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November 25, 2025

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VIA electronic and first-class mail (letter and exhibits)

RE: Supplemental Comments on U.S. Fish and Wildlife Service Proposed Rule, Grizzly Bear Listing on the List of Endangered and Threatened Wildlife With a Revised Section 4(d) Rule, Docket No. FWS-R6-ES-2024-0186

Dear Director Nesvik and Dr. Cooley:

We submit these comments on behalf of Center for Biological Diversity, Park County Environmental Council, Sierra Club, and Wyoming Wildlife Advocates (collectively, "Commenters") on the U.S. Fish and Wildlife Service's Proposed Rule, Grizzly Bear Listing on the List of Endangered and Threatened Wildlife With a Revised Section 4(d) Rule, 90 Fed. Reg. 4234 (Jan. 15, 2025). These comments supplement comments on the proposed rule that Center for Biological Diversity and Sierra Club submitted during the public comment period, which ended May 16, 2025. The comments below provide additional information, including circumstances post-dating the public comment period, that is fundamental to the reasonableness and lawfulness of the Service's final rule. Because the Service stated that it "will consider all comments we receive during the comment period *as well as any information that may become available after this proposal*," 90 Fed. Reg. at 4235, the Commenters respectfully request that the Service consider these supplemental comments.

As discussed below, the Service in making its final decision on the proposed rule must consider (in addition to the issues previously raised): back-to-back years of record-high grizzly bear mortality numbers in the Northern Rockies; cumulative

threats to grizzly bears and their habitat from recent federal actions and proposed actions, including workforce reductions, Forest Service rule changes and project approvals, and proposed legislation; anti-science attitudes of state elected officials; and the likely population-level harm from potential hunting of grizzly bears in the Northern Rockies.

I. NEW GRIZZLY BEAR MORTALITY DATA ACROSS THE NORTHERN ROCKIES EVIDENCE ONGOING THREATS.

Grizzly bear mortality data from across the Northern Rockies region demonstrate increasing mortality in 2025. These data provide yet more evidence that grizzly bears face mounting threats throughout the region even under FWS's current management framework. Of course, should the Service's 4(d) rule further loosen restrictions on grizzly bear killing, mortalities are likely to rise further.

Grizzly bear mortalities in the Greater Yellowstone Ecosystem (GYE) are on course to surpass last year's record high of seventy-seven. Angus M. Thuermer Jr. & Mike Koshmrl, *Yellowstone Ecosystem Grizzlies Dying at Record Pace in 2025*, WyoFile (Sept. 30, 2025) (submitted as Ex. 1). As of September 22, 2025, federal wildlife biologists had already recorded sixty-three grizzly bear mortalities in the GYE this year, Gould et al. (2025) (published data) (submitted as Ex. 2), seven more than the fifty-six mortalities reported in the GYE through the same date last year. Ex. 1, Thuermer & Koshmrl. 2024 GYE mortalities had surpassed the previous record of seventy mortalities recorded in both 2018 and 2021. *Id.* In sum, grizzly bear mortalities in the GYE are on course to surpass record highs for the second straight year, reflecting a broader upward trend in which reported grizzly bear mortalities have matched or set record highs in four of the past eight years.

Montana Fish, Wildlife & Parks (FWP) has documented thirty-one grizzly bear mortalities through November 17, 2025, Mont. FWP, *Montana Grizzly Bear Mortalities* (submitted as Ex. 3), up from twenty-nine reported mortalities in Montana throughout all of 2024, Mont. FWP, *Historic Data Mortalities - 2024*, Montana Grizzly Bear Mortalities (submitted as Ex. 4). And while neither Wyoming nor Idaho publish grizzly bear mortality data, the Service's decisionmaking process for its final 4(d) rule must nevertheless consider, analyze, and disclose such data—including analyzing mortality trends in each of Montana, Wyoming, and Idaho, as well as in each grizzly bear recovery zone.

Further, the Service must consider the causes of high grizzly bear mortality. The most recent data demonstrate that in the Greater Yellowstone Ecosystem the highest cause of grizzly bear mortality is management removals in response to livestock depredations. *See* U.S. Geological Surv., Interagency Grizzly Bear Study Team, *Yellowstone Grizzly Bear Investigations 2023: Annual Report of the*

Interagency Grizzly Bear Study Team 23 (2024) (submitted as Ex. 5).[1] While such management removals have been a consistently high cause of mortality, the U.S. Department of Agriculture is launching plans that could further increase such mortalities. The Department's "Plan to Fortify the American Beef Industry" includes increased grazing on public lands and "endangered species reforms." U.S. Dep't of Agric., *USDA Plan to Fortify the American Beef Industry* 2 (submitted as Ex. 6).

This dynamic is exacerbated by the decline of whitebark pine cone production, berries, and other food sources, which is accelerated by climate change. Recent science reiterates the long-understood dynamic that the loss of these food sources forces grizzly bears to rely more heavily on ungulates and ungulate carcasses, which brings them to areas where grizzly bears will more frequently encounter humans and livestock. U.S. Fish & Wildlife Serv., *Species Status Assessment for the Grizzly Bear (*Ursus arctos horribilis*) in the Lower-48 States* 203(Oct. 28, 2024) [hereinafter *Species Status Assessment*]; *see also* Katherine A. Kurth et al., *A Systematic Review of the Effects of Climate Variability and Change on Black and Brown Bear Ecology and Interactions with Humans,* Biological Conservation 291 (2024) (submitted as Ex. 7); David J. Mattson, The Grizzly Bear Recovery Project, *The Grizzly Bear Promised Land: Past, Present & Future of Grizzly Bears in the Bitterroot, Clearwater, Salmon & Selway Country*, Report GBRP-2021-1 (2021) (submitted as Ex. 8).

The Service must also consider the likelihood that the agency's final 4(d) rule will contribute to and accelerate grizzly bear mortality trends and must determine the impacts that current and future mortality trends will have on grizzly bear populations throughout Montana, Wyoming, and Idaho, as well as in each grizzly bear recovery zone.

II. GRIZZLY BEARS FACE CONTINUED THREATS FROM INADEQUATE FEDERAL REGULATORY MECHANISMS.

Even while the proposed rule contemplates diminished protections for grizzly bears, recent federal actions are placing recovery and survival of grizzly bears at high risk, demonstrating the need for ongoing and enhanced grizzly bear conservation measures under the ESA. Prior comments addressed some of these federal and state actions, including: a then-inchoate proposal to modify the ESA regulation defining "harm;" expedited procedures to increase logging and mining; waiving ESA consultation for mining and drilling; and state adoption of hostile legislation and rules applicable to grizzly bears post-delisting. Since those comments, more information is available about the ESA "harm" definition rulemaking, and the Service also recently proposed additional ESA regulatory

[1] The Study Team's 2024 Annual Report has not yet been released to the public, but it should be considered as part of the agency's decisionmaking on the proposed rule.

changes that could further slow or reverse progress toward grizzly recovery. Additionally, the Administration has now: significantly reduced the federal workforce, including by cutting federal employees essential to grizzly bear conservation; proposed to repeal the Roadless Area Conservation Rule; and advanced forest planning initiatives and specific projects that will harm grizzly bears. And finally, Congress has introduced legislation, the "Fix Our Forests Act," that, if it becomes law, could expedite logging projects that may impair grizzly bear habitat.

As Dr. Servheen shared, "[Politicians] either need to keep grizzlies listed under the ESA forever while they push for the destruction of grizzly habitat, cut agency budgets and personnel and the destroy the laws that allowed us to recover them; *or* secure grizzly habitat, assure management agency funding and maintain our strong environmental laws before they try to delist them. They can have one or the other, but not both." Todd Wilkinson, *Broken Promises Could Derail Greater Yellowstone Grizzly Delisting*, Yellowstonian (Oct. 3, 2025) (quoting Chris Servheen) (submitted as Ex. 9).

A. ESA Rule Changes Highlight Need for Strong 4(d) Rule.

1. The Service's Proposal to Rescind the ESA "Harm" Definition Signals an Intent to Allow Greater Habitat Destruction.

Efforts to eliminate the ESA's "harm" definition highlight the need for a strong rule to protect grizzly bears under section 4(d) of the ESA. As noted in Center for Biological Diversity and Sierra Club's May 16, 2025, comments, the Service's proposed rule entitled "Rescinding the Definition of 'Harm' Under the Endangered Species Act," 90 Fed. Reg. 16102 (Apr. 17, 2025), would undermine the Service's habitat-based recovery criteria for grizzly bears. Recent reporting suggests that the Service's proposed rule to rescind the ESA's "harm" definition may be finalized in the coming months. *See* Michael Doyle, *ESA Rule Changes Ready to Launch With Another White House OK*, E&E News (Nov. 7, 2025) (submitted as Ex. 10). Although the ESA itself prohibits taking caused by habitat destruction, the Service's proposed rule signals a larger unlawful attempt to undermine protections from habitat destruction.

Such an attempt to unlawfully change management practices under the ESA underscores the pressing need for the Service to proactively take steps to protect grizzly bear habitat. The Service currently defines "harm" as "an act which actually kills or injures wildlife," which includes "significant habitat modification or destruction where it actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering." 50 C.F.R. § 17.3. The Service recognizes that "[t]he most crucial element in grizzly bear

recovery is an adequate amount of habitat that is diverse, provides a wide range of foods, and is isolated from development and human activities, where human-bear interactions, which often result in higher bear mortalities are minimal." *Species Status Assessment* 80. Any 4(d) rule for grizzly bears must address the importance of protecting grizzly bear habitat, particularly in light of the Service's proposal to rescind the definition of "harm".

The Service's proposed 4(d) rule fails to adequately protect grizzly bear habitat. The proposed rule would improperly remove protections for grizzly bears in regions with excellent habitat, *see* Grizzly Bear Listing on the List of Endangered and Threatened Wildlife with a Revised Section 4(d) Rule, 90 Fed. Reg. 4234, 4244–45 (Jan. 15, 2025), erroneously disregard changes in food resources as a threat to grizzly bears, *id.* at 4262; and fail to guarantee natural connectivity of grizzly bear habitat as needed for genetic health and long-term resilience. As the Service works to finalize its 4(d) rule, therefore, it must consider the compounding risks from other regulatory efforts and adequately address habitat fragmentation, modification, and destruction.

2. The Service's Proposed Regulatory Changes to ESA Section 7 Consultation Would Harm Grizzly Bears.

The Service's proposed changes to regulations governing ESA section 7 consultation further demonstrate the need for a strong 4(d) rule to protect grizzly bears. *See* Proposed Rule for Endangered and Threatened Species: Interagency Cooperation, 90 Fed. Reg. 52600 (Nov. 21, 2025) ("Proposed Section 7 Regulations").

Among other changes, the Proposed Section 7 Regulations may encourage agencies to limit consideration of a proposed action's impacts on ESA-protected species by narrowing the definition of "effects of the action." *See id.* at 52606–07. The proposed regulations introduce a new standard allowing the Service to consider only those impacts it deems "reasonably certain to occur." *Id.* To compound this change, the Service proposes a new list of factors agencies may attempt to use to obscure the future in order to dismiss impacts as not "reasonably certain to occur." *See id.* Finally, the Service's proposal introduces narrow principles of proximate causation that could encourage agencies to more frequently omit consideration of impacts incorrectly deemed outside of agency control or too far removed from the proposed action. *See id.*

These proposed regulatory changes increase threats to grizzly bears. For example, in contravention of the caselaw, the new regulations may encourage the Forest Service to revive arguments that impacts from forest plans are speculative because no "existing" projects implement the plan and there are "remaining economic, administrative, and legal requirements necessary for [project] activity to go forward." *See id.* at 52607 (enumerating factors for determining whether impacts

are "reasonably certain to occur"). In other words, this approach may encourage the Forest Service to obscure and ignore impacts on grizzly bears from programmatic changes to road management.

Similarly, the proposed changes may weaken grizzly bear habitat protections by encouraging the Forest Service to build significant discretion into forest-management plans. For example, replacing stringent road-reclamation requirements with discretionary road-closure measures could increase impacts on grizzly bears from motorized trespass on purportedly closed roads. But rather than grappling with resulting impacts on grizzly bears, the Forest Service might instead attempt to argue that such impacts are not "reasonably certain to occur" because "greater remaining discretion [in implementing road closures] suggests greater uncertainty" that impacts will occur. *Id.* at 52604.

Finally, the proposed regulatory changes may incentivize the Forest Service to dismiss consideration of certain impacts on grizzly bears based on mistaken assertions that a proposed action is not the proximate cause of the impact in question. *See id.* at 52604, 52606–07. For example, the Forest Service may revive attempts, previously rejected by courts, to dismiss consideration of impacts on grizzly bears from unauthorized motorized use and disclaim any responsibility to prevent such impacts.

These are just a few examples of the many ways in which the Proposed Section 7 Regulations threaten to degrade grizzly bear habitat. FWS's 4(d) decisionmaking process must grapple with, and account for, all the new threats grizzly bears will face should the Service ultimately adopt the changes it proposes to the ESA section 7 consultation regulations.

B. Federal Workforce Reductions Jeopardize Grizzly Bear Conservation.

Federal workers play critical roles in protecting endangered and threatened species, including grizzly bears. Unfortunately, while the Service is proposing to revise and weaken the 4(d) rule for grizzly bears, the federal government is also slashing agency budgets and firing key personnel.

Efforts to reduce the size of the federal workforce and limit funding to federal agencies are detrimental to the protection of threatened species, including grizzly bears. The reductions include staff who enforce protections under the ESA, such as scientists, researchers, and federal workers who review projects for consistency with recovery standards.

The federal workforce has dramatically reduced in size since January 2025. Between March 2024 and September 2025, public land agencies noted a twenty

percent reduction in workforce attributed to layoffs, buyouts, and hiring freezes. Mark Haggerty, *How the Government Shutdown Affects Public Lands Employees and Communities*, Ctr. for Am. Progress (Oct. 15, 2025) (submitted as Ex. 11). In February, approximately 2,700 employees resigned from the U.S. Department of the Interior (Department). Heather Richards, *Interior's 'Fork in the Road' Resignations: 2,700 People*, E&E News (Feb. 14, 2025) (submitted as Ex. 12). Although later required by a federal court to reinstate the employees, the Department terminated 1,712 staff for being within their probation periods, which includes staff who have worked in their current role for less than one or two years. Michael Doyle, *Federal Agencies Recount How Many Workers Got Cut*, Greenwire (Mar. 18, 2025) (submitted as Ex. 13); Decl. of Mark D. Green at 2–3, *Maryland v. U.S. Dep't of Ag.*, No. 25-cv-00748-JKB (D. Md. Mar. 17, 2025), ECF No. 52-1 (submitted as Ex. 14). Since January 2025, "the Forest Service has lost nearly 6,000 staffers through firings, resignations and retirements encouraged by the Trump administration." Hannah Natanson, *They Retired from the Government. Now They're Back, Protecting Forests Trump Abandoned*, The Washington Post (Nov. 20, 2025) (submitted as Ex. 15).

The 43-day federal government shutdown—the longest shutdown in the nation's history—only made these issues worse. More than half of the current workforce in public lands agencies were furloughed during the shutdown. Ex. 11, *How the Government Shutdown Affects Public Lands Employees and Communities*. Prior to a federal court granting a preliminary injunction, the Department intended to fire more staff who serve critical roles in protecting endangered and threatened species across the country during the shutdown. *See Am. Fed'n of State Cnty. & Mun. Emps. v. U.S. Off. of Mgmt. & Budget*, No. 25-CV-08302-SI, 2025 WL 3018250, at *27 (N.D. Cal. Oct. 28, 2025). According to the Department's Chief Human Capital Officer, the Department intended to terminate employment for at least one employee responsible for investigating wildlife crimes, fifty-seven staff in Regions 5, 7, and 9 of the National Park Service, three staff in the National Park Service's Environmental Quality Division, and eight employees in the Fish and Wildlife Service's Ecological Services Division. Supplemental Decl. of Crystal Taylor at App. A, 11–17, *Am. Fed'n of State Cnty. & Mun. Emps. v. U.S. Off. of Mgmt. & Budget*, No. 25-cv-08302-SI (N.D. Cal. Oct. 20, 2025), ECF No. 71 (submitted as Ex. 16). And Secretary Burgum has publicly stated that the government shutdown demonstrated that the Department "maybe [doesn't need] all of these resources. . . . [W]e don't need as many people." Heather Richards, *Burgum Says Shutdown Proves Government Can Work with Less*, E&E News (Oct. 24, 2025) (submitted as Ex. 17).

The Interagency Grizzly Bear Study Team within the U.S. Geological Survey conducts crucial research on grizzly bears. As Chris Serveheen, the former national grizzly bear recovery coordinator for the Service, reflected: "[t]here would be no grizzly bears in the Yellowstone ecosystem if it wasn't for the science collected by

the study team and implemented into management improvements by the grizzly bear recovery effort." *Id.* Servheen further noted that "[w]ithout the study team documenting the impacts on bears and informing responsive interagency management, Greater Yellowstone grizzlies will be at grave risk of sliding backward to again face the pit of minimal numbers and then imminent extinction." Todd Wilkinson, *Is the Death of the Legendary Grizzly Bear Study Team Near—And What Does It Symbolize?*, Yellowstonian (March 15, 2025) (submitted as Ex. 18). "The entire grizzly bear recovery effort in the Yellowstone Ecosystem is built on the scientific foundation of the Interagency Grizzly Bear Study Team. Without the Study Team we would not have recovered the Yellowstone grizzly bears." Ex. 9, *Broken Promises Could Derail Greater Yellowstone Grizzly Delisting*.

Despite the importance of the Interagency Study Team's research to help support grizzly bear conservation and recovery, under this administration, the Study Team's funding and staff have been in jeopardy. The administration has suggested that the Interagency Team's leader, who recently retired, will not be replaced. Ex. 18, *Is the Death of the Legendary Grizzly Bear Study Team Near—And What Does It Symbolize?* Efforts to dismantle the Interagency Team are so alarming that "42 retired or active biologists with over 1,351 years of collective experience managing Montana's natural resources" sent a letter to U.S. Senators Steve Daines, Tim Sheehy, Congressman Ryan Zinke, and Congressman Troy Downing urging them to protect the Northern Rocky Mountain Science Center from attacks by the Department of Government Efficiency. *42 Biologists with 1,350 Years of Experience Say DOGE Closure of Fed Science Center is Wrong*, Yellowstonian (March 15, 2025) (submitted as Ex. 19).

The reduction in the federal workforce, and associated loss of scientific expertise that has been crucial to the progress of grizzly bear recovery, reiterates the need to enhance, rather than weaken, grizzly bear protections. As the Service works to finalize a 4(d) rule, it must consider the compounding effects of loss of agency staff and resources when finalizing protections for grizzly bears.

C. The Forest Service is Actively Advancing Policies That Will Degrade Grizzly Bear Habitat.

1. Repealing the Roadless Rule Would Increase Threats in Important Grizzly Habitat.

Additional threats to grizzly bears were introduced by the proposed elimination of protections of roadless grizzly bear habitat in the national forest system. The Forest Service, on August 29, 2025, announced a proposed repeal of the Roadless Area Conservation Rule, which afforded significant protection of grizzly bear habitat against threats from road building and human presence. Roadless Area Conservation; Notice of Intent to Prepare an Environmental Impact Statement, 90

Fed Reg. 42179 (Aug. 29, 2025). The proposed rollback of the Roadless Rule jeopardizes nearly fifty-eight million acres of undeveloped national forests across the country, including crucial grizzly bear habitat across the Northern Rockies. The Rule's protections meant that both core and connecting grizzly bear habitat has remained intact for nearly twenty-five years because of protections that prevent roads from fragmenting them for logging, oil and gas drilling, and other industrial activities.

Eliminating these protections increases danger for grizzly bears by fragmenting habitat, increasing deadly encounters with people, shrinking secure denning areas, and making food sources harder to reach. For example, the Roadless Rule Final EIS noted that Forest Service Regions 1, 2, and 4 (covering Wyoming, Montana, and Idaho) have 2,029, 2,484, and 3,045 acres of inventoried roadless areas, respectively, with oil and gas development potential. U.S. Dep't of Agric., Forest Serv., *Forest Service Roadless Area Conservation Final Environmental Impact Statement: Volume 1* 3-255 (Nov. 2000), https://www.fs.usda.gov/sites/default/files/roadless/roadless-feis-volume1.pdf. Without roadless protections, those lands can be prioritized for resource development, to the detriment of grizzly bears.

While repeal of roadless area protections is not guaranteed, the Service must consider this added threat to grizzly bears in connection with any final 4(d) rule.

2. Changes to Forest Service NEPA Regulations Harm Grizzly Bears.

The administration has also increased threats to grizzly bears and their habitat through changes to the environmental review process under the National Environmental Policy Act (NEPA) that curtail public scrutiny. In July 2025, the U.S. Department of Agriculture adopted significant modifications to its NEPA regulations as an Interim Final Rule. *See* National Environmental Policy Act, Interim Final Rule, 90 Fed. Reg. 29632 (July 3, 2025). Among other things, the Department has abandoned its commitment to public review of projects when the agency determines the project will not have significant environmental impacts. Thus, projects on national forest lands that are subject to a categorical exclusion or environmental assessment will *not* receive public scrutiny that has played a crucial role in ensuring that agencies adequately consider the best-available information regarding grizzly bears and comply with important grizzly bear standards. *See id.* at 29649 (7 C.F.R. § 1b.3) (categorical exclusions); *id.* at 29659–61 (7 C.F.R. § 1b.5) (environmental assessments). And even when an agency prepares an environmental impact statement, public comment on a draft statement now appears optional, with public review limited to the "notice of intent" stage when not all project details are known and described. *Id.* at 29662–63 (7 C.F.R. § 1b.7(d)); *see also id.* at 29662 (7 C.F.R. § 1b.7(b)).

The Department touts its "wholesale revision and simplification" of its NEPA review processes as creating "significant upsides for the economy and for projects of all sorts," *id.* at 29635, presumably by making it easier for agencies to approve controversial projects. However, removing public comment opportunities will almost certainly increase the risk that important habitat will be overlooked and lost on national forest lands.

3. Repeal of the Forest Service Travel Management Rule Would Degrade Grizzly Bear Habitat.

U.S. Forest Service Chief Tom Schultz has promised further regulatory changes. Namely, he recently announced plans to initiate a rulemaking process to repeal the Travel Management Rule, 36 C.F.R. Part 212. Through this rule, national forest lands have been closed to motorized travel unless the agency determines, following analysis, that certain areas should be designated as open. 36 C.F.R. § 212.55 (criteria for designations). Repeal of the rule would reverse this default, exposing grizzlies to expanded areas of motorized use, which is known to increase grizzly bear mortality.

4. Other Forest Service Practices Are Increasing Threats in Grizzly Bear Habitat.

Other recent Forest Service practices have similarly increased risks to grizzly bears and their habitat on national forest lands. In particular, the agency has increased its use of conditions-based (or adaptive) management projects. This approach circumvents the environmental review framework by postponing site-specific analysis until the Forest Service implements the project, which effectively excludes the public from site-specific decisions, reduces transparency, and removes incentives for the agency to avoid harming resources. *See* U.S. Dep't of Agric., Forest Serv., *Condition-Based Management* (Jan. 2022) (submitted as Ex. 32). This has occurred, for example, with the South Plateau Project immediately outside West Yellowstone and on the northwest border of Yellowstone National Park, which as a result has fallen far short of compliance with grizzly bear Forest Plan standards.

Also, the State of Montana and the U.S. Forest Service entered into a shared stewardship agreement in June 2025, which is meant to "increase[s] the pace and scale" of logging projects across Montana. *See* A*greement for Shared Stewardship Between the State of Montana and the U.S. Department of Agriculture Forest Service* 1 (June 2025) (submitted as Ex. 20). The agreement requires implementation of a 200,000-acre project in Northwest Montana in 2026, and numerous other projects over the next five years, ultimately reducing habitat for grizzly bears. *Id.* at 3–4.

5. The Forest Service is Actively Advancing Projects That Will Degrade Grizzly Bear Habitat.

In the limited time since Center for Biological Diversity and Sierra Club submitted their comments on May 16, 2025, the Forest Service has already advanced several projects that would allow for mining and logging in important grizzly bear habitat. These projects reflect a pattern by the federal government to reduce protections and habitat connectivity for grizzly bears.

In the Custer Gallatin National Forest, the U.S. Forest Service is proposing a logging project to allow for timber harvest on 3,693 acres of federal lands in the Greater Yellowstone Ecosystem (GYE). U.S. Forest Serv., *Cooke City Fuels and Forest Health Project Comment Packet, Including Preliminary Effects* 7 (submitted as Ex. 21). "The project area is located outside of the Northeast entrance to Yellowstone National Park." *Id.* at 1. The project area contains Whitebark pine (*Pinus albicaulis*), which is a threatened species. U.S. Dep't of Agric. Forest Serv., *Draft Decision Notice and Finding of No Significant Impact for the Cooke City Fuels and Forest Health Project* 15–16 [hereinafter *Cooke City Draft Decision Notice and FONSI*] (submitted as Ex. 22). The project may result in the destruction of whitebark pine trees. *Id.* Whitebark pine seeds are an important food source for grizzly bears in the GYE. *See* Removing the Greater Yellowstone Ecosystem Population of Grizzly Bears from the Federal List of Endangered and Threatened Wildlife, 81 Fed. Reg. 13174, 13212 (Mar. 11, 2016). Furthermore, the project area will allow for the construction of some temporary roads, which could further disturb grizzly bear habitat. Ex. 22, *Cooke City Draft Decision Notice and FONSI* at 16. A decision on this project is expected this month, with project implementation estimated for September 2026. U.S. Dep't of Agric. Forest Serv., *Cooke City Fuels and Forest Health Project*, https://www.fs.usda.gov/r01/custergallatin/projects/57361 (last updated July 11, 2025).

In the Bitterroot Ecosystem, the Forest Service has proposed a logging project across 143,340 acres of the Bitterroot National Forest. U.S. Dep't of Agric. Forest Serv., *Bitterroot Front Project Draft Environmental Assessment* 2 (Aug. 2023) (submitted as Ex. 23). "The project area is contained within the Bitterroot Grizzly Bear Experimental Population Area and is adjacent to the Bitterroot Grizzly Bear Recovery Area. Grizzly bears may be present as transient individuals." *Id.* at 110. The project would allow for logging within roadless, old-growth forests. *Id.* at 53. Additionally, the project would allow for road construction, and the use of approximately "27 miles of temporary roads . . . to implement proposed timber harvest activities." *Id.* at 19. A decision on this project was expected in July 2025. U.S. Dep't of Agric. Forest Serv., *Bitterroot Front*, https://www.fs.usda.gov/r01/bitterroot/projects/57341 (last updated Mar. 12, 2025).

The Forest Service is also proposing to log 9,975 acres in the Lolo National Forest and Ninemile Demographic Connectivity Area. U.S. Dep't of Agric. Forest Serv., *Soldier Butler Project Supplemental Environmental Assessment* 1 (May 2025) (submitted as Ex. 24). "The project was originally scoped in 2016 and a Decision Notice[] [was] signed by the Lolo Forest Supervisor in 2020." U.S. Forest Serv., *Soldier Butler Supplemental EA Comment Period Cover Letter* 1 (May 7, 2025) (submitted as Ex. 25). In 2020, however, litigation commenced over the project. *Id.* The U.S. District Court for the District of Montana found that the project violated the ESA and National Forest Management Act and remanded the decision notice back to the agency to "reinitiate[e] consultation relative to impacts on grizzly bears for both the Lolo Forest Plan and the Project" *Id.* The Service's Supplemental Environmental Assessment fails to adequately assess the impacts of the project on grizzly bears. *See* Ex. 24, *Soldier Butler Project Supplemental Environmental Assessment*. The Service has not yet announced a timeline for its final decision for this project. *See* U.S. Dep't of Agric. Forest Serv., *Soldier-Butler Project*, https://www.fs.usda.gov/r01/lolo/projects/50777 (last updated May 16, 2025).

These projects are only a few examples that demonstrate federal agencies' broader intent to reduce both habitat connectivity and the amount of secure-core habitat for grizzly bears. As each of these project areas become further degraded, it is less likely that grizzly bears will occupy the habitat in the future. As discussed in detail in Center for Biological Diversity and Sierra Club's previous comments, rising road densities and increasing threats to food resources are two primary threats to grizzly bears. Grizzly bears require habitat connectivity, and yet these latest proposals from the Forest Service reflect exactly the opposite. As the Forest Service finalizes projects to degrade core grizzly bear habitat, it is of the utmost importance that the Service's final 4(d) rule directly address habitat degradation and fragmentation.

6. The Forest Service Continues to Unlawfully Weaken Grizzly Bear Habitat Protections by Revising or Amending National Forest Land-Management Plans.

The Forest Service continues to weaken federal grizzly bear habitat protections by eliminating or undermining prior limitations on road densities in grizzly bear habitat within national forests. This continued trend of eroding grizzly bear habitat protections threatens to degrade the few remaining areas providing for grizzly bear habitat, impeding or even reversing progress toward recovery.

Prior comments submitted by Center for Biological Diversity and Sierra Club detailed the Forest Service's recent removal of grizzly bear habitat protections in the Flathead, Bitterroot, and Helena-Lewis and Clark National Forests. Specifically, in each instance, the Forest Service eliminated or undermined prior limitations on open- and total-road densities in grizzly bear habitat and/or permitted degradation of secure, unroaded grizzly bear habitat. As CBD and Sierra

Club described, these Forest Service actions are incompatible with the best-available science demonstrating the importance of limiting open- and total-road densities in grizzly bear habitat and documenting grizzly bears' need for unroaded "secure habitat" in minimum patches thousands of acres in size.

Despite this earlier warning, the Forest Service continues to remove road-density limitations in grizzly bear habitat and introduce new provisions allowing the agency to carve secure habitat into increasingly miniscule patches. Most recently, the Forest Service followed this familiar playbook by weakening grizzly bear habitat protections when revising the land management plan for the Nez Perce-Clearwater National Forest.

First, the Nez Perce-Clearwater Plan eliminates prior restrictions on road-miles accessible to public motorized use, which the Fish and Wildlife Service admits could "lead to the unintended fragmentation of secure habitat in both large and small blocks that are … important for continued grizzly bear connectivity and movements." Dep't of the Interior, U.S. Fish & Wildlife Serv., *Biological Opinion for the Nez Perce-Clearwater National Forests Land and Resource Management Plan* 143 (Jan. 10, 2025) (submitted as Ex. 26). Second, the Plan allows the Forest Service to degrade "secure habitat" throughout vast areas of the Forest by permitting the Forest Service to count roadless areas as small as 10 acres in size—approximately .015 square miles—as "secure" grizzly bear habitat in contravention of best-available science. *Id.* at 121–22 (defining "secure habitat"). These changes thus allow the Forest Service to remove and undermine road-management requirements that previously protected grizzly bear habitat in the Nez Perce-Clearwater National Forest.

If the Service finalizes its proposed 4(d) rule change, it must account for the Forest Service's systematic weakening of grizzly bear habitat protections in forest plans throughout the Northern Rockies region. Based on current trends, grizzly bears face increasing threats to their habitat from the Forest Service's actions. Finalizing a 4(d) rule that further reduces restrictions on grizzly bear "take" would only add to the increasing threats grizzly bears face in this region and negatively impact grizzly conservation and recovery.

D. The "Fix Our Forests Act" Could Introduce Additional Harm to Grizzly Bear Habitat.

The Service also must consider the potential harm to grizzly bear habitat through the introduction and potential passage of the Fix Our Forests Act, H.R. 471, 119th Cong. (2025). The legislation would accelerate or exempt many logging projects from critical reviews under NEPA and the ESA, as well as tribal consultation under the National Historic Preservation Act. This means that projects harmful to grizzly bear survival and recovery in the Northern Rockies would receive less scrutiny, and measures to avoid or reduce harm to grizzly bears may be

bypassed. Like other pending threats to grizzly bears and their habitat, the Fix Our Forests Act may not ever become law. However, the Service must consider this significant threat to the species in taking any final action on the proposed 4(d) rule.

III. THE STATEMENTS AND BEHAVIOR OF STATE ELECTED OFFICIALS CONTRADICT SCIENCE-BASED IMPERATIVES FOR GRIZZLY BEAR RECOVERY, AS REFLECTED IN THE 2024 SPECIES STATUS ASSESSMENT.

The 2024 Species Status Assessment (SSA) for Grizzly Bears highlights the vulnerability of grizzly bear populations, the importance of connectivity, and the need to maintain sustainable mortality limits. *Species Status Assessment*. However, state elected officials in Wyoming, Montana, and Idaho have demonstrated their commitment to manage grizzly bears in contravention of these imperatives if grizzlies are delisted or federal protections are diminished.

A. The Species Status Assessment Supports Enhanced, Rather than Diminished, Protections for Grizzly Bears.

As the Service documented in its most recent Species Status Assessment for grizzly bears, authorizing hunting or other significant sources of mortality would likely undermine recovery efforts and threaten the long-term viability of grizzly bears in the lower-48 States. The Service cannot reconcile any weakened conservation measures with the following scientific findings:

- **Mortality:** Human-caused mortality is the leading threat to grizzly bears, including poaching, vehicle collisions, management removals, and conflicts with humans. *Species Status Assessment* 175. Historically, excessive human-caused mortality led to significant population declines. *Id.* at 227. Introducing hunting could exacerbate this issue and hinder recovery efforts, including mistaken-identity killings due to black bear hunting. *Id.* at 190. "The primary factors affecting grizzly bears at both the individual and ecosystem levels are excessive human-caused mortality and human activity that reduces the quality and quantity of habitats." *Id.* at 7.

- **Connectivity:** Connectivity between grizzly bear populations is critical for genetic diversity and demographic rescue. *Species Status Assessment* 183–84. States have not made concrete commitments to promote connectivity and state policies, such as aggressive wolf and black bear hunting and trapping, "could reduce the probability of natural connectivity between the GYE and NCDE populations." *Id.* at 190. "The most crucial element in grizzly bear recovery is an adequate amount of habitat that is diverse, provides a wide range of foods, and is isolated from development and human activities, where human-bear interactions, which often result in higher bear mortalities, are minimal," and "[i]n general, road access probably poses the most imminent

threat to grizzly bear habitat." *Id.* at 80, 51. Furthermore, "motorized access brings humans into grizzly bear habitats, and increased human presence may disturb, displace, or kill grizzly bears if human-interactions trigger activities that are associated with human-caused mortality, such as defense-of-life kills or management removals." *Id.* at 113.

- **Incidental Take**: "Recent legislation in Montana and Idaho that expanded hunting and trapping tools available for wolves and black bears may increase incidental take of grizzly bears." *Species Status Assessment* 165. "In addition, recent legislation in Montana and Idaho expanding hunting and trapping tools available for wolves and black bears could reduce the probability of natural connectivity between the GYE and NCDE populations." *Id.* at 190.

- **Climate Change and Habitat Loss**: Grizzly bears face threats from climate change and habitat loss, which impact food availability and denning habitat. *Species Status Assessment* 213. Hunting would add additional stress to populations already facing environmental challenges. Pertaining to habitat loss, "[h]abitat fragmentation can cause loss of connectivity and may be caused by human activities, such as habitat modification, road building, and human developments." *Id.* at 141. "[H]abitat fragmentation and isolation can increase vulnerability to threats, such as decreased demographic or genetic connectivity." *Id.*

- **Conservation Reliance**: Grizzly bears are a conservation-reliant species, "requir[ing] ongoing management and conservation efforts to remain recovered." *Species Status Assessment* 226. Increasing mortality through hunting could undermine these efforts.

Each of these scientific findings supports continued, and potentially enhanced, protections for grizzly bears under the ESA.

B. State Political Leaders Have Asserted their Intention to Manage Grizzly Bears, if They are Delisted, in a Manner that Contradicts the Species Status Assessment.

Political leaders in Idaho, Wyoming, and Montana, including all three governors, have made clear public statements that signal that delisting or a relaxed federal regulatory regime will undoubtedly lead to even higher numbers of grizzly mortalities under state management, in contravention of the conservation measures the Service deemed necessary in the SSA.

First, state governors reject the best-available science reflected in the SSA. Governor Brad Little of Idaho falsely projects that federal protections are "outdated" by saying, "[b]y not delisting grizzly bears in the lower 48, the [Service]

is rejecting the fact that grizzlies have reached and exceeded recovery criteria years ago." Idaho Office of the Governor, *Gov. Little comments on Biden administration's refusal to return grizzlies to state management* (Jan. 8, 2025), https://gov.idaho.gov/pressrelease/gov-little-comments-on-biden-administrations-refusal-to-return-grizzlies-to-state-management/. Similarly, Montana Governor Greg Gianforte also believes it is time for state management to take over after federal oversight has run its course and has supported legislation (SB 295) to regulate "take" of grizzly bears in "conflict scenarios", while claiming that the "grizzly bear has more than recovered." State of Montana Newsroom, *Governor Gianforte, Governor Gordon Celebrate Successful Grizzly Bear Translocations* (Aug. 2, 2024), https://news.mt.gov/Governors-Office/Governor_Gianforte_Governor_Gordon_Celebrate_Successful_Grizzly_Bear_Translocations. Additionally, Governor Mark Gordon of Wyoming claims "[t]he states have applied the best-available population models" and that there is "no biological or legal reason" to keep them listed. Wyoming Fish and Game Department, *Governor Gordon Submits Petition to Remove Greater-Yellowstone Grizzlies from the Endangered Species List* (Jan. 11, 2022), https://wgfd.wyo.gov/News/Governor-Gordon-Submits-Petition-To-Remove-Greater.

Yet, best-available science paints a different picture. Despite a growing population of grizzly bears in recent years, the record-high human-caused mortality rates along with a promise of increased human-caused mortality under state management—including lethal removals, hunting, and discretionary aggressive conflict "take" under state-run systems—all come at a high cost. It could come at a cost to not just grizzlies, but taxpayers, too.

Contrary to politicians, scientists such as Dr. Christopher Servheen are concerned that the fate of animals are being taken "out of the hands of biologists." BioGraphic, *Grizzly Growing Pains* (July 18, 2025) (submitted as Ex. 27). This comes with a stark warning of what it might look like if states are in charge. Servheen explains, "We spent about $30 million and 45 years recovering grizzly bears to where they are. If they are delisted, it would turn around and they would again be on the verge of extinction." M. Brown, AP, *US will keep protecting more than 2,000 Rocky Mountain grizzly bears* (Jan. 8, 2025), https://apnews.com/article/grizzly-bear-protections-rocky-mountains-86eeeb24a408d008313d115a9ce75a3b. If grizzly bears were to be delisted, and then relisted, it would take more time, resources and money to get them back to where they are today.

Wildlife professionals, biologists and scientists, collectively with over a thousand years of experience, warn against delisting and state-management of grizzly bears. And while "grizzly numbers are doing well in the Yellowstone and NCDE, there are significant gaps in the regulation of grizzly mortality and habitat management, especially in the areas between the ecosystems. The long-term future

for grizzlies will be based on their ability to successfully move between all the ecosystems in the Northern Rockies so that they have genetic, demographic and climate change resiliency. [Politicians] want[] to Congressionally delist them by ecosystem, and [they] thus ignore[] the importance of landscape connectivity to long-term grizzly survival." Flathead Beacon, *Zinke and Fielder are Wrong on Grizzlies and Wolverines* (Aug. 23, 2025), https://flatheadbeacon.com/2025/08/23/zinke-and-fielder-are-wrong-on-grizzlies-and-wolverines/ (submitted as Ex. 28).

Furthermore, as discussed in Center for Biological Diversity and Sierra Club's previous comments, the controlling desire to have state-management policies that can override "take" or have discretionary mortality limits around "conflict bears" will help create loopholes for human-grizzly conflicts, livestock-grizzly conflicts, and indiscriminate trapping/snaring laws. If left to the states' devices, conflict management will increase total grizzly bear mortality.

In short, state elected officials have not committed to regulatory mechanisms to conserve grizzly bears in the event that federal protections are weakened or eliminated. And on the contrary, state policies appear designed to further diminish protections even while the best-available science, including many of the Service's findings in the Species Status Assessment, demands enhanced conservation to ensure grizzly bears' survival and recovery. We cannot jeopardize decades of conservation progress with management policies that will lead to even higher mortality rates for grizzly bears.

IV. HUNTING WOULD UNDERMINE CONSERVATION AND RECOVERY.

The Service cannot legitimately justify a sport hunt as "necessary" for grizzly bear conservation, as the ESA requires before any hunt could be authorized. 16 U.S.C. § 1533(d). As noted in prior comments on the Service's proposed 4(d) rule: (1) sport hunting is not permitted under the ESA absent population pressures, which are not present throughout any part of the grizzly bear's range in the Northern Rockies; (2) sport hunting of grizzly bears in connectivity areas would undermine grizzly bear recovery by reducing the possibility of natural movements of bears between the recovery areas that are necessary for the species' demographic and genetic health and resiliency; and (3) the best-available science shows that hunting could cause population-level impacts on grizzly bears. The comments below expand on the best-available science.

Grizzly bears' slow reproductive rate makes populations especially vulnerable to significant impacts from hunting. Grizzly bears have one of the slowest reproductive rates among terrestrial mammals, with late age of first reproduction, small litter sizes, and long inter-birth intervals. *Species Status Assessment* 44. It may take a female grizzly bear 10 to 15 years to replace herself in a population,

making them highly sensitive to increased mortality. *Id.* at 32. Specifically, "[g]rizzly bears have one of the slowest reproductive rates among terrestrial mammals," and "it may take a female grizzly bear 10 or more years to replace herself." *Id.* at 44; Proposed Rule, 90 Fed. Reg. at 4239 (citations omitted). Thus, bears lost to hunting are not readily replaced through reproduction. Cardillo et al., *Multiple Causes of High Extinction Risk in Large Mammal Species*, Science vol. 309 1240 (Aug. 19, 2005) (submitted as Ex. 29) ("[S]pecies with low population densities or slow life histories, which tend to be of larger size, are the most vulnerable to population declines caused by hunting.").

Reproductive rate is not the only factor diminishing grizzly bear populations' resilience to hunting mortality. "Large size has often been linked to elevated extinction risk in mammals because larger species tend to exist at lower average population densities, the intrinsic rate of population increase declines with body mass, and larger species are disproportionately exploited by humans." *Id.* Further, for large mammals such as grizzlies, "extinction risk begins to be compounded by the cumulative effects of multiple threatening factors. For example, forest fragmentation elevates the sensitivity to hunting pressure of populations of medium- and large-sized vertebrates, and larger body sizes demand larger home ranges, bringing individuals into increasing contact with people in fragmented habitats." *Id.*

Furthermore, grizzly bear mortality due to hunting would add to other sources of mortality, which already are excessive. Dr. David Mattson thoroughly documented this in his study, *Efficacies & Effects of Sport Hunting Grizzlies* (2020) (submitted with May 15, 2025, comment letter as Exhibit 30). In addition, it has been documented that hunting adult male grizzly bears results in sexual segregation of grizzly populations and resulting reduced reproduction and survival of cubs. *See* R.B. Wielgus et al., *Estimating effects of adult male mortality on grizzly bear population growth and persistence using matrix models*, Biological Conservation 98 299 (2001) (submitted as Ex. 30). This in turn "can result in lowered population growth and population declines and can even lead to rapid population extinctions when numbers are very small." *Id.* Troublingly, "even ostensibly protected populations where females reside in parks … can decline … and go extinct if trophy hunting of males outside of parks results in segregation and reduced reproduction within parks." *Id.* (citations omitted).

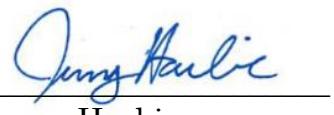
Finally, as prior comments have fully explained, there is no evidence that a normally managed bear sport hunt would reduce human/bear conflicts. In addition to literature already provided, this fact is documented in Northrup et al, *Experimental test of the efficacy of hunting for controlling human-wildlife conflicts*, Journal of Wildlife Management. 87:e22363 (2003) (submitted as Ex. 31).

CONCLUSION

Mounting human-caused threats continue to imperil lasting recovery—and indeed, the very survival—of grizzly bears in the Northern Rockies. These threats are manifested in the continued, excessive mortality of grizzly bears. Moreover, since the Commenters submitted comments in support of enhanced protections for grizzly bears, the government has further eroded those protections through the cumulative impacts of newly announced federal policies. These supplemental comments add to those the Commenters submitted during the comment period, and they provide further evidence that now is not the time to reduce protections for grizzly bears; instead, it is the time to double-down on conservation measures to give grizzly bears the chance to achieve resilience necessary for their durable recovery.

We continue to urge the Service to follow the best-available science and resist politically motivated demands by state elected officials to eliminate or reduce grizzly bear protections.

Respectfully submitted,



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