

Center for Biological Diversity • Sierra Club • Natural Resources Defense Council

December 19, 2013

The Honorable Dan Ashe  
Director  
US Fish and Wildlife Service  
1849 C Street, NW  
Washington, DC 20240

Dear Director Ashe,

We write to you today to express our continued concern regarding the status of grizzly bears in the Greater Yellowstone Ecosystem (GYE), and the pending removal of the grizzly bear from the list of species protected under the Endangered Species Act (ESA) by the U.S. Fish and Wildlife Service despite considerable uncertainty about the status and trend of this population. Comments from then-Secretary of Interior Salazar in 2012 promising to delist the grizzly bear in 2014,<sup>1</sup> comments made by you last month at the Yale Institute for Biospheric Studies Symposium on Carnivores, and the statements of Service staff at the most recent Yellowstone Ecosystem Subcommittee meeting all indicate that grizzly delisting in 2014 has become a foregone conclusion, regardless of what the best available science may say.

We are deeply concerned that the Service's current estimate for the GYE grizzly bear population size and trend is not reliable. The Service recently adjusted its population estimate for grizzly bears in the GYE from 593 bears in 2011 to 741 in 2013. Rather than representing actual population growth, this increase in the population estimated was primarily due to changes in the population model used by the Service. This questionable "increase" occurred during a time that the Service and the Interagency Grizzly Bear Study Team (IGBST) both acknowledge that the GYE grizzly bear population was stabilizing rather than growing, and during a time where at least 127 grizzly bears died within the GYE.<sup>2</sup> Given that several of the grizzly bears' most important food sources, including whitebark pine nuts and cutthroat trout,<sup>3</sup> have declined substantially in the GYE, the Service's narrow focus on population size instead of growing threats to this population is troubling and at odds with mandate of the ESA.

Two scientific papers published during the last year support these concerns. Research published by Doak and Cutler (2013) and Higgs et al. (2013) documents potential deficiencies in the models currently used by the Service to estimate size and trend of the grizzly bear population in the GYE.<sup>4</sup>

---

<sup>1</sup> Letter to Governor Mead from Secretary of Interior Salazar, July 9, 2012 ("A timeline has been established to complete this synthesis within 18 months and then to develop and publish a new proposed rule by early 2014.")

<sup>2</sup> Interagency Grizzly Bear Study Team. *2011 Annual Report* at 23 (44 mortalities); *2012 Annual Report* at 24 (55 mortalities). There were 28 mortalities in 2013 according to information presented at the Yellowstone Ecosystem Subcommittee meeting. 2011 and 2012 reports available at: <http://nrmssc.usgs.gov/products/IGBST>

<sup>3</sup> The loss of whitebark pine is particularly alarming since this food is critical for female reproductive success and correlates strongly to overall body fat levels. As noted by Schwartz et al., the percent body fat of female grizzly bears in the GYE appears to have declined since approximately 2006, corresponding to the demise of whitebark. See Schwartz, C.C. et al. 2013. *Body and Diet Composition of Sympatric Black and Grizzly Bears in the Greater Yellowstone Ecosystem*, *Journal of Wildlife Mgmt.* doi: 10.1002/jwmg.633, at 1, 5, 6, 9 (Nov. 5, 2013).

<sup>4</sup> Doak, D.F. and K. Cutler. 2013. *Re-Evaluating Evidence for Past Population Trends and*

First, because monitoring efforts have increased substantially over recent years, there is a greater likelihood that grizzly bears will be detected. These increased detection rates can be incorrectly interpreted as an increase in the bear population itself. Second, the Service's models over-optimistically assume that the survival and reproductive output of female grizzly bears does not decline with age. If females are all assumed to be just as fertile at age 30 as at age 10, this too will lead to inflated estimates of population size. Although the IGBST has dismissed these concerns, they have yet to issue a public response that can be evaluated. And the type of analyses that independent scientists have been able to perform in order to verify the Service's findings have been limited by the availability of data.

If the results of the studies by Doak and Cutler (2013) and Higgs et al. (2013) are correct, then it is possible that the grizzly population is actually decreasing. And if that is true, delisting the GYE grizzly bears in 2014 would be unwise. To fully resolve this substantial scientific disagreement in an open and transparent manner, we are requesting that you now release to the public all of the raw data that the Service has collected regarding Yellowstone's grizzly bears since 1983 to allow independent scientists to evaluate the conservation status of this population. This will ensure that the best available science—not only the available science—is followed in deciding whether to either continue protecting the grizzly bear under the ESA or to delist it.

Science is a self-corrective process and works best when unaffiliated scientists can review, critique, and attempt to replicate other scientists' work. This is the heart of the scientific process and peer review; and lends credibility to policy decisions based on science.<sup>5</sup> The data set related to grizzly bears in the GYE is one of the richest in the world and could yield additional insights on many aspects of grizzly bear recovery in the GYE and elsewhere. But right now, only a small percentage of the total data have been released to the public, while the vast majority of those data are available only to scientists within the federal government. Monopolies on scientific data are ripe with opportunities for distortion and the propagation of errors; such monopolies do not serve the public interest. In order to resolve the critical question—whether grizzly bears are actually recovered in the GYE—we request that the raw data used to make this decision be disclosed to the public.

President Obama stated that his administration would “work together to ensure the public trust and establish a system of transparency, public participation, and collaboration.”<sup>6</sup> To that end, the White House issued an executive memorandum in 2013 to all federal agencies stating that to “the greatest extent and with the fewest constraints possible and consistent with law...the direct results of federally funded scientific research are made available to and useful for the public, industry, and the scientific community. Such results include peer-reviewed publications and digital data.”<sup>7</sup> The

---

*Predicted Dynamics of Yellowstone Grizzly Bears*, Conservation Letters ; Higgs, M.D., et al. 2013. *Insights Into the Latent Multinomial Model Through Mark-Resight Data on Female Grizzly Bears With Cubs-of-the-Year*, Journal of Agricultural, Biological, and Environmental Statistics, 18:556–577

<sup>5</sup> Indeed, the FWS has recognized the importance of transparency and independent review in the ESA context. For example, the proposed rule for revising lynx critical habitat states that the Service “will seek peer review.” 78 Fed. Reg. 59429, 59431. Specifically, FWS is actively “seeking comments from *independent specialists* to ensure that our critical habitat designation is based on *scientifically sound data, assumptions, and analyses*. *Id.* (emphasis added). Such review was “invited [so that] these peer reviewers [can] comment on our *specific assumptions and conclusions*.” *Id.* (emphasis added).

<sup>6</sup> *Transparency and Open Government: Memorandum for the Heads of Executive Departments and Agencies*, 74 Fed. Reg. 4685 (Jan. 21, 2009).

<sup>7</sup> White House Office of Science and Technology Policy. 2013. *Memorandum for the Heads of Executive Departments and Agencies: Increasing Access to the Results of Federally Funded Scientific Research* (Feb. 22, 2013).

Yellowstone grizzly bear data have been collected nearly exclusively under the authority of the federal government and funded by taxpayers. Release of these data will promote efficiency and effectiveness in government. Simply put, release of these data is consistent with the principles of good-governance, transparency, and good science.

Finally, we note that releasing these data is consistent with the ESA's goal of protecting threatened and endangered species by basing all decisions on the best available science. It is entirely appropriate for the Service not to disclose data regarding listed species and their habitat when such information could put those species at greater risks of poaching and habitat destruction. In the event that the Service concludes that some of the most recent data are still too sensitive for release and would endanger particular bears, those data could be redacted.<sup>8</sup> However, because it is extremely improbable that disclosure of data predating 2012 would increase the current risks to Yellowstone's grizzly bears, the need to keep a small amount of information confidential should not preclude the release of the remainder of those data.

We appreciate your consideration of this request and hope to continue this dialogue with you in the near future. Given the importance of resolving this scientific dispute to the future of grizzly bears in the GYE, we ask that you respond to this letter within fifteen days as to whether the Service will release the requested data to the public.

Sincerely,

Noah Greenwald  
Endangered Species Program Director  
Center for Biological Diversity

Sylvia M. Fallon, Ph.D.  
Wildlife Conservation Project Director  
Natural Resources Defense Council

Bonnie Rice  
Senior Representative  
Greater Yellowstone Ecoregion  
Sierra Club

Cc: The Honorable Suzette Kimball  
Director  
U.S. Geological Survey  
12201 Sunrise Valley Drive  
Reston, VA 20192

---

<sup>8</sup> We request that the Service provide a description of and an explanation for any data that are ultimately redacted.