

>>> SWAN VIEW COALITION >>>

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Chris Servheen  
USFWS Grizzly Bear Recovery Coordinator  
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Missoula, MT 59812

Re: Comments on Draft Habitat-Based Recovery Criteria for Yellowstone Ecosystem

Dear Mr. Servheen;

Please accept into the formal record and consider the following comments on the Federal Register Notice regarding the Draft Habitat-Based Recovery Criteria (hereafter HBRC) for the Yellowstone Ecosystem. These comments are submitted on behalf of Swan View Coalition, Friends of the Wild Swan and Montana Ecosystems Defense Council.

***Ecosystems and Sub-Populations***

Firstly, let us make clear that, while we agree that habitat-based recovery criteria may "vary in each ecosystem due to differences in foods, vegetation, habitat, and human activities," we disagree whole-heartedly with attempts to rely on such criteria to justify delisting the grizzly bear one ecosystem and sub-population at a time. The remaining grizzly bear population in the lower 48 states was listed as a single population and, accordingly, no attempt should be made to delist a single fragment of that population. True recovery of the grizzly bear cannot be claimed until, at a minimum, adequate sub-populations of bears are established in each of the ecosystems identified in the Recovery Plan and once again reconnected by occupied habitat (not simply "movement linkages") to again function as a single, viable population. As will be made clear in these comments, FWS must develop range-wide HBRC, with allowances for differences between geographic ecosystems, rather than piecemeal the HBRC one ecosystem at a time.

***Reliance on Current Habitat Status and Recovery Zone***

The HBRC rely upon an arbitrarily drawn Recovery Zone and, in most cases, the assumption that current habitat status is sufficient for recovery. The HBRC do not generally require improvements either within or outside the Recovery Zone, nor is the necessary expansion of the Recovery Zone to adequate size and connection to other ecosystems and sub-populations required. In this regard, the HBRC fail to protect the habitat necessary to accomplish the recovery described above.

### ***Assumption of a Recovered Population***

The reliance on the existing Recovery Zone and current habitat status as sufficient is based upon the assumption that the Yellowstone sub-population is already recovered. Rather than determine how much habitat of how much quality and in what configuration is necessary to sustain a recovered population in perpetuity, FWS has instead essentially declared the Yellowstone sub-population recovered and declared that, because it is recovered, the current Recovery Zone and habitat status is obviously sufficient. Well, this certainly is a back-asswards way of defining HBRC and the conclusions to be drawn from such a biased process are neither obvious nor supportable.

FWS was faulted by the court for basing its recovery criteria almost solely on population estimates based in turn on the sightings of females with cubs (FWC) and hence ordered the FWS to develop HBRC. To now base the HBRC on the assumption that a population estimated by the sightings of FWC is a recovered population puts the HBRC on the same, inadequate foundation as the population estimates themselves. Moreover, the Maximum Likelihood Estimator (MLE) method of estimating population size still relies upon sightings of FWC, is wrought with many of the same biases inherent in the reliance upon sightings of FWC acknowledged by FWS in its recent Finding on the Five Issues from the Grizzly Bear Recovery Plan Remanded by the Court for Further Consideration, and is yet to be peer-reviewed.

By essentially basing the development of its HBRC on the premise that the Yellowstone Population is recovered, FWS has instead simply created another level of FWC-based and population-based recovery criteria.

### ***Habitat Goals and Specific HBRC***

#### **Thresholds set at Current Levels**

As discussed above, the habitat goals and HBRC are largely based upon the assumption that current habitat status within the existing Recovery Zone is sufficient for recovery. This is inadequate for the reasons given above.

While the monitoring and management of Open Motorized Access Route Density, Total Motorized Access Route Density and Secure Habitat is a worthy and essential endeavor, it is rather meaningless when the thresholds are set largely at current levels. Where improvement is required, there exists no clear indication of "how much," only a reference to the Targhee Forest Plan Revision. Nowhere has FWS adequately assessed and disclosed the effects of habitat fragmentation at various scales, including the project, landscape and programmatic levels.

### **The 1% Reduction**

Even more confusing, and even after reading FWS' response to the "talking points" of Louisa Wilcox, is how 1% reductions in secure habitat values will be allowed in subunits for the purposes of "habitat management." Are we talking 1% reductions in secure habitat or habitat effectiveness? Does "habitat management" include road building and logging, or what?

### **Motorized Route Densities v. Habitat Effectiveness**

Similarly, the HBRC do not make clear the relationship between motorized road and trail densities, percent secure area and habitat effectiveness calculated using a cumulative effects model. If motorized access and secure area parameters will be calculated, monitored and limited by thresholds, but habitat effectiveness will not be limited by thresholds, what is the value of calculating and monitoring habitat effectiveness? What habitat effectiveness values coincide with all the motorized access parameters listed in the tables on pages 17-23? Are those motorized access values acceptable in terms of habitat effectiveness? What is an acceptable habitat effectiveness value? Is it or is it not appropriate to establish a habitat effectiveness value threshold, and why?

In numerous places, the HBRC state that "the agencies will maintain or improve the HE [habitat effectiveness] values in secure habitat in each subunit. Again, at what habitat effectiveness value is habitat considered secure and, is it more productive to increase habitat effectiveness in already secure habitat, or to increase it in habitat that is not yet secured? Where do the HBRC require an increase in habitat effectiveness in non-secure habitat?

### **What About Snowmobiling?**

No adequate HBRC are set for controlling snowmobile use, which increasingly targets the same high-elevation habitats used by bears for denning and increasingly starts prior to denning and continues well past den emergence. As Mace and Waller (1997) conclude in their Final Report, "Possibly the greatest potential threat to security for denning grizzly bears in our area was off-trail, high-elevation snowmobiling. . . Although den abandonment, a severe form of disturbance was not noted, physiological stress as described by Reynolds et al. (1986) could not be discounted." Snowmobilers in Mace and Waller's study area and likely elsewhere have taken to illegally cutting and clearing trails of vegetation right down to the dirt to facilitate access to the high country when snow at the lower elevations is minimal, yet nowhere are these impacts being acknowledged or regulated by FWS or the land management agencies.

## ***The Yellowstone Access Management Rule Set***

### **Count All Open Motorized Routes**

The rule set must count all routes open to motorized use, not just those receiving motorized use, in order to reflect actual management plans and minimize guesswork and discretion on the part of the management agency as to which routes get counted. If the agency does not want to count a route as motorized, it must be legally closed to motorized use and adequately enforced as such.

### **Security Areas Inadequate**

Security areas in the NCDE must be a minimum of 2500 acres (e.g. Flathead Forest Plan Amendment 19). Where on earth does the proposed Yellowstone requirement of only 10 acres come from? This would allow for incredibly fragmented "secure" habitat to be tallied up as secure area when in fact it is neither contiguous nor truly secure. Similarly, the use of 500 meters from a motorized access route to define secure habitat is highly suspect as a figment of research methodologies, rather than a true and accurate measure of at what distance habitat truly functions as secure for grizzly bear.

### **Protect Denning**

As noted above, the rule set contains no criteria for limiting motorized use during the denning season and inadequate criteria for limiting or prohibiting snowmobiling or other ORV use on both shoulders of the denning season.

### **Security Area Rules Confusing and Meaningless**

As noted above, the rules for security areas, the activities allowed in them and the 1% reduction in secure area is confusing to the point of being meaningless.

### **Excessive Administrative Use of Restricted Roads**

The allowance of "an average of one vehicle trip per day" on restricted roads is excessive and not supported by the literature. Alliance for the Wild Rockies makes this point most eloquently in its appeal of the Clay-Beaver Timber Sale on the Kootenai National Forest and, rather than rephrase it, we quote directly as follows:

The FWS has pointed out the mathematical unsoundness of translating the Mace et al. (1996) data into an increase in administrative use, concluding that: "Using Mace et al. to support a standard of 1 vehicle trip per day is not defensible, and would not withstand the most cursory peer review." (Memo from Bob Hallock (FWS) titled "Draft Responses to 11/15/98 Interim Access Management Rule Set" dated 11/30/98 at 3).

Indeed, in a review of "Rationale and Choices Made in the Review and Development of an Access Direction Proposal for the NCDE Grizzly Bear Ecosystem," Ake, et al., 1998, Dr. Lee Metzgar, noted grizzly bear scientist, discusses the new administrative use criteria relative to the research from which they were derived:

... SFGBS [South Fork Grizzly Bear Study] females appear to avoid all roads of all traffic levels in all habitats and in all seasons. The illusion of female grizzly attraction to low use road areas in spring can be maintained only by ignoring the clear weight of evidence from the SFGBS. Had multivariate analyses been possible for the fourth-order data presented in FR97 [Mace, Waller Final Report, 1997] Table 7.1.5, we should expect to find road avoidance expressed even here.

With further regard to Class 1 roads, it is not appropriate to conclude that roads with marginally less than one vehicle per day will be comparable to SFGBS Class 1 roads. Within the SFGBS area, the median level of vehicular use on Class 1 roads must have been close to zero because on most days, these roads received no use (R. Mace, pers. comm. and data provided). It is not appropriate to argue that traffic on the order of one vehicle per day is in any sense "acceptable" based on data from a category with far less vehicle use.

In a letter to Bob Hallock, Richard Mace verified that Class 1 roads were closed and that Dr. Metzgar was correct in assuming that "the median level of daily traffic on a closed road would approach zero (when averaged over a season)." Thus the assumption that 1 trip per day on a closed road is an acceptable level of traffic is not supported by the research findings. The research findings on which it is based were misapplied and it will likely result in excessive use of restricted roads and disturbance to bears.

Allowing administrative or other use on the order of an average one trip per day on restricted roads is an unwarranted concession to the land management agencies and simply is not supported by the literature. Nor will it conserve and recover the grizzly bear.

### **Obliteration is the Only Effective Means of Road Closure**

To add insult to injury, the HBRC rely upon a wholly unrealistic expectation that the land management agencies will somehow insure the effectiveness of road closures: "Road closures are expected to be effective. That means that any gates or barriers to preclude motorized use are not breached, destroyed, or driven around. Agencies are expected to use all available means to assure effective road closures."

The agencies have yet to demonstrate that they can insure and enforce effective road

closures short of road obliteration. We are not alone in doubting the effectiveness of gates and are joined by others, including the agencies, who fault as well permanent closure methods that stop short of obliteration.

Electronic monitoring of 11 closures, conducted by the Forest Service on the Sullivan Lake Ranger District, found that 53% of the closures had entries in excess of the standard of 2 or less entries per week. The standard was exceeded by 444%. Eighty five percent of these entries were unauthorized (Bertram 1992).

Hammer (1986) found that 38% of the Forest Service road closure devices inspected in the Swan Valley were being passed by conventional passenger vehicles without resorting to the use of tools or winches. None of the closure devices appeared capable of physically restricting use by legally prohibited "trail vehicles" and 92% of the closures lacked a sign indicating that "trail vehicles" were legally prohibited behind the closure.

Platt (1993) found that 55% of the closures surveyed on the Kootenai National Forest did not restrict motor vehicle use of the road behind the closure. Twenty one percent did not effectively restrict conventional motor vehicles, another 25% did not restrict off-road-vehicle use, and another 8% showed evidence of recent motor vehicle use, apparently by key, behind locked gates.

A Fish and Wildlife Service survey of road closures in Bear Management Units in the Selkirk and Cabinet-Yaak Ecosystems showed that between 40% and 100% of the closures, per BMU, were passable by all-terrain-vehicles. Charles Lobdell concluded:

Current accessibility (lack of physical obstruction) for motorized vehicles around existing gated or bermed restriction points, combined with a limited enforcement effort, suggest that most of the designated "restricted roads" in the BMUs, as defined in the new IGBC access task force report, function in reality as open "motorized trails" and should therefore be subject to appropriate disturbance buffers and deduction from current security totals.

(Lobdell 1994, commenting on the 1994 IGBC access task force report).

Access management standards that respect the essential value of unroaded habitat to the survival of grizzly bears and include substantial road obliteration, such as the current "19/19/68 rule" in the NCDE, are more in line with the express goal of the Forest Service to reduce the number of roads in its system and, in turn, reduce the financial and environmental liability associated with those roads. The proposed Yellowstone HBRC, in largely condoning current levels of roading in the ecosystem, rely inappropriately on gates and barriers rather than on the obliteration of roads as the only truly effective means of road closure.

In both the Yellowstone and NCDE, the agencies are backpedaling away from road obliteration, as is the Interagency Grizzly Bear Committee. In its underhanded 1998

rewrite of its 1994 IGBC Taskforce Report, the IGBC has redefined the effective physical obstruction of roads from one that favors or requires road obliteration to one that is defined as "generally gated."

The Yellowstone HBRC, the 1998 IGBC Taskforce Report and the NCDE Technical Committee's proposed Rule Set will in no way provide for the needs and recovery of the grizzly bear, will work counter to the need to simplify and reduce the need for forest road management, and are totally unrealistic in their increased demand on nonexistent budget and monitoring resources rather than a marked reduction in the number of roads through obliteration.

### *Summary*

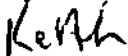
In our June 17, 1997, statement presented at the HBRC "workshop" in Bozeman, we stressed that roadless wildlands were identified in the original Recovery Plan as "our best benchmarks, indicative of healthy communities of plants and animals" and that they be utilized as the most straightforward HBRC and indicator of ecological integrity. Nowhere do the HBRC utilize this most simple and effective measurement of ecosystem health. This in spite of the fact that FWS has clearly acknowledged elsewhere the importance of roadless areas to native fish and aquatic ecosystems.

By working backwards from the assumption that the Yellowstone population is recovered and then attempting to justify setting HBRC at largely current habitat status levels for an already arbitrarily established Recovery Zone, FWS has stood the process for establishing HBRC on its head. Nowhere does the HBRC answer the essential question of how much habitat is needed, in what quality and configuration, to sustain grizzly bears in the lower 48 states in perpetuity, with adequate genetic variability, and preferably as a single, connected population.

Rather than present the public with essentially another layer of females with cubs- and population-based habitat criteria for Yellowstone, FWS should firstly be answering the above questions for the lower 48 population of grizzly bears and then fine-tuning the HBRC for individual geographic ecosystems.

We wish to thank FWS for this opportunity to comment.

Sincerely,



Keith J. Hammer  
Chair - SVC

FOR

Arlene Montgomery  
Program Director - FOWS

FOR

Steve Kelly  
Co-Chair - MEDC

***Literature Cited***

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