly monitoring of the Yellowstone grizzly bear, data that would indicate any significant change in the population demographics is obtained for review. Under the conservation strategy and recovery plan, repetitive negative population demographics can trigger a status review to determine cause and actions that may be necessary to reverse the trend. A status review of the population would likely trigger a look at the actions within this plan but generally, this plan is designed to be adaptive to changing habitat conditions, management protocols, or grizzly populations. As with all FWP species management plans, this plan could be re-visited at any time if deemed appropriate.

Comment: What needs to happen for grizzlies to be removed from the endangered list?

To remove grizzlies in the GYA from the endangered species list, the US Fish and Wildlife Service (Service) must determine the population is recovered and will remain recovered in the foreseeable future. For this determination to occur, the Service must conduct a threats analysis as described in the Endangered Species Act. For recovery (and subsequent delisting) to occur the Service must demonstrate that threats to the bear's habitat have been adequately mitigated and will remain so; the population's size and distribution are adequate to ensure maintenance of recovered status; and the existence of adequate regulatory mechanisms. One of these regulatory mechanisms is this state management plan for grizzly bears in southwest Montana, in other words, this plan is a required component for delisting. This plan provides the Service a description of grizzly bear management in Montana's portion of the GYA and how it would meet the Service criteria for survival of the species into the future.

Comment: FWP is using false and selective science that is more than 10 years old.

The best available science, including the most recent population estimation methods and mortality limits from the Interagency Grizzly Bear Study Team, was used to calculate the numbers presented in this document. The tables and figures that present information on conflicts, grizzly mortalities, population distribution, and estimated home range size are current through 2012 and the science used to determine these was published by Interagency Grizzly Bear Study Team in September 2012.

Comment: A process is needed to coordinate management efforts with surrounding states and Yellowstone National Park.

The following statement from the draft plan addressed coordination on ecosystem linkage specifically, 'Continue to work with Idaho, Wyoming, and the Interagency Grizzly Bear Committee to address the issue of linkage between grizzly recovery areas and follow the goal set forth in the Interagency Grizzly Bear Committee work plan to promote linkage between the GYA and Northern Continental Divide Ecosystem grizzly populations (page 41).' Beyond linkage discussions, the 2007 Conservation Strategy lays the framework for continued coordination between GYA land and wildlife managers as well as continuation of the multi agency coordinating body, currently known as the Yellowstone Ecosystem Subcommittee that meets twice a year. Management actions and management of mortalities are coordinated by the states and national parks. All actions are evaluated and reported annually through the Interagency Grizzly Bear Study Team reports.

Comment: All mention of bear-proof containers should be changed to say bear-resistant.

Reference to bear-proof has been changed throughout the document to the more accurate term bear-resistant.

Comment: The lack of an end date to this plan is concerning.

FWP does not anticipate the need for drastic changes to management protocols within the foreseeable future and believes this management plan can operate successfully for many years. This plan can be amended at any time to incorporate new science or significant management techniques. In addition, this plan works in coordination with the GYA Conservation Strategy. That strategy calls for five year or even more frequent updates to include public participation. Appropriate revisions to the Conservation Strategy could be incorporated into the state plan when necessary as the state plans are formally amended to the Conservation Strategy.

Comment: This proposed action is connected to United Nations Agenda 21.

Agenda 21 is a comprehensive plan of action to integrate knowledge of the environment and integrations for development in order to improve living standards for all peoples and to better protect and manage ecosystems that sustain all peoples to be taken globally, nationally, and locally by organization of the United Nations System (UN 2009). There is no intended link between Agenda 21 and this proposed action. This proposed action was not designed in any way to meet the objectives of Agenda 21.