



WYOMING GAME AND FISH DEPARTMENT

5400 Bishop Blvd. Cheyenne, WY 82006

Phone: (307) 777-4600 Fax: (307) 777-4699

wgfd.wyo.gov

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BRIAN R. NESVIK

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TESTIMONY OF BRIAN R. NESVIK
DIRECTOR
WYOMING GAME AND FISH DEPARTMENT

BEFORE THE HOUSE NATURAL RESOURCES SUBCOMMITTEE ON WATER,
OCEANS, AND WILDLIFE

“Tribal Heritage and Grizzly Bear Protection Act (H.R. 2532)”

Good afternoon Chairman Huffman, Ranking Member Bishop, and members of the Committee. I am Brian Nesvik, Director of the Wyoming Game and Fish Department. I appreciate the opportunity to be here today to provide some perspectives on the Tribal Heritage and Grizzly Bear Protection Act (H.R. 2532). The testimony provided herein is based on my experience and knowledge of the Greater Yellowstone Ecosystem (GYE) population of grizzly bears. I have extensive experience working in the field in areas occupied by grizzly bears as well as experience capturing and handling grizzly bears. I have nine years of experience working on policy related to grizzly bear management and have served on and chaired the Yellowstone Ecosystem Subcommittee (YES) of the Interagency Grizzly Bear Committee (IGBC).

While, if passed, this particular piece of draft legislation would be relevant to all populations in the lower 48 states, and this testimony is focused on the GYE population, many of the impacts on grizzly bear management described may be relevant in other populations. In the lower 48 states, there are five identified populations of grizzly bear: The Greater Yellowstone, the Northern Continental Divide, the Bitterroot, the Northern Cascade and the Selkirk/Cabinet-Yaak (*see Fig. 1*). Most of the specific scientific information I will talk about today are related to recovery, management, and the current population status of the GYE population only.

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Figure 1-Map depicting locations of grizzly bear populations in the lower 48 states

Source-Interagency Grizzly Bear Committee website

The successful recovery of the GYE grizzly bear population is one of the most significant conservation success stories in the history of wildlife conservation. This particular population is one of the most studied in the world. Wyoming is proud to have paid for and taken a leadership role in grizzly bear recovery and management for the past 40 years. Wyoming people (primarily sportsmen or those who have purchased hunting or fishing licenses) have invested tens of millions of dollars to recover this population from their low point in the early 1970s when there were as few as 136 bears in the GYE. Wyoming people have changed the way they work, live and recreate in grizzly bear country to help with their recovery. Now, the most conservative estimates show there are over 700 grizzly bears in the GYE.

While the majority of GYE grizzly bears and suitable habitat are in Wyoming, there are also significant portions of this population in Montana and Idaho. These states have also demonstrated strong commitment by contributing significantly to the recovery of this population.

State Wildlife Management Agencies are best to manage wildlife that are not federally protected under the Endangered Species Act (ESA or Act). In the case of the GYE, the states of Wyoming, Montana and Idaho played a lead role in the GYE population recovery. From a data collection, public education, conflict management, law enforcement and research perspective, the states have conducted the majority of the work even under federal protection.

Current Status of the GYE Population

The Greater Yellowstone Area (GYA) grizzly bear population is fully recovered as measured by all federally developed recovery criteria. It has exceeded recovery criteria since at least 2003. Those recovery criteria are:

- At least 500 individual grizzly bears to ensure genetic diversity
- Reproducing females across the entire ecosystem (at least 16 of 18 bear management units occupied by reproducing females)
- Mortality limits below established limits by age and gender class and at least 600 individual grizzly bears in the demographic monitoring area (DMA) (see below for more DMA details)

Based on all scientific information, biological data collected, and the analysis of the Interagency Grizzly Bear Study Team, this population has reached biological carrying capacity within the area identified as suitable habitat (*see* Fig. 2). The DMA was identified as a large enough tract of contiguous habitat to maintain GYE grizzly bears in perpetuity. However, because the core of the population has nearly achieved density dependence, grizzly bear distribution has extended far beyond suitable habitats.

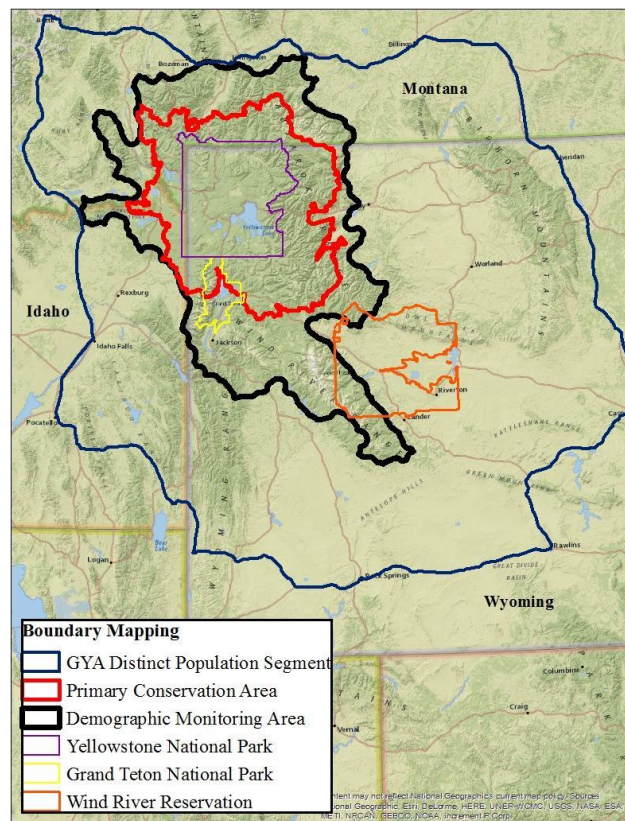


Figure 2-Map depicting the major legal, political and biological boundaries for the GYE

Grizzly Bear Expansion and Human Conflict

This expansion in range into unsuitable habitats has created significant challenges for all states involved because of the ever-increasing rise in human/bear conflicts (*see* Figs. 3, 4, 5). Dangerous encounters with humans, destruction of private property (mostly livestock), and bear occupancy in human dominated landscapes are all the reality of an expanding population. The areas of expansion are primarily rural and agricultural communities. People working, living and recreating in these areas were assured grizzly bears would not be allowed to establish residency by the state and federal entities involved in recovery. The fact that bears have expanded to these areas is again a success and testament to the overwhelming recovery of the population. However, occupancy in these human-dominated areas, far from biologically suitable habitats, is not a realistic scenario from a human or bear perspective.

When evaluating verified grizzly bear conflicts in Wyoming, we have documented a widespread increase in conflicts associated with the increased distribution of grizzly bears. The conflict potential has been exacerbated as bears have expanded beyond habitats suitable for their long term viability. From 1990-1999, we averaged 79 conflicts annually. From 2000-2009, that number jumped to 150 annual verified conflicts, and from 2010-2018 we averaged approximately 221 verified grizzly bear conflicts (*see* Figs. 6, 7). The number of conflicts resulting in human injury, death of a bear and human fatality has also grown with the recovery and expansion of the population. Last year, 32 grizzly bears were removed from the population to address conflict situations, and many grizzly bears were killed in self-defense.

Last year, one person was killed by an adult female and yearling cub in a rare unprovoked and surprise attack. Since 2010, there have been seven human fatalities in the GYE caused by grizzly bear attacks. From the mid-1980s to 2010, there were none. These unfortunate events are the result of more bears in new places.

Of equal importance, the public and private sector of people who live, work and recreate in grizzly bear occupied habitats have overwhelmingly changed their lifestyles and made sacrifices to reduce conflict potential. At a time when the bear population has increased, conflicts have not increased proportionally because people have changed behaviors. Without human behavior changes that mitigated conflicts, there would have been a much steeper increase in overall conflicts.

The Wyoming Game and Fish Department (Department) has created educational/outreach programs (e.g. Bear Wise Wyoming) to reduce conflict potential and incentivize actions to secure attractants and alter human behavior when recreating, living and working in grizzly bear country. We have documented a decrease in conflicts associated with property damage and bears acquiring anthropogenic foods. Unfortunately, we are witnessing increases in human injuries, site conflicts, and a wide scale shift toward livestock depredation as bears continue to expand outside of the core Recovery Zone and well beyond the DMA.

Recently there has been a great deal of attention to increased mortality of grizzly bears in the GYE. Very simply, increases in mortality are proportional to the increase in abundance and distribution of grizzly bears. The GYE population continues to remain below preapproved annual mortality thresholds for male, female, and dependent young grizzly bears throughout the GYE. The unfortunate reality of being beyond recovery is an increased potential for dangerous encounters between grizzly bears and humans, with negative outcomes for both species.

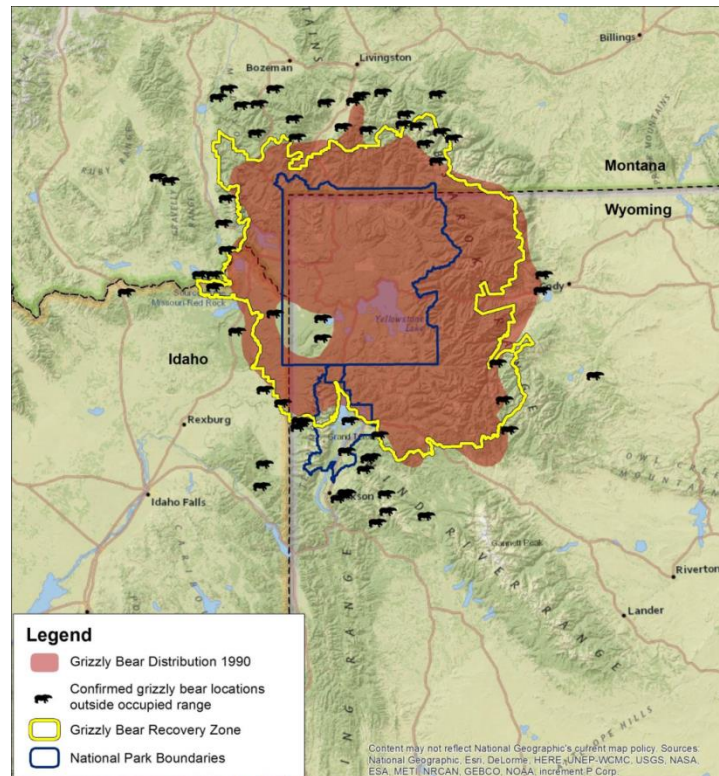


Figure 3-Map depicting grizzly bear occupancy in the GYE in 1990

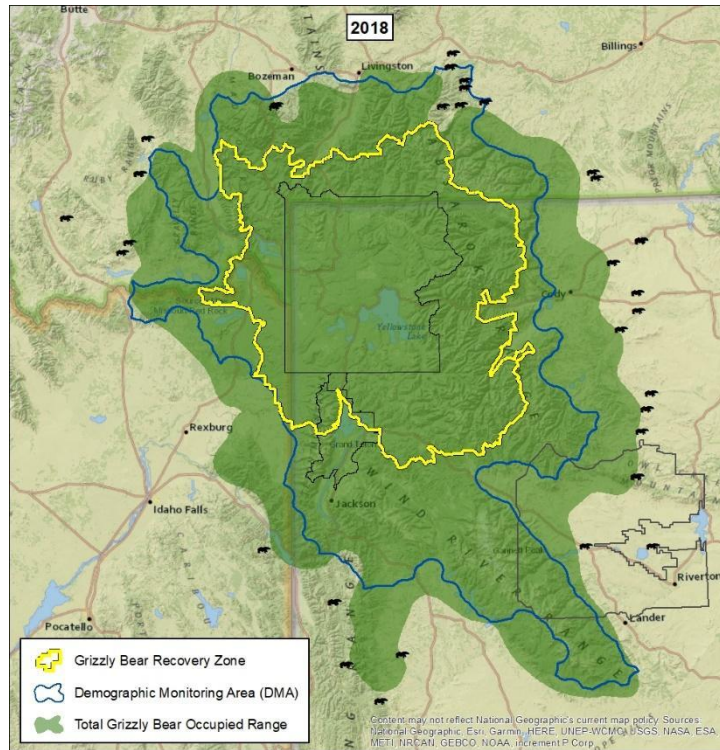


Figure 4- Map depicting grizzly bear occupancy in the GYE in 2018

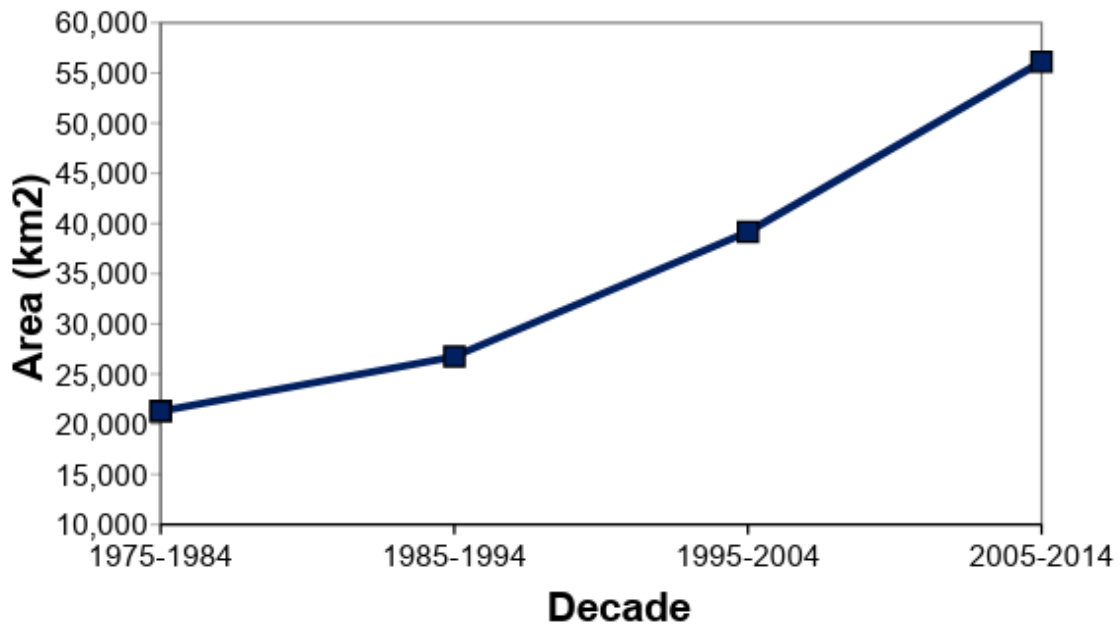


Figure 5-Rate of geographic expansion over time

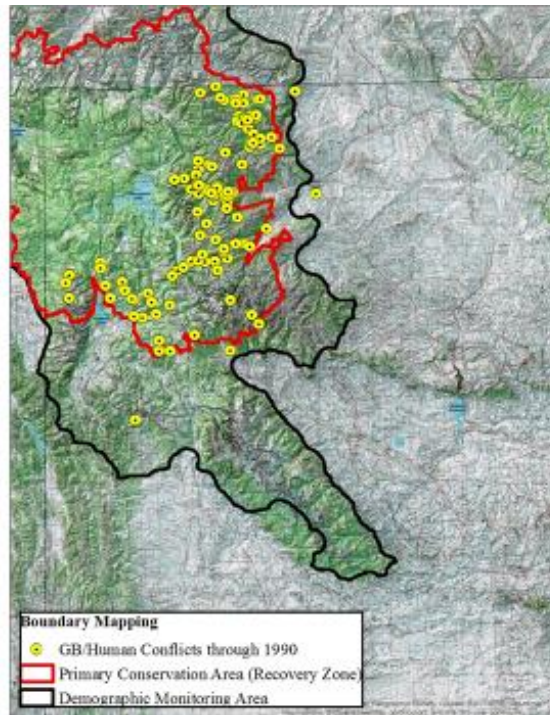


Figure 6-Map depicting grizzly bear/human conflicts through 1990

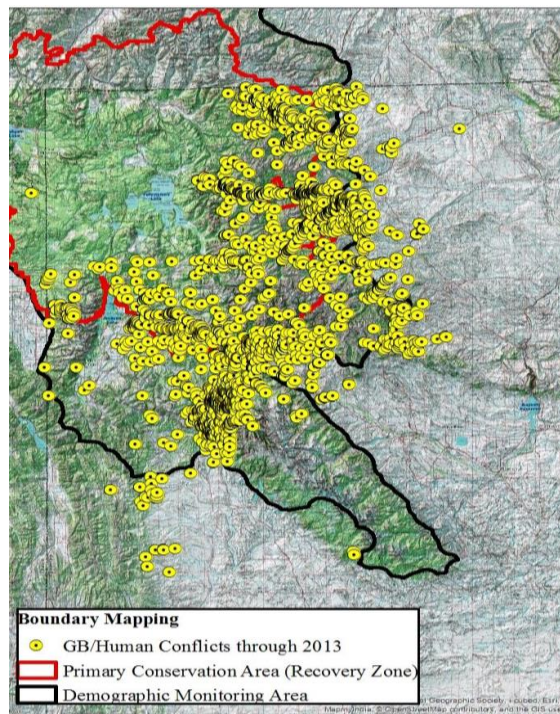


Figure 7- Map depicting grizzly bear/human conflicts through 2013

State Management Capacity and Capability

The states of Wyoming, Montana and Idaho are fully capable of assuming management of the GYE population and, in fact, have done so when the population was delisted twice. Speaking specifically for Wyoming, we have demonstrated our abilities to manage and conserve all wildlife populations throughout the State since the inception of the Department in the late 1800s. In regards to grizzly bears specifically, the State has been handling on the ground grizzly bear management activities throughout our jurisdiction under federal oversight for multiple decades and has also successfully managed grizzly bears under state authority twice when bears were delisted. Wyoming has only been denied its right to manage a fully recovered population consequential to litigation. Of note, in neither relisting court decision was the population ruled to be below measurable recovery. Additionally, courts found Wyoming to have adequate regulatory mechanisms in place to ensure continued viability of the population.

Wyoming has a Wyoming Game and Fish Commission (Commission) and USFWS-approved Grizzly Bear Management Plan. Additionally, a signed conservation strategy, updated in 2017, documenting commitments by all involved state and federal agencies for post-delisting management remains in place. The states of Wyoming, Montana and Idaho entered into a three-state memorandum of agreement to provide assurances regarding the post-delisting allocation of discretionary mortality. These commitments are all above and beyond requirements of the ESA. There are multiple statutes and Commission Regulations already in place that serve as regulatory mechanisms and demonstrate the commitment to maintain a recovered population within our areas of jurisdiction.

The Department currently manages other species of large carnivores including Black Bear, Gray Wolf and Mountain Lion. All three of these species are managed under a science based, comprehensive and adaptable management plan. All populations are thriving, healthy and viable under state management. The state is able to provide necessary management through the use of research, data collection, conflict management information and education and hunting. There are as many or more opportunities now than in the past to see or photograph these animals.

The Department's Large Carnivore Section was created in order to manage grizzly bears and other large carnivores in a science-based framework that takes public comment into account while also providing an immediate response to conflicts between carnivores and humans. The majority of work by this Section in collaboration with regional Department personnel is devoted to grizzly bear monitoring, outreach/education, and conflict management.

Financial Investments and Costs of Grizzly Bear Management

Since the GYE population was first listed under the ESA, the State of Wyoming has invested over \$50 million in recovering and managing this population. Since 1990, there has been more than

\$35 million expended on grizzly bear recovery in Wyoming outside Park Service lands and the Wind River Reservation. Currently, the Department spends approximately \$2 million per year despite the fact that the species is listed and the Federal Government provides approximately \$100,000 (*see* Fig. 8). In accordance with pre-discussed expansion of grizzly bears, there is a direct increase in Department involvement and funds expended. The strong majority of management costs are paid for from Commission funds (i.e. sportsmen/women’s contributions-currently approximately 6% of annual expenditures are from Federal grant money) (*see* Fig. 9). The money expended is a further demonstration of our commitment to grizzly bear conservation and management.

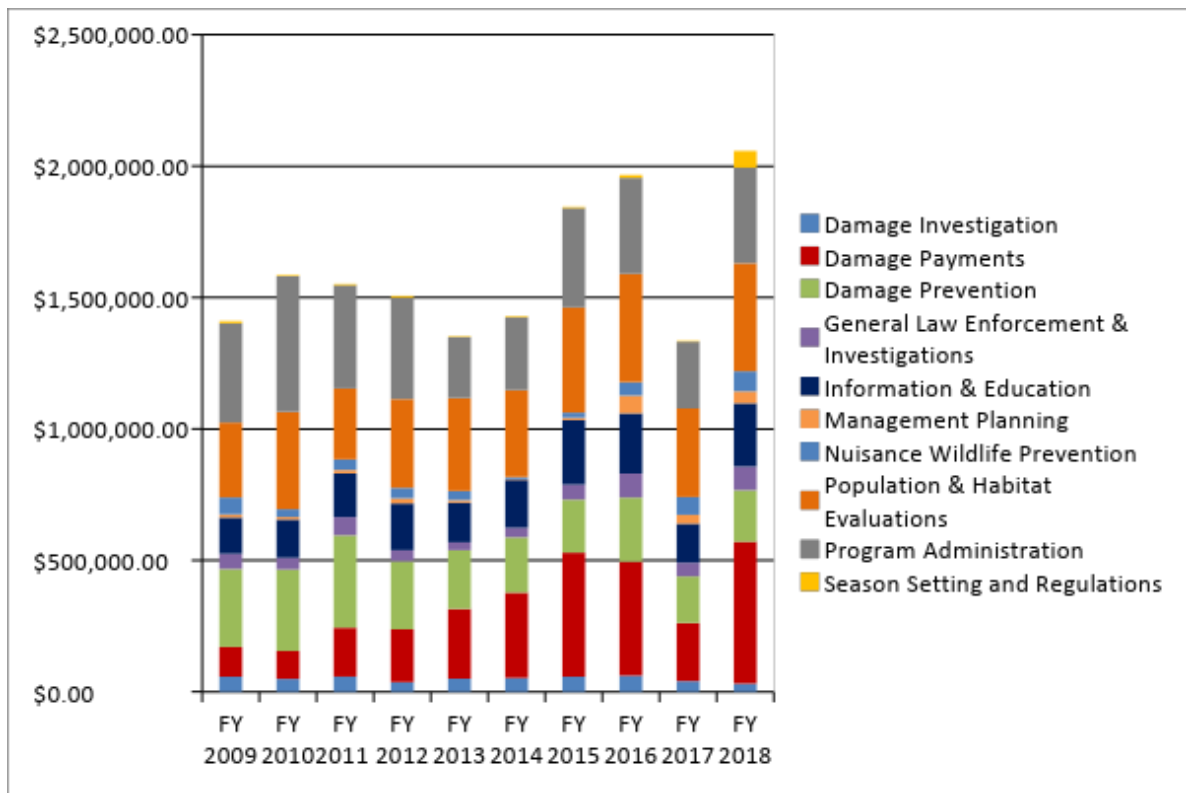


Figure 8-Costs by type associated with the GYE grizzly bear population by fiscal year



Figure 9-State versus federal funding for GYE grizzly bear management by fiscal year

The cost of grizzly bear management has the potential to continue to rise commensurate with the expansion and increase of the grizzly bear population. As more bears occupy more human occupied areas, the potential for conflict and the associated costs stand to rise at a faster pace because bears are more likely to come into conflict in these areas than they are in biologically suitable habitats. Since 2012, approximately 1/3 of all conflicts verified and dealt with by the Department occurred outside the biologically and socially suitable habitat within the DMA. While bears are tolerated outside the DMA, they are not necessarily promoted, and with management to maintain grizzly bears more specific to the DMA, costs incurred by the State and residents of Wyoming would reflectively decrease.

Effects of This Bill on Grizzly Bear Management

More important than direct monetary costs, keeping an animal such as the grizzly bear listed for sociopolitical reasons is disenfranchising to the public and to those that have dedicated so much of their lives and livelihoods toward recovery of the animal. We have noted a waning tolerance for grizzly bears, especially along the Absaroka Front in Park County of Northwest Wyoming. If tolerance and acceptance of this iconic animal decreases, support for maintaining grizzly bears throughout the GYE becomes more difficult. In the case of the GYE grizzly bear, the ESA is no longer serving its purpose to recover and delist the species and turn management over to the respective states. While the ESA is regarded widely as an effective and needed Federal Act, support is waning due to the Federal Government’s inability to provide a durable delisting rule for a fully recovered species that has been the benefactor of the Act. The prescribed protections of the ESA are ineffective and cumbersome when a population has moved beyond recovery.

The proposed bill essentially provides ESA protections in perpetuity regardless of the population and habitat status. This directly conflicts with the legislative intent of the ESA. Continued ESA protections, prohibitions against state management, federal oversight committees with no state involvement and requirements for obtaining permits for routine management would serve to create further divisions between the federal, state and tribal governments and councils. The notions put forth in this proposed bill disregard the stellar records of state wildlife management and message a lack of trust in management authority of anyone outside of the Federal Government.

This would not be limited only to state governments, but would extend to Tribal Nations as well. For example, the prohibition of regulated hunting outlined in this bill would directly conflict with language set forth in the Grizzly Bear Management Plan for the Wind River Reservation, which includes the Eastern Shoshone and Northern Arapaho tribes:

Once the grizzly bear population is of a sustainable size, the Tribes may allow hunter harvest if so desired. Currently, the grizzly bear is designated as a trophy game animal for which the season is closed. Given the limited number of grizzly bears on Wind River and within the GYA, the season may remain closed for a period of time. Because individual grizzly bears each require vast areas of secure habitat and because this habitat is relatively limited on Wind River, the population will remain small. Consequently, when hunter harvest is allowed, take will be very limited to help ensure future sustainability of the population.

Eastern Shoshone and Northern Arapaho Tribes and Shoshone and Arapaho Tribal Fish and Game Department, Grizzly Bear Management Plan for the Wind River Reservation, at 9 (2009).

The language in the proposed bill would disallow the use of hunting as a management tool in perpetuity (Tribal Heritage and Grizzly Bear Protection Act, H.R. 2532, 116th Cong. § 5(e) (2019)), which is overreaching state and tribal management authorities in a delisted grizzly bear population (see earlier example). This proposed bill creates further constraints regarding issuance of “take permits” that would potentially disallow timely reaction of trained professionals to resolve potential conflict situations (*Id.* at § 5). This would result in decreased support of grizzly bear management and could put public safety in jeopardy. The language in the proposed bill establishes multiple committees and would create unnecessary oversight (*Id.* at § 4). Section 4 discounts the proven efficacy of the IGBC and the YES. Currently all of these committees require the inclusion of involved Tribes. The proposed bill and constraints therein would potentially negate multiple documents and agreements that have withstood layers of approval processes and extensive deliberations over many, many years. Examples in the GYE include the 2016 Greater Yellowstone Ecosystem Grizzly Bear Conservation Strategy, the GYE Recovery Plan, multiple State and Tribal Management plans and other important documents and agreements. There currently exists authority and willingness by states to relocate grizzly bears to Tribal Lands for reintroduction upon request.

State Wildlife Agencies are proud of their successes with recovering listed species and restoring declining species to sustainable populations so the provisions of the ESA are not necessary. The proposed bill would place undue burden on state and federal agencies that have acted, successfully, to recover grizzly bears in the GYE. Additional federal requirements and limits dis-incentivize proactive state contributions and recovery efforts. In the case of the GYE grizzly bear, it was these types of state led efforts that ensured recovery of the species. Successful implementation of the ESA is dependent upon the transfer of wildlife management authority to State Wildlife Agencies upon recovery of species. This proposed bill would not further this goal and, in fact, would detract from it. It is unnecessary and not of benefit to people or grizzly bears.

Thank you for the opportunity to provide this testimony and to share some perspective regarding grizzly bear conservation in Wyoming.