



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
5353 Yellowstone Road, Suite 308A
Cheyenne, Wyoming 82009

In Reply Refer To:
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February 15, 2007

Memorandum

To: Robert Bennett, State Director, Bureau of Land Management, State Office, Cheyenne, Wyoming

From: Brian T. Kelly, Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming /s/ Brian T. Kelly

Subject: Correspondence for the clarification of the U.S. Fish and Wildlife Service Biological Opinion issued September 1, 2006 for the Wyoming Bureau of Land Management's Resource Management Plans and their effects to the Grizzly Bear

The purpose of this correspondence is to clarify points made in the U.S. Fish and Wildlife Service's (Service) "Biological Opinion for the Wyoming Bureau of Land Management's Resource Management Plans and their effects to the Grizzly Bear (*Ursus arctos horribilis*) in Wyoming". That Biological Opinion (BO) will be herein referred to as the "Programmatic Grizzly Bear BO". The Programmatic Grizzly Bear BO was a Land Use Plan level document designed to address effects at the plan level, as well as streamline future site-specific consultations. For an initial point of clarification, it is still necessary for the Wyoming Bureau of Land Management (Bureau) to engage in further consultation with the Service to adequately address effects at the site-specific level. Future site-specific consultations could take the form of individual grazing permit consultations, batched consultations, or tiered consultations. This correspondence is provided in accordance with section 7(a)(2) of the Endangered Species Act of 1973 (Act), as amended (50 CFR §402).

Consultation History

The Service and the Bureau began informal consultation on impacts of Bureau activities to the grizzly bear on October 23, 2001. From October 2001 through August 2005, Service personnel met informally with Bureau personnel to assist in the completion of the Programmatic Grizzly Bear Biological Assessment (BA). The Service reviewed a draft of the BA received in November 2004 and provided comments on that draft in December 2004. The Service received the Bureau's Final Programmatic Grizzly Bear BA and request for consultation on August 26,

2005. We provided a draft BO to the Bureau on February 6, 2006. On July 14, 2006, the Service received the Bureau's comments on that draft BO. The Service then proceeded to finalize the BO and on September 1, 2006, issued the Programmatic Grizzly Bear BO.

Following the Service's September 1, 2006, finalization and issuance of the Programmatic Grizzly Bear BO, the Service, in collaboration with Bureau personnel, then began precursory discussions for the completion of site-specific consultations on the Bureau's grazing allotment permit renewals as called for in the Programmatic Grizzly Bear BO. At that time, the Service determined that some aspects of the Programmatic Grizzly Bear BO should be further clarified to remove any ambiguity present in that document. This correspondence is intended to clarify some of the statements made in the September 1, 2006, Programmatic Grizzly Bear BO.

Points of Clarification for the Programmatic Grizzly Bear BO

- 1) Page 12 of the Programmatic Grizzly Bear BO states:

“Some grizzly bears may be killed in defense of human life or property usually because the bears have become dangerously bold as a result of food conditioning and habituation at campsites, resorts, and private residences or they become habituated predators of livestock. Some grizzly bears may be killed as a result of management removals. Bears are removed to defend human life or property”

Point of clarification regarding the above text. When preparing the Programmatic Grizzly Bear BO, the Service recognized and intended for the term “property” to include “livestock”. In the State of Wyoming, livestock are property. Thus, take associated with the Programmatic Grizzly Bear BO is intended to include management removals or other “take” associated with livestock depredation by grizzly bears.

- 2) Page 17 of the Programmatic Grizzly Bear BO states:

“It is anticipated that grazing actions potentially authorized under the Cody, Lander, Pinedale, and Grass Creek [Resource Management Plans] RMPs, if undertaken, could result in negative impacts to grizzly bears due to harm, death from control actions, or a reduction in fitness (individual fitness and reproductive fitness) of individual grizzly bears.

Point of clarification regarding the above text. When preparing the Programmatic Grizzly Bear BO, the Service intended “control actions” as mentioned in the preceding text to include “control actions” associated with grizzly bear depredation events on livestock.

- 3) On page 19 in the “Amount or Extent of Take” Section of the Incidental Take Statement for the Programmatic Grizzly Bear BO, the Service states that:

“The incidental take is expected to be in the form of harm or harassment.”

but further states that;

“...the Service conservatively estimates that some level of take, both lethal and non-lethal, may occur due to specific actions implemented”

Point of clarification regarding the above text. The Service has recognized that the first statement above, (“the incidental take is expected to be in the form of harm harassment”) is incomplete. To be more thoroughly expressive of the Service’s meaning as well as to be consistent with the Programmatic Grizzly Bear BO and the remainder of the Incidental Take Statement, the Service herein clarifies that the first statement above should have more appropriately read “the incidental take is expected to be in the form of harm, harassment, or death.”

- 4) Also, from page 19 in the “Amount or Extent of Take” Section of the Incidental Take Statement for the Programmatic Grizzly Bear BO, the Service states that:

“The Service believes that the take, resulting from this plan, is tied to habitat modification of grizzly bears that will result in harm or death to grizzly bears.”

Point of clarification regarding the above text. Webster’s Third New International Dictionary (1971) defines habitat as “the place where a plant or animal species naturally lives and grows”. In the above text, the Service intends for “habitat modification” to include the placement of livestock in grizzly bear habitat, thus modifying that habitat (the place where grizzly bears live and grow) and making it more likely that conflicts (depredations) could result between grizzly bears and livestock. Other forms of habitat modification could include vegetation treatments to enhance livestock forage.