

DRAFT

Governor Matthew Mead
State Capitol
Cheyenne, WY 82002

Dear Governor Mead,

Thank you for your letter of May 24 concerning the delisting of the Yellowstone grizzly bear population. The population is currently relisted after having been delisted in 2007 and then returned to listed status after a Federal District Court ruling in 2009 that overturned this delisting. The Fish and Wildlife Service (Service) appealed this federal District Court ruling to the Ninth Circuit and in the fall of 2011 the Ninth Circuit reversed part of the District court ruling and sustained part of this ruling. The issue that the Ninth Circuit sustained was the ruling that the Service had failed to convince the court that the decline in whitebark pine in the Yellowstone ecosystem was not a threat to the grizzly bear.

Immediately upon the ruling of the Ninth Circuit, the Service convened all the agency partners in the Interagency Grizzly Bear Study Team in the Yellowstone ecosystem, including members of the Wyoming Game and Fish Department, to decide as a group how to proceed. We also brought in numerous outside experts in bear biology and statistics to give careful consideration on how we could provide a better explanation to the courts on the issue of why declines in whitebark do not pose a threat to grizzly bears. All agencies agreed that the Yellowstone grizzly population was recovered and that declines in whitebark do not threaten the future of this grizzly population. The task, however, is to convince the judicial system of this fact. This is particularly challenging when we have a Federal judges who do not defer to the expertise of the agency on biological matters.

There was universal agreement among all State and Federal agencies that we needed to again propose delisting the Yellowstone population with another Federal rulemaking. We discussed the best way to improve the probability of success when this new proposal delisting the population was again challenged in court. After several meetings and input from all partner agencies we arrived at an approach that we believe has the highest probability of success of getting through the court system. This approach is to build a strong scientific synthesis of all the information we have on the relationship between whitebark pine and grizzly bears in the Yellowstone ecosystem and to use this synthesis as a foundation for a new delisting document. A timeline has been established to complete this synthesis within 18 months and then to develop and publish the new proposed rule delisting the population by early 2014. All agencies are now working cooperatively on this synthesis document, which is being lead by USGS. We believe this approach has the highest probability of success in the federal court system, although nothing can guarantee success in the court system.

In summary, we agree that the Yellowstone grizzly bear population is recovered and should be delisted. We are working with our agency partners to again propose delisting and to do this in a carefully designed manner that maximizes the probability of success in the federal court system. We believe that given the tendency of the Federal courts to not defer to agency expertise, a prudent approach is to move forward carefully after building a strong foundation of science on which to again delist this population.

We recognize that the state of Wyoming is a key partner in the recovery and management of the Yellowstone grizzly population. We also recognize that the state of Wyoming has invested significant amounts of expertise and funds in this recovery effort. We deeply appreciate the contributions of Wyoming to the recovery of the Yellowstone grizzly population and the state's commitment to the future welfare of the Yellowstone grizzlies. We look forward to the delisting of this population as a validation of our successful State/Federal partnership and as one of the greatest success stories of the Endangered Species Act.

Sincerely,