

**A Statutory, Policy and Technical Analysis
and
Alternatives
For Inclusion in the Scoping and EIS
North Cascades Ecosystem Grizzly Bear Restoration Plan**

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“Complex Problems Solved Well”

J.R. Carlson
Managing Partner
N. Descheemaeker
Associate

Norm MacLeod
Senior Policy Professional
Stillwater Technical Solutions
PO Box 93
Garden City, KS 67846
jcarlson@stillwateroffice.net

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Statutory and Policy Analysis

Notice of Intent to Prepare an Environmental Impact Statement, North Cascades Ecosystem Grizzly Bear Restoration Plan

Previous Federal Actions in the North Cascades Ecosystem -

On November 14, 2022, the National Park Service (NPS) and the U.S. Fish and Wildlife Service (Services) published a Notice of Intent (NOI) in the *Federal Register* to prepare a North Cascades Ecosystem (NCE) Grizzly bear restoration plan and environmental impact Statement (EIS).¹ The NOI initiated another National Environmental Policy Act (NEPA) scoping process and opened a 30-day public comment period to which this document responds.

At 87 FR 68192 of the *Federal Register* notice the Services State that “Public comments that were provided during that prior EIS process will also inform this new EIS and the development of alternatives.” In the associated *FAQs/Background* document, the Services also state that “Comments that were provided during the previous EIS process, however, will inform this new EIS and the development of alternatives.”

This Statutory and Policy Analysis paper builds upon and supplements previous analysis prepared by Stillwater Technical Solutions (STS) for the Okanogan County, Washington Board of County Commissioners.² Those documents were submitted to the public record during previous agency actions that proposed the same outcome – introduction of grizzly bears into the National Park System and areas characterized by human systems.

Conflicts With National Park System Policy -

There are two common names for the holarctic species *Ursus arctos*: Grizzly bear in North America, and Brown Bear that have resident populations in North American and 46 European and Asian nations. *U. arctos* is a habitat generalist with strong, seasonal habitat associations that adjust to local plant and prey availability. *U. arctos* is morphologically and dominantly carnivorous and can be behaviorally omnivorous.³

With the North Cascades National Park (NCNP) near its geographic center, the proposal to import *U. arctos* individuals to the NCE would violate Section 1.9.1.4 of the NPS *Management Policies 2006* which mandate the safeguarding of human life:

“The safety and health of employees, contractors, volunteers, and the public are core Service values. In making decisions on matters concerning employee safety and health, NPS managers must exercise good judgment and discretion and, above all, keep in mind that the safeguarding of human life must not be compromised.”

¹ [FR 87 68190, Notice of Intent to Prepare North Cascades Ecosystem Grizzly Bear Restoration Plan/Environmental Impact Statement, Washington.](#)

² [Comments, Issues and Recommendations on the Grizzly Bear Introduction Plan and Environmental Impact Statement, Stillwater Technical Solutions. October 23, 2019.](#)

³ McLellan, B.N., Proctor, M.F., Huber, D. & Michel, S. 2017. *Ursus arctos* (amended version of 2017 assessment). *The IUCN Red List of Threatened Species* 2017: e.T41688A121229971. <http://dx.doi.org/10.2305/IUCN.UK.2017-3.RLTS.T41688A121229971.en>.

As documented in Attachment B, *U. arctos* is an aggressive apex predator capable of sudden and unprovoked attacks on humans. Since 2010, ***U. arctos* individuals have killed five people within NPS-managed park and/or national recreation units.** NPS has a fundamental agency responsibility to ensure that its programs protect **all** human life and interests, not just individuals working within NPS park units.

The proposed species restoration project also would violate NPS *Management Policies 2006*⁴ Section 1.4.7.1 which covers unacceptable impacts. Both science and history demonstrate that is reasonably foreseeable to anticipate that a *U. arctos* individual may attack, injure, or even kill a park unit visitor, employee, or contractor. Section 1.4.7.1 states:

“Park managers must not allow uses that would cause unacceptable impacts ... for the purposes of these policies, unacceptable impacts are impacts that, individually or cumulatively would ... create an unsafe or unhealthy environment for visitors or employees...”

The proposed introduction of imported *U. arctos* individuals also would violate NPS *Management Policies 2006*, Section 4.4.2.2, which covers the restoration of native plant and animal species only when all of five criteria have been met. In this Policy we are mindful that **“the safeguarding of human life must not be compromised”** when we find that the proposed restoration actions fail to meet the second criterion:

“The species does not, based on an effective management plan, pose a serious threat to the safety of people in parks, park resources, or persons or property within or outside park boundaries.”

As noted, that there have been at least five fatal *U. arctos* attacks on humans in NPS-managed park units since 2010. We have not included those people who have lost their lives to *U. arctos* attacks outside park boundaries that are near NPS park units. Section 4.4.2.2 may also be read to extend the NPS prohibition against restoring populations of *U. arctos* to adjacent private lands or impacted properties managed by federal, state, or local government entities.

Stability of *U. arctos* Populations -

The International Union for the Conservation of Nature (IUCN) recently determined that *U. arctos* is a species of least concern. There are estimated to be more than 200,000⁵ individual bears throughout the species’ estimated 2,400,000 km² occupied range, of which about 110,000 are mature individuals. The IUCN concludes that the current population trend of *U. arctos* is stable.⁶

There are approximately 58,000 *U. arctos* individuals living in one interconnected continental population across most of Alaska, Yukon, and British Columbia as well as portions of the Northwest Territory, Nunavut, and Alberta. There are also several populations that are naturally isolated and others that are isolated due to human settlement, other developments, and excessive human-caused mortality. Some of those populations are in the lower 48 United States.

⁴ National Park Service. *Management Policies 2006*. ISBN 0-16-076874-8

⁵ McLellan, B.N., Proctor, M.F., Huber, D. & Michel, S. 2017. *Ursus arctos* (amended version of 2017 assessment). *The IUCN Red List of Threatened Species* 2017: e.T41688A121229971. <http://dx.doi.org/10.2305/IUCN.UK.2017-3.RLTS.T41688A121229971.en>.

⁶ *The IUCN Red List of Threatened Species: Ursus Arctos* — Assessment dated February 2, 2016, published 2017.

The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) completed a status assessment for *U. arctos* in May 2012, estimating the species' population in Canada at about 26,000 individuals, of whom approximately 10,000 are fully mature.⁷

The IUCN classifies the Cascades, Washington, and British Columbia subpopulation as critically endangered (CR) within its approximately 15,000 km² area.⁸ This information, specific to the North Cascades Ecosystem (NCE) in Washington and British Columbia, was the only information attributed to IUCN by the Services, and it was not included in the printed materials presented during the scoping period by the Services. A single map depicting the ecosystem was included during the online public scoping meetings. There was no mention of COSEWIC during the scoping meetings whatsoever.

Omission of the IUCN and COSEWIC data and selective presentation of information by agency biological activists can mislead the public and scientific community into believing the threats to *U. Arctos* are broader than is exhibited by actual science. Because the IUCN and COSEWIC data are part of a broader continental and global context, the full suite of data for *U. Arctos* must be presented as part of the scoping and EIS process.

State Delisting Petitions -

The Department of the Interior (DOI) has received petitions from the States of Montana, Wyoming, and Idaho that call for the delisting of *U. arctos*. Two of the delisting petitions are for specific ecosystems, and the third calls for delisting throughout the entire Lower 48 United States. According to congressional testimony by previous FWS Director Aurelia Skipwith, both *U. arctos* and *Canis lupus* (wolf) are functionally recovered, need to be delisted, and scarce governmental resources should be reallocated to recovery of species that are genuinely imperiled.⁹

A Services-assisted introduction of imported *U. arctos* individuals into the NCE may well establish a subpopulation of *U. arctos*, but that effort would not meaningfully contribute to the overall recovery of a species **that is in no danger of extinction throughout a significant portion of its range**. Establishment and long-term active support of a non-essential experimental 10(j) population of *U. arctos* in the NCE would, however, further imperil such species as the Lesser prairie-chicken, the Northern long-eared bat, or similarly situated endangered species who might need scarce resources more than does *U. arctos*.

Summary of Policy Findings and Analysis -

1. The proposed introduction of *U. arctos* would increase the frequency of human/bear contact, and possibly human mortality from bear attacks. As contemplated, the action violates NPS *Management Policies 2006*, Section 1.9.1.4.
2. The Services' proposed actions would violate the human life, health, and safety elements of NPS *Management Policies 2006*, Section 1.4.7.1.

⁷ COSEWIC. 2012. *COSEWIC assessment and status report on the Grizzly Bear Ursus arctos in Canada*. Committee on the Status of Endangered Wildlife in Canada. Ottawa. xiv + 84 pp.
https://sararegistry.gc.ca/virtual_sara/files/cosewic/sr_ours_grizz_bear_1012_e.pdf

⁸ Brown Bear (*Ursus arctos*) Isolated Subpopulations Supplementary Information. IUCN Red List of Threatened Species, pp. 7,8

⁹ [Archived webcast of the Hearing on the Nominations of Aurelia Skipwith to be Director of the U.S. Fish and Wildlife Service and Katherine Lemos to be Member and Chairperson of the Chemical Safety and Hazard Investigation Board](#), U.S. Senate Committee on Environment and Public Works. September 11, 2019.

3. The Services' proposed action cannot satisfy National Park Service policy criterion for restoration, and would violate NPS *Management Policies 2006* at Section 4.4.2.2 of the subject animal species.
4. Documents provided by the Services during the current public comment scoping process neglected to present essential information that report the actual global status of *U. arctos*. The lack of key scientific information renders it difficult for the public to draw accurate and informed conclusions about the scoping and introduction proposal.
5. Delisting petitions for *U. arctos* by the States of Montana, Idaho, and Wyoming have not been acted upon by FWS. Until final decisions are made on all three of the State delisting petitions, the proposed EIS and this scoping process is premature.
6. The Services have neglected to include a delisting alternative for *U. arctos* in the scoping process of the EIS. Because three States have petitioned for *U. arctos* delisting, and because the previous FWS director stated before Congress that *U. arctos* is biologically recovered, the services should include and meaningfully consider a delisting alternative in the EIS.
7. Because the proposed action is not essential for the continued existence of *U. arctos*, which the IUCN classifies as "*a species of least concern*," and because the NCE is not geographically segregated from existing *U. arctos* populations, the proposal to establish an ESA Section 10(j) experimental population of *U. arctos* cannot scientifically or regulatorily be justified.
8. Washington statute RCW 77.12.035 prohibits the transplantation or introduction of grizzly bears into the state. The Services' assertion that the statute does not restrict federal grizzly bear recovery efforts in Washington is insufficient in light of a plain rendering of the statute and federalism concerns.

Regulatory History; Previous Attempts to Introduce U Arctos -

On February 19, 2015, the DOI published a NOI in the *Federal Register*¹⁰ to develop a grizzly bear restoration plan for the NCE. When the Services initiated the planning and environmental review process, there was a lack of widespread public involvement. With the change of administration in 2017, DOI held several public meetings, Tribal consultations, and over 70 stakeholder briefings, while facilitating two public review and comment periods¹¹ and a draft EIS. More than 143,000 comments were submitted into this process. These efforts yielded overwhelming opposition to the proposal to introduce *U. arctos* into the NCE.

During the public review and comment process on the previous initiative to introduce *U. arctos*, the Okanogan County Farm Bureau led efforts in coordinating with Washington counties and some Washington Farm Bureau county members in the affected region.¹² Documents placed into the public record at that time identified many of the same NEPA compliance issues, inconsistencies with Washington Statutes, potential violations of NPS policy, and interagency conflicts with the US Forest Service Bighorn Sheep program.

¹⁰ 80 FR 8894

¹¹ 82 FR 4336; 82 FR 4416; 84 FR 36099

¹² [Comments on the Grizzly Bear Restoration in the North Cascades Ecosystem](#)

As a result of public input, the Secretary of the Interior ended the proposal to develop a Grizzly bear restoration plan for the NCE, and in doing so, terminated the NEPA procedural process.¹³ On July 7, 2020, Secretary of Interior David Barnhardt visited Omak, Washington and personally delivered the message that the DOI would not go forward with the draft Grizzly bear restoration plan for the NCE or its associated EIS. During remarks, Secretary Barnhardt complimented Washington Congressional Representative Dan Newhouse:

“Representative Newhouse has been a tireless advocate for his community and his constituents regarding plans to reintroduce grizzly bears into the North Cascades Ecosystem,”

And,

“The Trump Administration is committed to being a good neighbor, and the people who live and work in north central Washington have made their voices clear that they do not want grizzly bears reintroduced into the North Cascades. Grizzly bears are not in danger of extinction, and Interior will continue to build on its conservation successes managing healthy grizzly bear populations across their existing range.”

Statutory Requirements; FWS Response to Delisting Petitions -

On December 17, 2021, the Governor of Montana issued a formal petition pursuant to 50 C.F.R. § 424.14(c) and (d) to FWS to delist the distinct population segment (DPS) of *U. arctos* within the Northern Continental Divide Ecosystem (NCDE). On March 17, 2022 Montana Senator Daines and Congressman Rosendale issued a joint letter to the USFWS stating:

“It has come to our attention that the 90-day statutory timeframe for the agency to respond to the petition elapsed today. We urge you to respond both expeditiously and favorably to the Governor’s petition.”¹⁴

On January 10, 2022 the State of Wyoming issued a similar petition to delist *U. arctos* within the Greater Yellowstone Ecosystem (GYE).

On March 9, 2022, the State of Idaho — after reviewing the delisting petitions of Montana and Wyoming — issued its own delisting petition, calling for FWS to delist *U. arctos* across the Lower 48 United States:

“The framework that applied to grizzly bear listing under the ESA in 1975 no longer exists. The 1993 Recovery Plan for “lower-48” grizzly bear identified a phased delisting strategy (i.e., delisting recovery areas identified in the 1993 Plan as each achieved recovery criteria and then delisting the remainder of the listed entity). Recent court decisions, however, have rejected this framework.”

And,

“Absent viable delisting alternatives, the only way to cut through the hopeless tangle caused by the errors of the 1975 “lower 48” grizzly bear listing is to confront those errors head-on. Idaho therefore petitions for delisting of the “lower-48” listed entity because it is not a “species” under the ESA.”

¹³ [termination-notice-grizzly-bear-restoration-eis-july-2020_0.pdf \(doi.gov\)](#)

¹⁴ [fws - ncde grizzly petition final 2022.03.17.pdf \(house.gov\)](#)

On November 17, 2022, the Idaho Congressional Delegation issued a letter¹⁵ to Martha Williams of FWS:

“We write regarding the March 9, 2022, petition submitted by the State of Idaho to delist the grizzly bear in the lower forty-eight States under the Endangered Species Act (ESA). We urge your agency to respond in a timely manner to this petition.”

And,

“The ESA requires that the U.S. Fish and Wildlife Service (USFWS) decide within 90 days whether or not a filed petition contains evidence that delisting is warranted. Unfortunately, this timeline has not been maintained with Idaho’s petition and has exacerbated serious issues currently experienced in Idaho’s bear country. It also calls into question the agency’s ability to make and publish findings within 12 months after receiving such a petition as required under the ESA.”

On November 14, 2022, **three days before the Idaho Delegation issued the above letter**, DOI issued a Notice of Intent (NOI) to prepare a North Cascades Ecosystem Grizzly Bear Restoration Plan/Environmental Impact Statement.¹⁶ With no preliminary notice¹⁷ from NPS or FWS to Washington county governments, DOI issued the current NOI providing only a 30-day scoping period.

The affected Farm Bureaus and local governments presumed that the termination of the first EIS would preclude federal agencies from reinitiating a costly, unnecessary, and controversial proposal in the short term.¹⁸ This is especially true in light of the three State delisting petitions for which FWS has exceeded the statutory response window.

NCE Proposal: Conflicts with Washington State Statutes -

The Revised Code of Washington (RCW 77.12.035) unambiguously prohibits transplantation or introduction of grizzly bears into the State, including Federal initiatives:¹⁹

“The commission shall protect grizzly bears and develop management programs on publicly owned lands that will encourage the natural regeneration of grizzly bears in areas with suitable habitat. Grizzly bears shall not be transplanted or introduced into the State. Only grizzly bears that are native to Washington State may be utilized by the department for management programs. The department is directed to fully participate in all discussions and negotiations with federal and State agencies relating to grizzly bear management and shall fully communicate, support, and implement the policies of this section.”²⁰

¹⁵ [Idaho Delegation Urges Fish and Wildlife Service to Review Idaho Petition to Delist Grizzly Bear | Press Releases | Congressman Russ Fulcher \(house.gov\)](#)

¹⁶ Federal Register / Vol. 87, No. 218 / Monday, November 14, 2022 / Notices

¹⁷ 40 CFR §1506.6; Okanogan County Code 18.04.080, 18.04.070, 18.04.060

¹⁸ California v. Bernhardt, 472 F.Supp.3d 573 “While the Executive branch holds the power to issue executive orders, an agency cannot flip-flop regulations on the whims of each new administration.”

¹⁹ Okanogan County Code 18.04.050(F) Federal and State agency actions proposed or taken - “Shall, in absence of a direct constitutional conflict (United States and Washington State Constitutions), coordinate with Okanogan County so as to comply with federal and State statutes and regulations, and county laws, policies and plans, including the comprehensive plan”

²⁰ Wash. Rev. Code 77.12.035 Protection of grizzly bears-Limitation on transplantation or introduction-Negotiations with federal and State agencies (Revised Code of Washington, 2022 Edition).

In their *FAQs/Background* document the Services purport that Washington State law applies only to the Washington Department of Fish and Wildlife (WDFW), and does not restrict federal grizzly bear recovery efforts in Washington. The Services also contend that WDFW's interests would be represented in the final environmental analysis because the statute directs WDFW to "... *fully participate in all discussions and negotiations relating to grizzly bear management ...*"

A plain rendering of the Washington statute and its context demonstrates that the Services' interpretation of RCW 77.12.035 is incorrect. This should be investigated under the NEPA regulations from the Council on Environmental Quality (CEQ), and DOI policy.²¹ In proposing to violate Washington State Law the Services also neglect the 10th Amendment's reservations principal of the United States Constitution,²² which states:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

RCW 77.12.035 is a clear Statement of the intent of the legislature of the State of Washington to exercise its prerogative over wildlife within Washington's boundaries, **with particular attention to *U. arctos***.

Because *U. arctos* is not in danger of extinction **throughout a significant portion of its range**, and because establishment of an experimental population of *U. arctos* individuals within the boundaries of the NCE would not have significant impact upon the recovery of *U. arctos*, the use of ESA Section 10(j) permitting programs is inappropriate, unnecessary, and scientifically unjustified. Similarly, translocation of *U. arctos* into the State of Washington conflicts with both state law and state sovereignty.

RCW 77.12.035 contains nine (9) distinct mandates. For the purposes of the statute, "Commission" means the Washington Fish and Wildlife Commission and "Department" means the Washington Department of Fish and Wildlife.

RCW 77.12.035 reads as follows:

1. The Commission **shall** protect grizzly bears
2. The Commission **shall** develop management programs on publicly owned lands.
3. The Commission **shall** encourage the natural regeneration of grizzly bears.
4. Grizzly bears **shall not** be transplanted or introduced into the State.
5. **Only** grizzly bears that are native to Washington State may be utilized by the department for management purposes.
6. The Department is **directed to fully participate in all** discussions and negotiations with federal and State agencies relating to grizzly bear management.
7. The Department **shall** fully communicate the policies of this section.
8. the Department **shall** fully support the policies of this section.

²¹ 40 CFR §1506.2(c), (d) Elimination of duplication with State and local procedures; Okanogan County Code 18.04.050(B) – "*Federal and State agencies shall coordinate procedures to the fullest extent possible with Okanogan County on an equal basis and not with Okanogan County as subordinate, prior to and during the taking of any federal or State action*"; Stevens County Comprehensive Plan – 1.1, 1.2-GP1, GP2

²² EO 13132§2(b) "The people of the States created the national government and delegated to it enumerated governmental powers. All other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people."

9. The Department **shall** fully implement the policies of this section.²³

The **first three** mandates pertain to the Washington Fish and Wildlife Commission, to whom the WDFW is accountable.

The **fourth** mandate, the prohibition on the transplantation or introduction of *U. arctos* into the State is not assigned solely to the *commission* or to the *department*. It therefore applies to **all** private parties, and local, state, and federal governments.

The last **five** mandates apply to the WDFW and implement the programs (policies) that the commission develops to protect, manage, and encourage the **natural** regeneration of *U. arctos* in areas with suitable habitat. The department is also directed to fully engage with federal and other state agencies in all aspects relating to *U. arctos* management.

Inappropriate Application of ESA and Section 10(j) Policies -

The ESA does not provide a rational basis for the introduction of *U. arctos* into the NCE when the conditions for recovery of the species have already been met. If a species is stable **throughout a significant portion of its range**, agencies have no rational basis under the ESA to seek introduction of any species into a region where it was extirpated.²⁴

Endangered Species are defined in the ESA as:

*The term “**endangered species**” means any species which is in danger of extinction throughout **all or a significant portion of its range** other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.*

Threatened Species are defined in the ESA as:

*The term “**threatened species**” means any species which is likely to become an endangered species within the foreseeable future throughout **all or a significant portion of its range**.*

The clearly defined and qualified terminology of the ESA demonstrate the need for delisting of *U. arctos*²⁵ across the lower 48 United States to be greater than pursuit of a Section 10(j) experimental population within a localized, extirpated region such as the NCE. Currently, Wyoming and Montana have stable and growing *U. arctos* populations; the current NCE proposal raises questions as to why FWS and NPS are again pursuing an introduction of *U. arctos* at the expense of reviewing three delisting petitions that have been before the agency for up to a year.

The potential loss of human life, livestock depredation, and increased regulatory costs to local governments are exacerbated when *U. arctos* is listed as “threatened” under the ESA. States like Montana, which has a long history of the presence of *U. arctos*, have tools to manage *U. arctos* issues but are inhibited in doing so by listing under the ESA.

States that do not have a *U. arctos* presence would face even greater economic impacts in the event of a ESA Section 10(j) experimental introduction of *U. arctos*. As the Montana

²³ Ibid.

²⁴ 42 USC § 4335 Efforts supplemental to existing authorizations - “The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of federal agencies.”

²⁵ [Governor Gianforte Blasts Federal Overreach From Biden FWS \(mt.gov\)](https://www.mt.gov/governor/gianforte/blasts-federal-overreach-from-biden-fws)

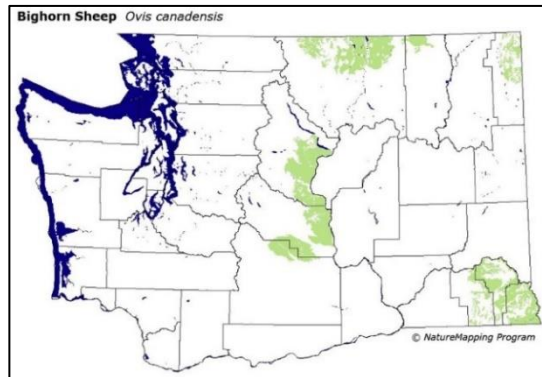
Governor and comments to the record by a coalition of Montana counties²⁶ made clear in the public record, the recent 10(j) historic range rule proposal by the FWS²⁷ would impact states without a historical presence of *U. arctos*:

*“...will not be prepared to absorb the economic harm caused by an experimental population of grizzly bears. As such the economic harm will be significantly harsher for those economies to address.”*²⁸

NCE Proposal: Conflicts with Other Agency Programs -

Bighorn sheep (*Ovis canadensis*) have been designated by USDA Forest Service (USFS) Region 6 as a *sensitive species*. This designation indicates concern for the long-term viability and conservation of the species on National Forest System (NFS) lands.

Bighorn sheep were extirpated from the State of Washington by 1935 and have more recently been reestablished in multiple herds in a fraction of their former range. **This occupied range overlaps habitat proposed for *U. arctos*.**



Breeding Range Map

The green area shows the predicted habitats for breeding only.

[Click for more information](#)

During the previous reintroduction proposal the Services reported that *O. canadensis* is unlikely to be affected by *U. arctos* introduction. Although *U. arctos* may be behaviorally omnivorous in some ecosystems, its dentition, jaw morphology, forward-looking eyes, and other physical characteristics indicate that it is evolutionarily carnivorous. Despite their occasional omnivorous behavior, *U. arctos* has a digestive tract of a carnivore. Different bears consume varying ratios of meat-to-vegetation depending on environmental factors, but they all tend to consume meat as it becomes available. [In the northern Rockies, grizzlies obtain most of their meat from large herbivores such as elk, deer, bison, moose, and cattle](#). Other herbivores, including goats and sheep, are also at risk when depredation opportunity presents itself.

When grizzlies emerge from hibernation, they immediately seek food sources, and will travel significant distances in search of sustenance. In the spring, with vegetation in short supply, the carnivore behavior tends to dominate, with the bears using a variety of foods with varied intent. The lambing cycle of *O. canadensis* coincides with the *U. arctos* emergence from hibernation, and placentas have proven to be potent attractants for carnivores and scavengers, including hungry *U. arctos* emerging from their dens.

²⁶ [Survey of the Proposed Fish and Wildlife Service ESA Section 10\(j\) Historical Range Rule. Stillwater Technical Solutions. J.R. Carlson, et. al. August 5, 2022.](#)

²⁷ Federal Register / Vol. 87, No. 109 / Tuesday, June 7, 2022.

²⁸ [8-8-22 Comment on ESA Rule.pdf \(mt.gov\)](#)

In the fall, male bighorns battle for mating access in head-to-head combat, and the sound of colliding horns are a dinner bell that can be heard for miles by grizzlies in their pre-hibernation hyperphagic stage. The presence of *U. arctos* in *O. canadensis* habitat represents a reasonably foreseeable adverse impact to the health and safety of individual bighorn sheep at all life stages and to the overall health and safety of the recovering populations of the species in the northern Cascades.

Forest Service Manual (FSM) Sections 2670.32 and 2672.1 provide direction to the agency to avoid or minimize impacts to designated sensitive species. Because the Services cannot predict the degree to which *U. arctos* individuals brought into proximity with *O. canadensis* populations would select bighorn sheep for predation, it is not possible to determine whether depredation impacts to one or more herds would significantly reduce this sensitive species' numbers. Thus, human-assisted augmentation of the number of *U. arctos* individuals in proximity to *O. canadensis* occupied habitat is incompatible and inconsistent with the purposes and needs of the *O. canadensis* recovery effort.

Because there is a foreseeable chance that some *U. arctos* individuals proposed for introduction could cause predation to recovering herds of bighorn sheep, the USFS is obligated by its own policies to ensure protection of the bighorn sheep. Thus, the proposal introduces an intra-agency conflict that must be resolved in any potential EIS.

NCE Proposal: Conflicts with Trail Programs by Other Federal Agencies -

The congressionally mandated Pacific Northwest National Scenic Trail (PNWNST) bisects the NCE and adjacent federal lands. Currently in its own scoping process, the trail would introduce additional federal employees, contractors, volunteers, and visitors into the NCE. If the proposed action to establish a *U. arctos* population in the NCE moves ahead, incidence of human/bear interactions will increase. This is especially problematic as between 2010 and 2022, 25 fatal *U. arctos* attacks on humans, some depredatory rather than defensive, have been documented in the public record (Attachment B).

The NEPA CEQ Regulations require all Federal interagency issues and conflicts to be resolved during the scoping and EIS process.

Federal Data Quality Act and Peer Review -

The Services have issued the proposal to reintroduce grizzlies into the NCE **without citing any new science that justifies this action**. The current proposal was initiated even after previous attempts were terminated only two years ago. The principal new science and data introduced since that termination are found in the state petitions to delist *U. arctos* and that information supports delisting of *U. arctos*, not a complex regulatory introduction program.

The Data Quality Act (DQA)²⁹ requires that information disseminated by federal agencies incorporate four components: quality, objectivity, utility, and integrity. With respect to the quality of information for decision-making, the Office of Management and Budget (OMB)³⁰ specifically requires:

²⁹ [Section 515\(a\) US Treasury and General Government Appropriations Act of 2001, Pub.L. 106-554](#)

³⁰ [70 FR 2664, Notice of Policy Statement, Endangered and Threatened Wildlife and Plants: Notice of Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities, July 1, 1994.](#)

“The more important the information, the higher the quality standards to which it should be held, for example, in those situations involving ‘influential scientific, financial, or statistical information:’”

“Quality” is an encompassing term comprising utility, objectivity, and integrity. The guidelines sometimes referred to these four statutory terms, collectively, as “quality.”

“Utility” refers to the usefulness of the information to its intended users, including the public.

“Objectivity” includes whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner. It also involves a focus on ensuring that the information be accurate, reliable, and unbiased.

“Integrity” refers to the security of information — protection of the information from unauthorized access or revision — to ensure that the information is not compromised through corruption or falsification.

“Influential” when used in the phrase “influential scientific, financial, or statistical information”, means that the agency can reasonably determine that dissemination of the information will have a clear and substantial impact on important public policies or important private sector decisions.

“Reproducibility” means that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision.

Recent reports from the House Natural Resource Committee indicate that the FWS scientific peer review process under some administrations is selective, clannish, and biased.³¹

The *Information Quality Guidelines* policy from FWS itself define influential information to be that which “*will have or does have a clear and substantial impact on important public policy or private sector decisions, and thus, a decision or action to be taken by the Director*” of the FWS.³² In the current action the Services are seeking to reintroduce *U. arctos* which would have clear and substantial impact on public policy and private sector decision-making.

During and as part of this EIS scoping process FWS must justify its reasoning for the proposed introduction in light of the previous termination of *U. arctos* of a substantially similar introduction proposal; conflicts with state law; delisting petitions from three States; and international data that conclude *U. arctos* is not in jeopardy of survival across a significant portion of its range.

The National Environmental Policy Act (Significance) –

This Major Federal Action will have indefinite cumulative effects throughout the region of influence (ROI) and eventually, as demonstrated in Montana, outside the ROI. The former DEIS was focused on the “unlikely” impacts of the primary phase of introduction and does not provide due diligence to the likely impacts that would occur during the secondary phase where *U. arctos* individuals disperse to ecosystems outside the NCE.

³¹ [*Under the Microscope. An examination of the questionable science and lack of peer review in Endangered species listing decisions.*](#) Majority Staff Report. U.S. House of Representatives Committee on Natural Resources. December 15, 2014.

³² [*U.S. Fish and Wildlife Service, Information Quality Guidelines and Peer Review.*](#)

For the present scoping and EIS process, quantification of the human, socioeconomic, and cultural impacts on the human environment as required by the NEPA CEQ regulations is required.

Impacts to the human environment from the proposed introduction would likely be less prevalent from direct effects than from indirect effects. As a result, any EIS emerging from this scoping process must focus analysis of the impacts that will likely occur in the future (40 CFR § 1502.10):³³

NPS Policy 2.1.2.

*“At key points of planning and decision-making, the Park Service will identify reasonable alternatives and analyze and compare their differences with respect to: short- and long-term costs; and environmental consequences that **may extend beyond park boundaries.**”*

The NPS policy language at 2.1.2 is consistent with the NEPA requirement at 40 CFR §1508.8 that **all** reasonable direct and indirect effects and alternatives that differ from the preferred alternative be investigated. The costs and consequences associated with introductions of *U. arctos* in close proximity to human activities warrants careful consideration of the delisting alternative in the Lower 48 United States.³⁴ Based upon significant data and petitions from three states, delisting *U. arctos* has the highest potential to mitigate the costs and potential human impacts associated with the presence of apex predators such as *U. arctos*.³⁵

40 CFR §1508.14 states that the:

“Human environment shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. . .”

And,

“...When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.”

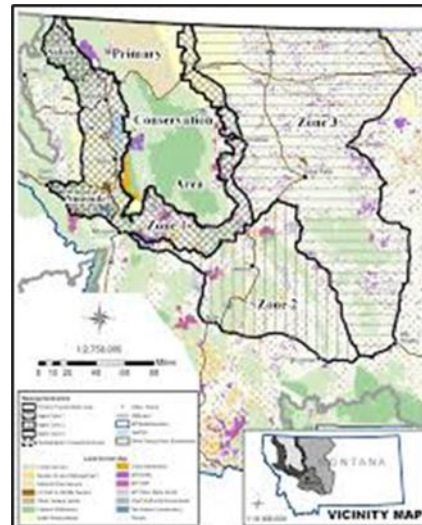
³³ [40 CFR §1502.1](#) “Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analysis.”

³⁴ 40 CFR § 1500.2(e) “Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.”

³⁵ 40 CFR § 1500.2(f) “Federal agencies shall to the fullest extent possible: (f) Use all practicable means ... to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.”

Reasonably Foreseeable Implications (Comparative Ecosystems) -

The Northern Cascades Ecosystem (NCE) shares similar characteristics to the Northern Continental Divide Ecosystem (NCDE). The NCE is approximately 9,500 square miles in area; and the NCDE is approximately 9,600 square miles. For comparison, the Greater Yellowstone Ecosystem (GYE) is 9,200 square miles. The NCDE and the GYE have experienced a rapid increase in *U. arctos* population density resulting in habitat pressure and dispersion outside the initial recovery areas. The 2019 [Conservation Strategy for the Grizzly Bear in the Northern Continental Divide Ecosystem](#) consists of three management zones outside the NCDE recovery area, spanning a vast landscape area of millions of acres of private farm and ranch lands located in multiple jurisdictions.



Management zones for 2019 conservation strategy for NCDE

These *U. arctos* conservation strategies include multiple layers of regulation imposed on the public who remain liable for fines and penalties if found in noncompliance in responding to bear problems: “*Legally enforceable attractant storage requirements on public lands have been implemented or will be implemented on 87% of lands within the Primary Conservation Area (PCA) (all USFS, GNP, BLM, MFWP, and Tribal). Attractant storage requirements for contractors or permitted activities occur on 91% of lands inside the PCA (Food Storage with contractors/permitted activities: All NFS, GNP, BLM, MFWP, Tribal and DNRC).*” Chapter 6 of the [Conservation Strategy for the Grizzly Bear in the Northern Continental Divide Ecosystem](#) states the regulatory mechanisms and conservation framework would continue in the absence of ESA protections. **The cost burdens for these controls must be quantified and accounted for in the NCE EIS and scoping process.**

The NCDE has a bear population of more than 1,000 bears, and the GYE has over 800 bears, yet they remain protected under the ESA. All the alternatives in the previous draft plan/EIS within the NCE aimed to establish a population of more than 200 grizzly bears over time. The [1982 Grizzly Bear Recovery Plan](#) recognized that there was **incomplete or missing data** necessary to publish a number that would constitute recovery success in the NCE. If the NCDE has more than 1,000 grizzly bears, and they still enjoys ESA protection, the question is what the final threshold quantity of bears for the NCE may be.

It is noteworthy that as an agency, US Fish and Wildlife Service is characterized by a pattern of quantitative avoidance when it comes to species reporting, and dismissal of requests to issue geodetically surveyed threatened and endangered species maps at the local level. To the regulated community, such legislative changes to the ESA might be well received.

Depredation; Socioeconomic Impacts -

a. Flawed Predictive Models

Previous initiatives demonstrate that FWS does not have a reliable and predictive methodology to accurately project *U. arctos* population increases and dispersion rates. As demonstrated, the regulatory framework from Montana **reveals bear population and dispersion rates that far exceed projections by FWS and other agencies.**³⁶

Heavy reliance on predictive calculations, as opposed to the use of objective empirical data methodologies, has led to substantive miscalculations by FWS of *U. arctos* restoration efforts in both the GYE and the NCDE. The predictive methodology/calculations used by FWS in the NCDE in 2004 and 2010 mispredicted *U. arctos* population growth and dispersion by a significant amount of animals.³⁷ Significantly, the errant methodologies used by the agency to justify a no action alternative for controlling *U. arctos* expansion has led to increased levels of human/bear contact.

U. arctos restoration in the GYE and NCDE demonstrates that these bears are both unpredictable and uncontrollable. Despite the vast resources spent on precautionary measures to reduce contact, interactions between grizzlies and humans are documented to be increasing across the range, with an associated level of human mortality (attachment B). Agency miscalculations and bias against the human environment have allowed the *U. arctos* population to expand and disperse unchecked across a 15,000 square mile area **outside** of the 9,600 square mile NCDE recovery area.³⁸ Instead of mitigating bear dispersion and protecting domestic sheep grazing allotments from depredation within USFS rangelands and NPS systems, domestic sheep allotments are being phased out.³⁹

The original DEIS on page 147 states that:

*“impacts per grizzly bear are also likely to be much less than in GYE because grizzly bears relocated under this alternative would be **less carnivorous than grizzly bears in the GYE** based on their feeding habits in source areas; therefore, any depredation is expected to occur at a much lower rate than grizzly bears in the GYE.”*

³⁶ NPS Policy 2.1.2: “At key points of planning and decision-making, the Park Service will identify reasonable alternatives and analyze and compare their differences with respect to: short- and long-term costs; and environmental consequences that **may extend beyond park boundaries.**”

³⁷ Bear Biologist Cecily Costello says grizzlies have nearly doubled their original range in the NCDE, and expanded faster than FWP predictions, leading to an increase in livestock depredations along the eastern edge of the ecosystem. The estimated occupied range for the NCDE grizzly bear population is almost 25,000 square miles, which is a **42% increase from what was estimated in 2004, and it’s a 25% increase from what was estimated in 2010.** <https://www.mtpr.org/post/montana-wool-growers-want-more-funding-livestock-depredation-investigations>

³⁸ <https://www.mtpr.org/post/montana-wool-growers-want-more-funding-livestock-depredation-investigations>

³⁹ “Inside the YGBRZ, no new grazing allotments can be created and sheep are being phased out of allotments because they are commonly preyed upon by grizzly bears” (U.S. Fish and Wildlife Service 2007) (Wells 2017) [Livestock Depredation by Grizzly Bears on Forest Service Allotments in the Greater Yellowstone Ecosystem](#), pg. 8.

The Services' appear to be carrying forward a previous notion that has been proven to be incorrect. The NEPA CEQ regulations at 40 CFR §1502.24 state that agencies:

“shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the Statement.”

The citations below demonstrate this conclusion to be misleading and errant:

- *“While it is unknown how many individual bears are responsible for depredations at high bear densities, the positive relationship between bear density and depredation event counts suggests that as more grizzly bears become spatially associated with livestock, they kill livestock at a higher levels, which could **indicate that bears depredated on livestock opportunistically rather than a few problem bears repeatedly depredating**” (Anderson et al. 2002).*
- *“Grizzly bears are **opportunistic omnivores**” (Wells 2017 pg. 6).*⁴⁰
- *“Livestock depredation by grizzly bears in the GYE during 1992–2000 has been found to be **unrelated to the availability of bear foods**” (Gunther et al. 2004).*

b. Taxpayer Burdens from Depredation Compensation Programs

Government compensatory programs only transfer the depredation cost burden to the American taxpayer:

Fiscal loss is simply shifted from the directly affected property owner to indirectly affected taxpayers. If the NPS is to uphold its policy at 1.9.5.1. *“strive to be an effective and efficient steward of appropriated and non-appropriated funds and services”* then compensation programs must not be viewed as a mechanism to mitigate impacts, nor to avoid significance as defined by NEPA. Compensation should be provided when property is lost due to federal decisions or regulatory takings of private property,⁴¹ but the transfer of liability through governmental depredation compensation programs does not change the severity of impacts for *U. arctos* damage.

The agencies purport that destruction of gardens, orchards, beehives, or protection of sheep is relatively easy to prevent through the use of electric fencing. This may be true in a small farm or ranch applications, but for livestock operations with larger acreages of pasture, or public lease lands, fencing out *U. arctos* either with grizzly-grade electric or traditional fencing is prohibitively expensive. *“Electric or traditional fencing can protect livestock from interactions with grizzly bears but can be **expensive and unrealistic on public lands**”* (Wilson et al. 2005).

As a result, the NEPA CEQ Regulations require the EIS process account of indirect cost impacts to the human environment and systems from the proposed introduction of *U. arctos*.

⁴⁰ [Livestock Depredation by Grizzly Bears on Forest Service Allotments in the Greater Yellowstone Ecosystem](#)

⁴¹ U.S. Constitution Article V, XIV; EO 12630; Washington State Constitution, Article 1, Section 16.; WA Office of Attorney General - Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property September 2018; Okanogan County Code - 18.04.050 (H); Stevens County Comprehensive Plan – 1.1, 1.2 GP1

c. Takings Implications

[Presidential Executive Order 12630](#) requires federal agencies to analyze the economic effects or takings implications of their proposed policies, decisions, rules, and regulations on the private property, private property rights and investment backed expectations of individual citizens. **The Services have a civic duty to obey this mandate.**

[Executive Order 12630](#) directs administrative agencies to assess the potential takings of private property under the 5th and 14th amendments of the U.S. Constitution during the pre-decisional analyses. For the current proposal this means the agencies are to quantitatively assess the implications of the preferred alternative of introducing *U. arctos* into the NCE ecosystem. The just compensation clause in Article 1, Section 16 of the Washington State Constitution and implementing statutory requirements in the Washington Protection of Private Property Act⁴² also reaffirm this important principle at the State level.

*“Responsible fiscal management and fundamental principles of good government require that government decision-makers evaluate carefully the effect of their **administrative, regulatory, and legislative** actions on constitutionally protected property rights.”⁴³*

For the proposed action, the Services are required by Executive Order 12630, DOI Departmental Manual 318 DM 1, the NEPA CEQ Regulations, and other federal law⁴⁴ to evaluate, quantify and report during the EIS and scoping process the potential takings implications to private lands and properties that foreseeably could result from the capture and release of 3 to 7 grizzly bears into the NCE over the proposed 10-year period. Attachment C contains a copy of EO 12630.

An inventory of the lands to be included in the **Evaluation of Risk and Avoidance of Unanticipated Takings analysis required by EO 12630** is included as Attachment D.

Public Health and Safety -

Public health and safety falls under the police powers of state and local governments. The doctrine of *in para materia* requires that all like kind statutes are to be interpreted as a whole. “Statutes” Justice Frankfurter once wrote, “cannot be read intelligently if the eye is closed to considerations evidenced in affiliated statutes.”⁴⁵

The present proposal for reintroduction of *U. arctos* contravenes Washington State Statutes, NPS policy, and could pose federalism implications (EO 13132). Executive Order 13132 was issued in order “to ensure that the principles of federalism established by the Framers guide the executive departments and agencies in the formulation and implementation of policies, and to further the policies of the Unfunded Mandates Reform Act.” As stated in EO 13132 “Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government closest to the people.”⁴⁶ EO 13132 is also applicable to federal rule making per 318 DM 1.

⁴² RCW 36.70A.370; Okanogan County Code 18.04.050(H), 18.04.130, (Ord. 2000-2 § 3, 2000)

⁴³ EO-12630

⁴⁴ PUBLIC LAW 104-4—MAR. 22, 1995, 2 USC 1501

⁴⁵ Antonin Scalia and Bryan A Garner, *Reading Law: The Interpretation of Legal Texts*, St. Paul MN Thomas/West 2012 p. 252; Felix Frankfurter, *Some Reflections on the Reading of Statutes*, 47 Colum. L. Rev. 527, 539 (1947); *Goodyear Atomic Corp. v. Miller*, 486 U.S. 174, 184-85 (1988) (per Marshal, J.); *State v. French*, 460 N.W.2d 2 (Minn. 1990); *United States v. Stewart*, 311 U.S. 60, 64 (1940); *State v. Hormann*, 805 N.W.2d 883, 893 (Minn. Ct. App. 2011)

⁴⁶ EO 13132§2(a)

In September 2018 the Washington Attorney General issued an *Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*. The context of that Memorandum addresses the police power of States:

“State governments have the authority and responsibility to protect the public health, safety, and welfare. This authority is an inherent attribute of State governmental sovereignty and is shared with local governments in Washington under the State constitution ...” “... Substantive due process is the constitutional doctrine that legislation must be fair and reasonable in content and designed so that it furthers a legitimate governmental objective. The doctrine of substantive due process is based on the recognition that the social compact upon which our government is founded provides protections beyond those that are expressly stated in the U.S. Constitution against the flagrant abuse of government power. Calder v Bull, 3 U.S. 386 (1798).”⁴⁷

Federal land use statutes⁴⁸ also reinforce the principle that the police power is reserved to the States. Title 7 of the Federal Land Policy and Management Act (FLPMA)⁴⁹ at 43 U.S.C. 1701, note(g)(6) states that *“Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or - (6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties ... on the national resource lands.”⁵⁰*

Inholdings and Lands within the North Cascade Ecosystem -

While there are few permanent human habitations within the North Cascades National Park (NCNP) itself, there are significant State and Federal lands within and immediately adjacent to the NCE area. These include:

- The NPS-managed Ross Lake National Recreation Area;
- The NPS-managed Lake Chelan National Recreation Area;
- The Mount Baker National Forest and its inholdings;
- The Okanogan National Forest and its inholdings;
- The Methow Valley from north of Mazama, WA to Pateros, WA;
- The Okanogan Basin; and,
- Numerous towns and cities along Washington SR-20 westward through Sedro-Wooley and Southwest along 530 through Darrington to Trafton, WA.

⁴⁷ WA Office of Attorney General - *Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*. (September 2018).

⁴⁸ 43 U.S.C. §§ 315n.

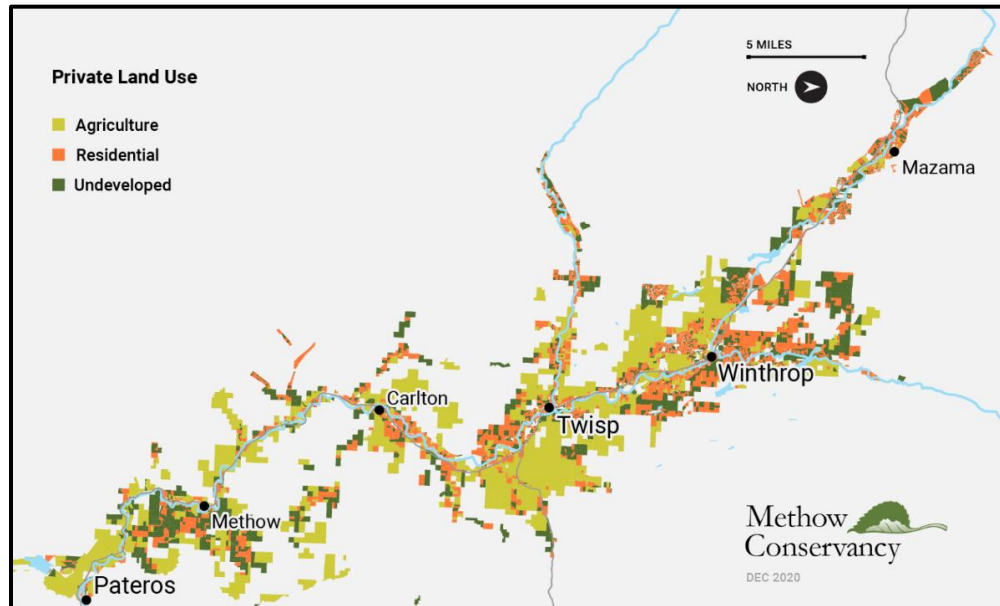
⁴⁹ 43 U.S.C. 1701note(g)(6).

⁵⁰ *NFIB et. al. v. Sebelius* 567 U.S. 519 (2012) “The independent power of the States also serves as a check on the power of the Federal Government: ‘By denying any one government complete jurisdiction over all the concerns of public life, federalism protects the liberty of the individual from arbitrary power.’”

a. The Methow Valley

The Methow Valley is one of the most significant inholdings that juts directly into the heart on the North Cascades Ecosystem. Agriculture in the Methow Valley has a rich past when at one time the valley floor was dotted with family-run farms. Today, there are dozens of small farms that produce livestock, dairy, hay, orchard fruits, grains, and vegetables. Roughly 9,000 of the valley's privately-owned irrigated and dryland acres are currently used for farming and ranching.⁵⁹

Land use in the Valley is best illustrated by this graphic:⁶⁰

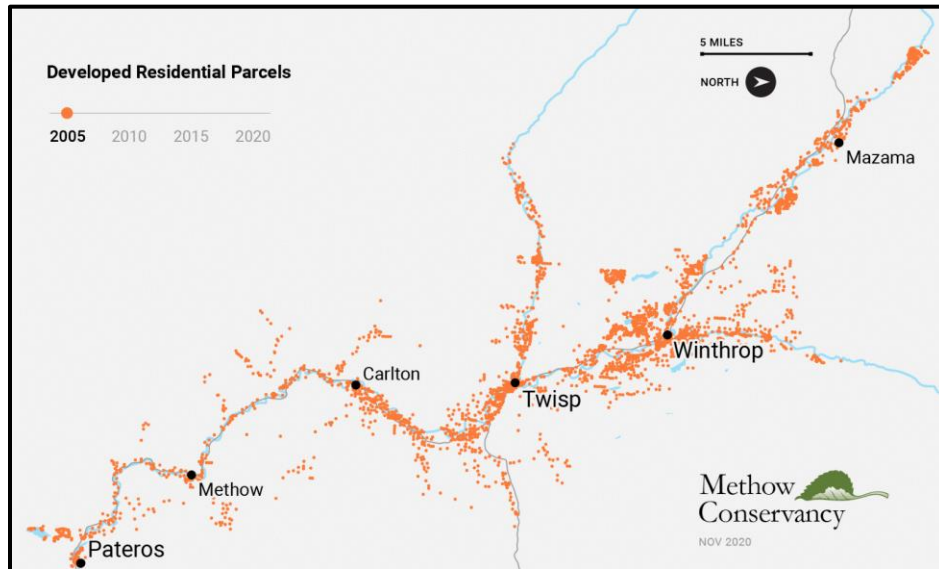


There is approximately 60 river miles from Pateros to Mazama that is part of North Cascades Ecosystem. The North Cascades Ecosystem encompasses both sides of the Valley. This area is easily accessible and is a prime location for grizzly bear and human conflicts that need to be quantified and assessed during the EIS scoping process. Population dynamics demonstrate that the Valley is well developed.⁶¹ As of 2020 Totals population is 10,780 which breaks down to 6400 full-time, and 4,380 part-time.⁶²

The upper Methow is already experiencing a high rate of human/black bear contacts. There is a larger population and food resources are limited due to recent forest fires forcing bears to feed on garbage can refuse. At this point the response is to encourage Wates-wise collection service to invest in bear proof garbage cans. Methow Bear Aware organization is seeking funding for the cans. The first round of the effort plans kicking off with \$15,000. But the issue just *begins* with trash cans. Recently, black bears aggressively went after the hives of local beekeepers. This is one example of increased costs and attempts to accommodate black bears on private lands and in local businesses. Grizzly bears will bring a much higher price and limit personal freedom to enjoy life in the Methow valley.

The central policy question is that if the Washington Fish and Wildlife can't manage local black bears, how can Federal agencies manage experimental populations of grizzly bears?⁶³ We believe the response is they are not able to manage unpredictable and dangerous Apex predators.

The population growth dynamic is illustrated by this graphic:



Consideration must be given to the recreation and tourism that bring a large influx of people to the Methow which is also integral to both the Valley and greater Okanogan County economic viability. The Methow valley during the summer and winter offer many opportunities to get outdoors and close to the beauty of the Valley: river rafting, mountain and road biking, horseback riding and pack trips, hiking in the nearby North Cascades and local trails, snow sports in winter: ice skating, snowmobiling, cross country skiing and downhill skiing.^{64 65}



Other activities and organizations lead to events that bring people to the Methow experience: marathons and endurance running competitions, Outward Bound⁶⁷, North Cascades Mountain Guides, The Bush School,⁶⁸ and the many accommodations that offer outdoor activities as well. Sun Mountain Lodge holds outdoor camp side breakfasts and dinners. Their experience with black bears shows the potential conflicts that can occur with grizzly bears. Black bears often attend the camp side breakfasts or dinners. The temptation for food leads some to become a threat or nuisance to guests. This results in requiring Washington Fish and Wildlife Service to trap and relocate the bear or a more recent policy will lead to euthanizing the bear. If grizzly bears are present, they will shut down this event.⁶⁹ In summary the Methow will be a grizzly bear magnet that will create many opportunities for bear-human conflicts.

b. The Okanogan Basin

The east slope of the Cascade along the Okanogan Basin is the primary agriculture region for Okanogan County. In the Loomis State Forest within the NCE there are 3,415 acres of active privately owned range lands, and private residential property. There are 1941 acres in the Okanogan National Forest south of the Loomis State Forest to the Wenatchee Nation Forest which are also within the NCE. Okanogan County has over 28,000 acres of deciduous fruit trees producing many varieties of apples, pears, cherries and stone fruits. The tree fruit industry is by far the largest industry in the county generating over \$250,000,000 in revenue, dollars that remain in the community⁷⁰. Washington Department of Natural resources leases lands for agricultural purposes.⁷¹

<u>Crop</u>	<u>Acres</u>
Dry Land	283
Irrigated land	210
Apples	38
General Agriculture	2,203

These DNR leased lands are primarily along the Okanogan River and Columbia River as are privately owned orchard lands. Their location and intersection with the NCE projected boundary mean they are also accessible to bears. Another concern is depredation on cattle especially for ranchers who use US Forest Service and DNR lands for grazing leases and allotments. In Okanogan County M-1 management on USFS lands are within the NCE. In the Okanogan National Forest, the M-1 lands extend from the Okanogan basin side into the NCE as far as Yellow Jacket Cr. near Lost River in the Methow.

c. Lake Chelan in Chelan County

The east side of the lake from Manson turns into the Wenatchee National Forest where the private inholdings begin. Property ownership continues up Lake Chelan through the Lake Chelan Saw-tooth Wilderness, Stephan Mather Wilderness which also encloses the Lake Chelan National Recreation Area.

Private land ownership extends far into the Stephan Mather Wilderness along the Stehekin River to T33NR27E Section 37. 284 privately owned properties or 2,151.61 acres, exist in these forest, wilderness and recreation areas associated with recreation, secluded living and part time residents. The attraction of Lake Chelan and the town makes this region a tourist attraction. A detailed inventory of the lands and properties to be included in EIS Scoping

and the **Evaluation of Risk and Avoidance of Unanticipated Takings** analysis required by EO 12630 is included in Attachment D.

d. Counties of the West Cascades

Counties of the West Cascades include Whatcom, Skagit, Snohomish, King and Pierce counties, along with the county farm bureau's bearing each county's name. Each of these counties has significant agricultural communities whose farmlands border the National Forests within the NCE. Like the east side counties, agriculture land, they are easily accessible to bear leakage from the NCE.^{51,52,53,54,55}

There are two significant inholdings into the NCE. The first is the Arlington, Darington, Concrete to Sedro-Wooley loop. This loop has one of the wood products mills along with private lands devoted to residential homes and small farms. The second inholding include the over 4 million acres of privately owned forest lands within the National Forests bordering the North Cascade Park and ten (10) wilderness areas.^{56,57}

⁵¹ [Agriculture | Skagit County | Washington State University \(wsu.edu\)](#)

⁵² [Agriculture - Plan a trip today—Visit Bellingham | Whatcom County](#)

⁵³ [Agriculture | Snohomish County | Washington State University \(wsu.edu\)](#)

⁵⁴ [Agriculture Program - King County](#)

⁵⁵ [Agriculture | Pierce County | Washington State University \(wsu.edu\)](#)

⁵⁶ [Forest Products - Washington State \(choosewashingtonstate.com\)](#)

⁵⁷ [onXmaps Web App](#) Washington State

Attachment A

Scoping Alternatives for Incorporation
In the NEPA EIS Process
North Cascades Ecosystem Grizzly Bear

North Cascades Ecosystem Grizzly Bear Restoration EIS
Alternatives for Inclusion in Scoping Process and EIS



Complex Problems Solved Well”

Alternative I: No Action

Item	Description, Issue, or Conflict	EIS Scoping Action(s)	Authorities
Agency Responsibilities	The most appropriate decision by the agencies for the current NCE proposal is the No Action Alternative. No action would allow time and resources for USFWS and NPS to address Alternative 3, which is delisting of the <i>U. Arctos</i> in the lower 48 United States. No action would also reduce the potential for intergovernmental conflict and management actions imposed on local governments, agricultural interests, property owners, and others.	The Services are responsible for demonstrating that they have new or substantive information or data that warrant opening a new EIS process for the restoration of <i>U. arctos</i> in the North Cascades Ecosystem when DOI recently terminated the previous very similar EIS process. California v. Bernhardt, 472 F.Supp.3d 573 “While the Executive branch holds the power to issue executive orders, an agency cannot flip-flop regulations on the whims of each new administration.” OMB Circular A-4(B), 2003 “Before recommending Federal regulatory action, an agency must demonstrate that the proposed action is necessary.” Further, the proposed action would become a rule published in the <i>Federal Register</i> and must therefore consider and apply the substantive mandates of laws and directives applicable to rulemaking documents as laid out in Departmental Manual 318 DM 1 (3/11/2022).	318 DM 1: Laws and Directives Applicable to Rulemaking Documents Statutes: Administrative Procedure Act (5 U.S.C. 551 et seq.) National Environmental Policy Act (42 U.S.C. 4321-4347) Regulatory Flexibility Act (5 U.S.C. 601 et seq.) Unfunded Mandates Reform Act (2 U.S.C. 1502 et seq.) Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 601 et seq. and 804(2)) Congressional Review Act 5 U.S.C. §§ 801-808.) Executive Orders: Executive Order 12866 Executive Order 12988 Executive Order 13132 Executive Order 13175 Executive Order 13563 Executive Order 13610 Executive Order 12630 Regulations: 40 CFR 1501.7(a)(1) 40 CFR §1501.2(c) 40 CFR §1502.1 “Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analysis.” 40 CFR § 1500.2(e) “Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.”

North Cascades Ecosystem Grizzly Bear Restoration EIS

Alternatives for Inclusion in Scoping Process and EIS

Alternative 2: Introduction Under ESA Section 10(j) Policies



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Item	Description, Issue, or Conflict	EIS Scoping Action(s)	Authorities
Agency Responsibilities	When proposing a permit for the introduction of an ESA 10(j) experimental population, USFWS must fulfill the following requirements: - Must be authorized by the Secretary of Interior 10(j) process may only be used when the proposed 10(j) experimental population would be geographically isolated from existing populations. - The Secretary of the Interior must determine through regulatory processes that an experimental population would further conservation of the species.¹ - The Secretary must determine through administrative processes whether the actions are essential to the continued existence of an endangered or threatened species. There are issues and conflicts procedurally related to translocating experimental populations of Grizzly bears into the NCE. - The NCE is not geographically isolated from existing <i>U. arctos</i> populations: <i>U. arctos</i> individuals are at least occasionally present and have been documented in the NCE. - Conflicts will increase as COSEWIC and its First Nations partners seek to increase bear populations on the Canadian side of the NCE.² - There is no evidence in the public record that the NCE proposal would significantly further the conservation of <i>U. arctos</i>. (No new data or science is noted in the <i>Federal Register</i> notice from the two years since the former EIS was terminated).	If the National Park Service and the U. S. Fish and Wildlife Service initiate reintroduction of <i>U. arctos</i> into the NCE, all management plans/activities at the federal, state, and local levels will need to be revised to account for the increased number of grizzlies being dispersed in the region of influence. The monetary and resource costs at all levels of government associated with these must be analyzed in detail and quantified as part of any scoping or EIS process. A quantitative socioeconomic analysis needs to include administrative expenditures for federal, state, and local authorities to implement mitigation and monitoring measures to minimize human/ <i>U. arctos</i> contact. The socioeconomic analysis of agriculture and livestock grazing in the former EIS discusses depredation but was silent concerning increased stress induced on livestock resulting from the presence of a <i>U. arctos</i> individual in their vicinity. Any socioeconomic analysis needs to quantify the fiscal impacts to agrarian interests. "<i>Grizzly bear presence or aggression may force cattle into undesirable grazing areas or increase stress, leading to poorer nutrition and possibly illness</i>" (Anderson et al. 2002). This constitutes an impact on the human environment with adverse effects not only on the leaseholders in the NCE but livestock operations in regions adjacent to the NCE. Reliance on predictive calculations of <i>U. arctos</i> y populations and dispersion rather than use of objective empirical models and evidence resulting from <i>U. arctos</i> dispersion from other Service-initiated and managed project populations (GYE and NCDE for example) has not resulted in experienced-based predictions of what would be expected of eventual <i>U. arctos</i> population growth and eventual dispersion outside the NCE. The Services must conduct a full environmental impact analysis that would result from <i>U. arctos</i> dispersion onto private, state, and county inholdings in the NCE footprint, and	Regulations: 40 CFR §1501.2(c) 40 CFR §1502.1 "Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analysis." 40 CFR 1501.7(a)(1) 40 CFR §1502.22 40 CFR §1502.24 Methodology and scientific accuracy 40 CFR §1502.2 (e) "Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment." 40 CFR §1508.8(a) Effects 40 CFR §1508.7 Cumulative impact 40 CFR §1507.2(d) Agency capability to comply. 40 CFR §1506.6(a),(c),(d) 40 CFR §1508.27(b)(7)

¹ Okanagan County Code 18.04.080(C)(4)

² "USFWS does not identify existing populations in the lower-48, including those in eastern Washington, as sources of potential natural recolonization of the North Cascades; it only identifies three British Columbia subpopulations on the coastal (west) side of Canada's portion of the Okanagan valley. (USFWS 2021, pp. 180-181). USFWS has repeatedly described "the United States' portion of the NCE" as contiguous with habitat north of the international border in British Columbia in Canada, but isolated from other grizzly bear populations in both the United States and Canada. This description is scientifically supported" (USFWS 1999) (USFWS/NPS 2015) (USFWS/NPS 2017, draft EIS, 1, 6, 36, 88).

Item	Description, Issue, or Conflict	EIS Scoping Action(s)	Authorities
	○ <i>U. Arctos</i> is stable holarctic species listed by the IUCN as a species of least concern throughout its 48 nation range. ○ <i>U. Arctos</i> already meets the ESA conditions for recovery. • The Services' NCE proposal is <u>not essential for the continued <i>U. arctos</i> existence</u>. ○ Termination of the former NCE EIS process is evidence that <i>U. arctos</i> is not believed to be threatened across all or a significant portion of its range. ○ The Services recently decided to discontinue the reintroduction plans in response to local opposition to any <i>U. arctos</i> introductions in the NCE. No new evidence for the necessity was provided with the NOI or during this scoping process. ○ Because the proposal is not essential for continued existence of the grizzly bear, any regulatory action seeking to establish a population into the NCE is not necessary. • The NCE lacks sufficient suitable habitat for a self-sustaining population of grizzly bears. ○ "Extirpated grizzly bear historical range in the heavily human-settled transboundary Okanagan valley area of Washington (and a contiguous part of Canada), lying between coastal ranges and the Rocky Mountains ranges, now lacks sufficient suitable habitat for self-sustaining populations of grizzly bears" (see, e.g., USWFS 2021, p. 322). (State of Idaho Delisting Petition, Page 13)	assess the potential impacts on the investment backed expectations of those entities. This must include impacts to: • The regional wood products industry; • Impacts to domestic sheep allotments which are already pressured by mitigation measures by the U.S. Forest Service to stop disease transmission from domestic sheep to wild bighorn sheep in the Okanogan-Wenatchee Forest Service. • A review of the impacts to property values to each parcel and land inholding listed in attachment D as required by Executive Order 12630; • A predictive analysis of the impacts to the county tax base arising from diminution of tax revenues, reduction of property tax revenues from translation of working lands, and transfer of lands to government for conservation purposes; • Recreational opportunities for the public to have access and utilization of the trailheads, campsites, fishing accesses, and other opportunities which the presence of <i>U. arctos</i> would significantly inhibit. • The presence of <i>prime farmlands</i> in the region, including orchards, which will be attractive to <i>U. arctos</i> and may impose unfunded mandates on these operations. • If the agencies select Alternative 2 for the EIS, the Services must perform an "Evaluation of Risk and Avoidance of Unanticipated Takings Analysis" as required by Executive Order 12630. • A detailed parcel and inholdings inventory in attachment D in the event Alternative 2 is given further consideration by the Services.	40 CFR §1502.24 state that agencies "shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement." County Code Okanogan County 18.04.130 Okanogan County Code 18.04.030(B) Okanagan County Code 18.04.050 General guidance D. Agencies shall submit a list and description of alternatives in light of possible conflicts with Okanogan County's laws, policies and plans, including the comprehensive plan; consider reconciling the proposed action with the county's laws, policies, and plans, including the comprehensive plan, and after such consideration, take all practical measures to resolve such conflict and display the results of such consideration in appropriate documentation. Okanagan County Code 18.04.080(C)(4) Stevens County Comprehensive Plan – 1.1 Stevens County Comprehensive Plan – 1.2 GP-1 Stevens County Comprehensive Plan – 1.2 GP-2 Stevens County Comprehensive Plan – 3.1, 3.2.3 LU/CC-2 Stevens County Comprehensive Plan – 4.2 NR-1 Court Decisions: California v. Bernhardt, 472 F.Supp.3d 573, 600–01 (N.D. Cal. 2020) Myersville Citizens for a Rural Community, Inc v. F.E.R.C.F.3d 1301 (D.C. Cir.2002) "Actions must not be segmented to avoid the requisite analysis. An agency "impermissibly segments NEPA review when it divides connected, cumulative, or similar federal actions into separate projects" and fails to address the true scope and impact." Guidance: OMB Circular A-4(B), 2003 "Before recommending Federal regulatory action, an agency must demonstrate that the proposed action is necessary."

The North Cascades Ecosystem Grizzly Bear Restoration Scoping Process

Alternatives for Inclusion in Scoping Process and EIS

Alternative 3: Delisting the Grizzly Bear in the Lower 48 United States



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Item	Description, Issue or Conflict	EIS Scoping Action	Authorities
Agency Responsibilities	Within the last year, the States of Montana, Idaho, and Wyoming have each petitioned the FWS under 50 C.F.R. §424.14(c) and (d) to delist the grizzly bear. All three states are host to a stable and increasing <i>U. arctos</i> populations. Montana petitioned for the NCDE, Wyoming petitioned for the GYE, and Idaho, after review of the other states, petitioned for delisting throughout the Lower 48 United States. FWS missed the 90-day statutory timeframe to respond to each of these petitions and is, at the time these comments are due, a few days from missing its 12-month statutory responsibility to publish findings in response to the Montana petition. There is no statutory basis under the ESA, which directs agencies to restore extirpated species in a region of its historical range, to retain a species on the ESA list of threatened and endangered species when its population is stable throughout a significant portion of its range. The ESA defines “<i>threatened</i>” as “<i>any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.</i>” When a species population is stable throughout a significant portion of its range it no longer falls under the ESA definitions for threatened or endangered species. This is one reason why former FWS Director Aurelia Skipwith stated that “...<i>the science shows that the grizzly bear and the gray wolf are biologically recovered.</i>” Keeping <i>U. arctos</i> listed as threatened under the ESA poses distinct issues: • Diverts resources from imperiled species that have a far greater need of resources for their recovery. • Unnecessarily impedes state and local governments from exercising their public health and safety authority. • Imposes potential, unnecessary experimental populations into regions where they are unwanted and potentially dangerous to the public. • Erodes public trust in the promised “clearly delineated boundaries” of agency authority and the limits of their enumerated powers.	Because a <i>U. arctos</i> delisting would remove the need to import <i>U. arctos</i> individuals under the ESA’s 10(j) policy, the Services must include and analyze Alternative 3, delisting, as part of the proposed EIS. The fact that <i>U. arctos</i> are already planned for placement into the NCE by COSEWIC and its partners into the Canadian portion of the NCE, individuals of that proposed population will inevitably disperse into the Washington portion of the NCE, should the bears find habitat suitable to their needs. The Services may claim a 10(j) population is needed to have “flexibility” to manage the bear as it disperses. If <i>U. arctos</i> is delisted, then the state and local governments will enact management programs for <i>U. arctos</i> management – which will be more effective than federal programs. Delisting <i>U. arctos</i> would give Washington State the flexibility to address their presence as they migrate into the NCE. Alternative 3 cannot be viewed separately from review of the pending state delisting petitions. The scope of Alternative 3 must apply to and be tailored to the science, data, and findings presented in the Montana, Wyoming, and Idaho petitions. The Idaho petition for delisting in the Lower 48 United States directly relates to this NCE proposal.	State Petitions: • State of Idaho Delisting Petition March 9, 2022. • State of Wyoming GYE Delisting Petition, January 10, 2022. • State of Montana NCDE Delisting Petition, December 17, 2021. Statutes: 16 U.S.C. 1532(6) 16 U.S.C. 1532(20) Regulations: 40 CFR §1501.2(c) 40 CFR §1502.1 “Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analysis.” 40 CFR § 1500.2(e) “Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.” Court Decisions Myersville Citizens for a Rural Community, Inc v. F.E.R.C,F.3d 1301 (D.C. Cir.2002) “Actions must not be segmented to avoid the requisite analysis. An agency “impermissibly segments NEPA review when it divides connected, cumulative, or similar federal actions into separate projects” and fails to address the true scope and impact.” References Rare grizzly bear photographed in North Cascades The Seattle Times (2011) Neil Gorsuch et. al. “A Republic If You Can Keep It, Crown Forum 2019 p. 80, 81.”

Item	Description, Issue or Conflict	EIS Scoping Action	Authorities
	Conflicts in Law Related to ESA Listing/Delisting Issue	Federalism Implications EO 13132	Authorities
Conflicts with Existing Law Inappropriate Primacy by Executive Agencies (intrusion into local police powers)	When evaluating a scoping process, research into supporting or conflicting authorities does not stop at the statutory law / administrative law level. There are also agency policies at all governmental levels that need to be considered for their influence on administrative processes and implementation of decision-making. Where a particular policy or process is applied, the action must be supported in law. The Revised Code of Washington (RCW 77.12.035) prohibits the transplantation or introduction of grizzly bears into the state. NPS policy conditions for extirpated species inhibits a decision of grizzly introduction into the National Park System. The petitions of MT, WY, and ID, along with RCW 77.12.035 are powerful statements of the States intent to exercise their prerogatives over the wildlife located within their boundaries, with particular attention in this case to <i>U. arctos</i>, the grizzly bear.	Reluctance or delays in delisting a recovered species, such as the grizzly bear, significantly limits a state's ability to protect life, limb, or property. For USFWS not to address the Grizzly delisting issue while at the time seeking to introduce a non-essential experimental population into an extirpated region could constitute an intrusion into the police powers reserved to states by the federal constitution and shared with local governments under the state constitution. An inherent attribute of state governmental sovereignty is to protect public health, safety, and welfare. The constitutional doctrine of substantive due process is rooted in the social compact upon which our government is founded, which recognizes protections beyond that which is expressly stated in the U.S. Constitution against the abuse of government power. The proposed rule connected to cumulative and similar federal action has significant <i>federalism implications</i>. Executive Order 13132 Sec. 1 (a) states that policies have federalism implications when: <i>“actions have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”</i> Executive Order 13132 was issued in order “to ensure that the principles of federalism established by the Framers guide the executive departments and agencies in the formulation and implementation of policies, and to further the policies of the Unfunded Mandates Reform Act.” and that “Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government closest to the people.” - EO 13132§2(a)	U.S. Constitution: Article V, XIV Article IX, X Washington State Constitution: Article 1, Section 16 Statutes: 2 U.S.C. § 1501 42 USC § 4335 Efforts supplemental to existing authorizations - “The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of federal agencies.” 43 U.S.C. 1701note(g)(6) Washington Code: RCW 77.12.035 RCW 36.70A.370 Regulations: 40 CFR §1506.2(c), (d) Elimination of duplication with State and local procedures 40 CFR §1508.12 Federal agency Court Decisions: Loretto v. Teleprompter Manhattan CATV Corp., 458 U. S. 419, 435 (1982) Cedar Point Nursery et al., v. Hassid et al. No. 20–107. June 23, 2021 <i>Solid Waste Agency of Northern Cook City. v. Army Corps of Engineers</i>, 531 U. S. 159, 173–174 (2001) 597 U. S. <i>West Virginia v. EPA</i>, Gorsuch, J., concurring (2022) <i>Calder v Bull</i>, 3 U.S. 386 (1798) <i>Goodyear Atomic Corp. v. Miller</i>, 486 U.S. 174, 184-85 (1988) (per Marshal, J.) <i>State v. French</i>, 460 N.W.2d 2 (Minn. 1990) <i>United States v. Stewart</i>, 311 U.S. 60, 64 (1940) <i>NFIB et. al. v. Sebelius</i> 567 U.S. 519 (2012) “The independent power of the States also serves as a check on the power of the Federal Government: ‘By denying any one government complete

Item	Description, Issue or Conflict	EIS Scoping Action	Authorities
			jurisdiction over all the concerns of public life, federalism protects the liberty of the individual from arbitrary power.” Executive Orders: EO 12630 EO 13132§2(b) “The people of the States created the national government and delegated to it enumerated governmental powers. All other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people.” Guidance: 318 DM 1 WA Office of Attorney General - Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property (September 2018) County Code: Okanogan County 18.04.130 Private Property Rights Okanogan County Code 18.04.030(B) Okanogan County Code 18.04.050(D) Okanogan County Code - 18.04.050 (F) - (H) Okanogan County Code 18.04.050(B): Federal and State agencies “Shall coordinate procedures to the fullest extent possible with Okanogan County on an equal basis and not with Okanogan County as subordinate, prior to and during the taking of any federal or state action” Stevens County Comprehensive Plan – 1.1 Stevens County Comprehensive Plan – 1.2 GP-1 “Ensure decision-makers evaluate carefully the effect of their administrative, regulatory, and legislative actions on constitutionally protected rights.” References: The Federalist No. 47, at 303 (J. Madison); id., No. 62, at 378 (J. Madison) Antonin Scalia and Bryan A Garner, <i>Reading Law: The Interpretation of Legal Texts</i>, St. Paul MN Thomas/West 2012 p. 252; Felix Frankfurter, <i>Some Reflections on the Reading of Statutes</i>, 47 Colum. L. Rev. 527, 539(47)

Attachment B

Fatal Grizzly Bear Attacks
on
Humans in North America
2010 - 2022

Fatal Grizzly Bear Attacks on Humans in North America North Cascades Ecosystems EIS Scoping Comments 2010 - 2022



"Complex Problems Solved Well"

Name, Age, Gender	Incident Date	Type	Location	Description
Sergeant Seth Michael Plant, 30, male	May 10, 2022	Wild	Joint Base Elmendorf-Richardson, Alaska	A group of soldiers were attacked by a sow while mapping out a training site for a land navigation course. Their presence prompted the bear to emerge from its den and knock down two of the soldiers. One later died.
Craig Clouatre, 40, male	March 25, 2022	Wild	Six Mile Creek, Park County, Montana	Clouatre's maimed body was discovered March 25.
Leah Davis Lokan, 65, female	July 6, 2021	Wild	Ovando, Montana	Lokan was attacked and killed in her tent near her campsite in Powell County by a grizzly bear. The bear had wandered into the campsite multiple times before the attack. The grizzly bear was later killed by wildlife officials.
Barbara Collister, 68, female	May 25, 2021	Wild	Water Valley, Alberta	Collister was attacked and killed by a bear while walking on trails on her private property. An aggressive grizzly sow and a cub were observed shortly afterwards by wildlife officers nearby. A mature non-lactating female grizzly bear with worn teeth was then captured and euthanized, with NA testing confirming this was the responsible bear. This attack occurred about 24 kilometers from the May 4, 2021 attack that killed Davit Lertzman, however the DNA testing confirmed that different bears were involved.
David Lertzman, 59, male	May 4, 2021	Wild	Waiparous, Alberta	Lertzman was attacked and killed by a bear, determined to be a female brown bear, while out jogging. The bear is suspected to have attacked Lertzman from behind, sending him off a 300-meter embankment.
Charles "Carl" Mock, 40, male	April 17, 2021	Wild	West Yellowstone, Montana	Wilderness guide Charls "Carl" Mock, 40, was attacked on Thursday April 15, 2021 while fishing north of West Yellowstone near Baker's Hold Campground. He was mauled by a 20 year old male grizzly bear likely defending a moose carcass near Yellowstone National Park and died in hospital on April 17. The offending bear was shot and killed by wildlife authorities after it charged them.
Austin Pfeiffer, 22, male	September 20, 2020	Wild	Wrangell-St. Elias National Park and Preserve, Alaska	Pheiffer was on q 10-day moose hunt with a friend near the Chisana River Drainage. He was cleaning a moose they had killed with the bear attacked without warning. Pfeiffer was killed by the bear.
Daniel Schilling, 46, male	July 29, 2020	Wild	Hope, Alaska	Schilling was killed while clearing a path several miles behind his cabin. An empty can of bear spray was found at the scene. There were no witnesses to the attack.
Julien Gauthier, 44, male	August 15, 2019	Wild	Tulita, Northwest Territories	The French composer and soundman was travelling along the Mackenzie River to record sounds of nature for a musical project. When he was asleep in his tent, he was grabbed by a grizzly and taken away and eaten by the bear. His corpse was found the next day.
Valérie Théorêt, 37, female Adele Roesholt, 10 months, female	November 26, 2018	Wild	Einarson Lake, Yukon	The mother and child were attacked near their cabin while on a trip to manage trapping lines. The child's father Gjermund Roesholt shot the bear dead.
Anthony David Montoya, 18, male	October 1, 2018	Wild	Admiralty Island, Alaska	Montoya was working at a remote mining site on Admiralty Island, Alaska, when he was killed by a sow brown bear and two cubs. All three bears were killed.
Mark Uptain, 37, male	September 14, 2018	Wild	Teton Wilderness, Wyoming	Uptain, a guide for Martin Outfitters, was cleaning an elk that he and his client Corey Chubon had shot when the bear attacked. The bear was a sow with a 1½-year-old male cub. ^[26] The hunter and his guide were dressing an elk carcass and had left a canister of bear spray and a Glock 20 pistol out of reach. As the bear attacked, Chubon unfamiliar with the operation of a Glock pistol was unable to fire and attempted to throw it at Uptain who failed to catch it. The bear turned on Uptain. Chubon fled with injuries as the bear

Name, Age, Gender	Incident Date	Type	Location	Description
Mike Soltis, 44, male	June 19, 2018	Wild	Eagle River, Alaska	Soltis was day hiking alone along the Eagle River . After failing to return a search party was dispatched, rangers found a grizzly bear sitting on Soltis's remains. The bear then attacked the search party badly mauling one searcher. The search party retreated from the area. The bear escaped before more searchers arrived.
Brad Treat, 38, male	June 29, 2016	Wild	Flathead National Forest, Montana	Treat and another man were on mountain bikes on U.S. Forest Service land near Halfmoon Lakes. According to the official Board of Review report on the incident, Treat's mountain bike collided at high speed with a large male grizzly bear "after rounding a blind curve in the trail." The bear immediately attacked Treat in response to being struck by the bicycle. The second rider escaped uninjured and summoned help. The bear was identified via DNA from a previous research project, but was not captured or killed because its behavior was a natural response to a surprise encounter involving physical contact.
Lance Crosby, 63, male	August 7, 2015	Wild	Yellowstone National Park, Wyoming	Crosby, an employee at a medical clinic in the park, was reported missing when he did not report for work. A park ranger found his body in a popular off-trail area less than a mile (1 600 m) from Elephant Back Loop Trail, an area he was known to frequent. His body was partially consumed and covered. Puncture wounds on his arms indicated he had tried to defend himself. Based on the presence of a sow grizzly and a cub in the area, the sow was deemed responsible for the attack. The sow was captured and killed after it was found to be the bear that killed Crosby. There were public appeals to not kill the sow, but the park superintendent decided there was a risk the sow might kill again; based on July 6, 2011 and August 24, 2011 killings in the park, where another sow was present at both those killings.
Claudia Huber, 42, female	October 14, 2014	Wild	near Teslin, Yukon	A 25-year-old healthy male grizzly bear broke into a home and chased the victim and her husband outside. The bear pursued and attacked Ms. Huber. Her husband, Matthias Liniger, shot at the bear and killed it, with the possibility that one of the bullets killed the victim.
Ken Novotny, 53, male	September 17, 2014	Wild	near Norman Wells, Northwest Territories	While on a hunting trip near Norman Wells, Novotny was charged and struck by a bear. Friends reported Novotny had just killed a moose and was prepping his prize when the bear "came out of nowhere." He died on the scene. Authorities later found and killed the bear responsible for his death.
Rick Cross, 54, male	September 7, 2014	Wild	Kananaskis Country, Alberta	Cross, a hunter, was killed by a mother bear when he accidentally got between her and her cubs. Park rangers stated that it appeared that Cross managed to fire his rifle before being overwhelmed. RCMP said it appeared he wandered into the area where the mother and cub were feeding on a dead deer.
Adam Thomas Stewart, 31, male	September 4, 2014	Wild	Bridger-Teton National Forest, Wyoming	Stewart was conducting research alone in the Bridger-Teton National Forest in northwest Wyoming near the SE corner of Yellowstone National Park. This is high density bear habitat and he was in Cub Creek. After he failed to return, a search found his body. The coroner suspects it was a grizzly bear, but the species hasn't officially been determined. The pathologist noted premortem punctures to Stewart's skull, indicating the cause of death was from a bear attack. The FWS report says he was not carrying bear spray or a firearm.
Richard White, 49, male	August 24, 2012	Wild	Denali National Park, Alaska	White was backpacking alone along the Toklat River . After hikers found an abandoned backpack and torn clothing, rangers investigated and found a male grizzly bear sitting on White's remains. The bear was shot and killed by an Alaska State Trooper . A necropsy of the bear and photographs recovered from White's camera confirmed the attack. The photographs in White's camera showed that he was taking photos of the bear in a span of eight minutes from 50 yards (46 m) to 100 yards (91 m). ^[40] It was the first fatal bear attack recorded in Denali National Park.
Tomas Puerta, 54, male	October 2012	Wild	Chichagof Island, Alaska	After passers-by spotted an unattended skiff, they investigated and encountered a grizzly bear sow and two cubs. Alaska State troopers and Sitka Mountain rescue personnel then found evidence of a campsite and fire on the beach. There was evidence of a struggle, and upon following a trail of disturbed vegetation, they found Puerta's body, cached and partially eaten.

Name, Age, Gender	Incident Date	Type	Location	Description
John Wallace, 59, male	August 24, 2011	Wild	Yellowstone National Park, Wyoming	Wallace's remains were found by hikers on the Mary Mountain Trail, northeast of Old Faithful. Wallace was hiking alone. An autopsy showed that Wallace died from a bear attack. According to a report released by Yellowstone rangers, park officials had attempted to give Wallace a lecture about bear safety, but he was not interested, calling himself a "grizzly bear expert". DNA evidence later determined that the same sow that killed Brian Matayoshi July 6, 2011 was in the vicinity of Wallace's corpse, though it was not proved that this bear killed Wallace. The bear was killed by park officials. Evidence showed that Wallace was attacked after sitting down on a log to eat a snack and the attack was predatory, rather than defensive.
Brian Matayoshi, 57, male	July 6, 2011	Wild	Yellowstone National Park, Wyoming	Matayoshi and his wife were hiking the Wapiti Lake Trail, and came upon a mother grizzly bear in an open meadow. The couple began to walk away, and the bear charged. After attempting to run away, Matayoshi was fatally bitten and clawed. Matayoshi's wife hid behind a tree, was lifted from the ground by the bear, and dropped. She played dead, and the bear left the area. She was not injured. An initial investigation by the National Park Service found the bear's actions were defensive against a perceived threat to her cubs. Since the attack was not predatory and the bear had no known violent history towards humans, no immediate action was taken towards the bear, the bear was later killed after it was found to be at the site of another fatal attack August 24, 2011. A later investigation determined that the couple's running from the bear was a mistake, and the fatal attack was a "one in 3 million occurrence".
Kevin Kammer, 48, male	July 28, 2010	Wild	Gallatin National Forest, Montana	Kammer was in his tent at Soda Butte Campground when a mother bear attacked and dragged him 25 feet (7.6 m) away. Two other campers in separate campsites were also attacked: a teenager was bitten in the leg, and a woman was bitten in the arm and leg. The bear was caught in a trap set at the campground using pieces of a culvert and Kammer's tent. Later, the bear was killed, and her cubs were sent to ZooMontana. The mother bear's unusual predatory behavior was noted by authorities.
Erwin Frank Evert, 70, male	June 17, 2010	Wild	Shoshone National Forest, Wyoming	Evert, a field botanist, was mauled by a grizzly bear while hiking in the Kitty Creek Drainage area of the Shoshone National Forest, just east of Yellowstone National Park. The bear was trapped and tranquilized earlier in the day by a grizzly bear research team. Two days after the attack, the bear was shot and killed from a helicopter by wildlife officials. Initially it was reported that Evert ignored posted warnings to avoid the area due to the potential danger involved with the bear research. However, the sheriff's deputy who recovered the body and members of Evert's family stated that the warning signs were no longer present. A report released the following month confirmed that the warning signs were removed, though it also asserted that Evert knew there was a bear research study being conducted in the area. Evert's wife filed a wrongful death lawsuit against the federal government, which was dismissed by district court judge Nancy D. Freudenthal.

Attachment C

Executive Order 12630 - Governmental Actions
and Interference with Constitutionally Protected
Property Rights

Executive Order 12630--Governmental actions and interference with constitutionally protected property rights

Source: The provisions of Executive Order 12630 of Mar. 15, 1988, appear at 53 FR 8859, 3 CFR, 1988 Comp., p. 554, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to ensure that government actions are undertaken on a well-reasoned basis with due regard for fiscal accountability, for the financial impact of the obligations imposed on the Federal government by the Just Compensation Clause of the Fifth Amendment, and for the Constitution, it is hereby ordered as follows:

Section 1. Purpose. (a) The Fifth Amendment of the United States Constitution provides that private property shall not be taken for public use without just compensation. Government historically has used the formal exercise of the power of eminent domain, which provides orderly processes for paying just compensation, to acquire private property for public use. Recent Supreme Court decisions, however, in reaffirming the fundamental protection of private property rights provided by the Fifth Amendment and in assessing the nature of governmental actions that have an impact on constitutionally protected property rights, have also reaffirmed that governmental actions that do not formally invoke the condemnation power, including regulations, may result in a taking for which just compensation is required.

(b) Responsible fiscal management and fundamental principles of good government require that government decision-makers evaluate carefully the effect of their administrative, regulatory, and legislative actions on constitutionally protected property rights. Executive departments and agencies should review their actions carefully to prevent unnecessary takings and should account in decision-making for those takings that are necessitated by statutory mandate.

(c) The purpose of this Order is to assist Federal departments and agencies in undertaking such reviews and in proposing, planning, and implementing actions with due regard for the constitutional protections provided by the Fifth Amendment and to reduce the risk of undue or inadvertent burdens on the public fisc resulting from lawful governmental action. In furtherance of the purpose of this Order, the Attorney General shall, consistent with the principles stated herein and in consultation with the Executive departments and agencies, promulgate Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings to which each Executive department or agency shall refer in making the evaluations required by this Order or in otherwise taking any action that is the subject of this Order. The Guidelines shall be promulgated no later than May 1, 1988, and shall be disseminated to all units of each Executive department and agency no later than July 1, 1988. The Attorney General shall, as necessary, update these guidelines to reflect fundamental changes in

takings law occurring as a result of Supreme Court decisions.

Sec. 2. Definitions. For the purpose of this Order: (a) "Policies that have takings implications" refers to Federal regulations, proposed Federal regulations, proposed Federal legislation, comments on proposed Federal legislation, or other Federal policy statements that, if implemented or enacted, could effect a taking, such as rules and regulations that propose or implement licensing, permitting, or other condition requirements or limitations on private property use, or that require dedications or exactions from owners of private property. "Policies that have takings implications" does not include:

- (1) Actions abolishing regulations, discontinuing governmental programs, or modifying regulations in a manner that lessens interference with the use of private property;
- (2) Actions taken with respect to properties held in trust by the United States or in preparation for or during treaty negotiations with foreign nations;
- (3) Law enforcement actions involving seizure, for violations of law, of property for forfeiture or as evidence in criminal proceedings;
- (4) Studies or similar efforts or planning activities;
- (5) Communications between Federal agencies or departments and State or local land-use planning agencies regarding planned or proposed State or local actions regulating private property regardless of whether such communications are initiated by a Federal agency or department or are undertaken in response to an invitation by the State or local authority;
- (6) The placement of military facilities or military activities involving the use of Federal property alone; or
- (7) Any military or foreign affairs functions (including procurement functions thereunder) but not including the U.S. Army Corps of Engineers civil works program.

(b) Private property refers to all property protected by the Just Compensation Clause of the Fifth Amendment.

(c) "Actions" refers to proposed Federal regulations, proposed Federal legislation, comments on proposed Federal legislation, applications of Federal regulations to specific property, or Federal governmental actions physically invading or occupying private property, or other policy statements or actions related to Federal regulation or direct physical invasion or occupancy, but does not include:

- (1) Actions in which the power of eminent domain is formally exercised;
- (2) Actions taken with respect to properties held in trust by the United States or in preparation for or during treaty negotiations with foreign nations;
- (3) Law enforcement actions involving seizure, for violations of law, of property for forfeiture or as evidence in criminal proceedings;
- (4) Studies or similar efforts or planning activities;
- (5) Communications between Federal agencies or departments and State or local land-use planning agencies regarding planned or proposed State or local

actions regulating private property regardless of whether such communications are initiated by a Federal agency or department or are undertaken in response to an invitation by the State or local authority;

(6) The placement of military facilities or military activities involving the use of Federal property alone; or

(7) Any military or foreign affairs functions (including procurement functions thereunder), but not including the U.S. Army Corps of Engineers civil works program.

Sec. 3. *General Principles.* In formulating or implementing policies that have takings implications, each Executive department and agency shall be guided by the following general principles:

- (a) Governmental officials should be sensitive to, anticipate, and account for, the obligations imposed by the Just Compensation Clause of the Fifth Amendment in planning and carrying out governmental actions so that they do not result in the imposition of unanticipated or undue additional burdens on the public fisc.
- (b) Actions undertaken by governmental officials that result in a physical invasion or occupancy of private property, and regulations imposed on private property that substantially affect its value or use, may constitute a taking of property. Further, governmental action may amount to a taking even though the action results in less than a complete deprivation of all use or value, or of all separate and distinct interests in the same private property and even if the action constituting a taking is temporary in nature.
- (c) Government officials whose actions are taken specifically for purposes of protecting public health and safety are ordinarily given broader latitude by courts before their actions are considered to be takings. However, the mere assertion of a public health and safety purpose is insufficient to avoid a taking. Actions to which this Order applies asserted to be for the protection of public health and safety, therefore, should be undertaken only in response to real and substantial threats to public health and safety, be designed to advance significantly the health and safety purpose, and be no greater than is necessary to achieve the health and safety purpose.
- (d) While normal governmental processes do not ordinarily effect takings, undue delays in decision-making during which private property use is interfered with carry a risk of being held to be takings. Additionally, a delay in processing may increase significantly the size of compensation due if a taking is later found to have occurred.
- (e) The Just Compensation Clause is self-actuating, requiring that compensation be paid whenever governmental action results in a taking of private property regardless of whether the underlying authority for the action contemplated a taking or authorized the payment of compensation. Accordingly, governmental actions that may have a significant impact on the use or value of private property should be scrutinized to avoid undue or unplanned burdens on the public fisc.

Sec. 4. *Department and Agency Action.* In addition to the fundamental principles set forth in Section 3, Executive departments and agencies shall adhere, to the extent permitted by law, to the following criteria when implementing policies that have takings implications:

(a) When an Executive department or agency requires a private party to obtain a permit in order to undertake a specific use of, or action with respect to, private property, any conditions imposed on the granting of a permit shall:

(1) Serve the same purpose that would have been served by a prohibition of the use or action; and

(2) Substantially advance that purpose.

(b) When a proposed action would place a restriction on a use of private property, the restriction imposed on the use shall not be disproportionate to the extent to which the use contributes to the overall problem that the restriction is imposed to redress.

(c) When a proposed action involves a permitting process or any other decision-making process that will interfere with, or otherwise prohibit, the use of private property pending the completion of the process, the duration of the process shall be kept to the minimum necessary.

(d) Before undertaking any proposed action regulating private property use for the protection of public health or safety, the Executive department or agency involved shall, in internal deliberative documents and any submissions to the Director of the Office of Management and Budget that are required:

(1) Identify clearly, with as much specificity as possible, the public health or safety risk created by the private property use that is the subject of the proposed action;

(2) Establish that such proposed action substantially advances the purpose of protecting public health and safety against the specifically identified risk;

(3) Establish to the extent possible that the restrictions imposed on the private property are not disproportionate to the extent to which the use contributes to the overall risk; and

(4) Estimate, to the extent possible, the potential cost to the government in the event that a court later determines that the action constituted a taking.

In instances in which there is an immediate threat to health and safety that constitutes an emergency requiring immediate response, this analysis may be done upon completion of the emergency action.

Sec. 5. *Executive Department and Agency Implementation.* (a) The head of each Executive department and agency shall designate an official to be responsible for ensuring compliance with this Order with respect to the actions of that department or agency.

(b) Executive departments and agencies shall, to the extent permitted by law, identify the takings implications of proposed regulatory actions and address the merits of those actions in light of the identified takings implications, if any, in all required

submissions made to the Office of Management and Budget. Significant takings implications should also be identified and discussed in notices of proposed rule-making and messages transmitting legislative proposals to the Congress, stating the departments' and agencies' conclusions on the takings issues.

(c) Executive departments and agencies shall identify each existing Federal rule and regulation against which a takings award has been made or against which a takings claim is pending including the amount of each claim or award. A "takings" award has been made or a "takings" claim pending if the award was made, or the pending claim brought, pursuant to the Just Compensation Clause of the Fifth Amendment. An itemized compilation of all such awards made in Fiscal Years 1985, 1986, and 1987 and all such pending claims shall be submitted to the Director, Office of Management and Budget, on or before May 16, 1988.

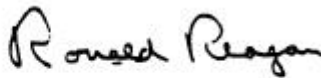
(d) Each Executive department and agency shall submit annually to the Director, Office of Management and Budget, and to the Attorney General an itemized compilation of all awards of just compensation entered against the United States for takings, including awards of interest as well as monies paid pursuant to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601.

(e)(1) The Director, Office of Management and Budget, and the Attorney General shall each, to the extent permitted by law, take action to ensure that the policies of the Executive departments and agencies are consistent with the principles, criteria, and requirements stated in Sections 1 through 5 of this Order, and the Office of Management and Budget shall take action to ensure that all takings awards levied against agencies are properly accounted for in agency budget submissions.

(2) In addition to the guidelines required by Section 1 of this Order, the Attorney General shall, in consultation with each Executive department and agency to which this Order applies, promulgate such supplemental guidelines as may be appropriate to the specific obligations of that department or agency.

Sec. 6. *Judicial Review.* This Order is intended only to improve the internal management of the Executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

THE WHITE HOUSE
March 15, 1988.



Attachment D

Property Inholdings Inventory
In The North Cascades Ecosystem
For
Evaluation of Risk and Avoidance of Unanticipated Takings

PROPERTY INHOLDINGS INVENTORY IN THE NORTH CASCADES ECOSYSTEM

For Agency Evaluation of Risk and Avoidance of Unanticipated Takings - EO 12630

State of Washington Land Inholdings - Loomis State Forest^{1,2}

Owner of Record	No. of Parcels	Acres	Location	Identifying Parcel Number
Des Ranches	16	775.68	T39NR25E sec. 15	3925154001
Des Ranches	8	161.95	T38NR25E sec. 15, 16	3825154009
Des Ranches	15	305.38	T37NR25E sec. 8	3725081006
Des Ranches	36	724.45	T37NR25E sec. 17, 18	3725174007
Curtis Trust <i>Etal</i> , Norman	1	162.7	T40NR25E sec. 31, 32	4025312005
Alexander, Monte	8	214.05	T39NR25E sec. 4,9	3925041003
Shankles, Charles & Emily	4	158.51	T39NR25E sec. 9, 10	3925091002
Maiers, Pamp & Barbara	1	39	T39NR25E sec. 10	3925103003
Fontaine, Paul	27	874.25	T38NR25E sec. 5, 8, 9, 4	9936250526

Okanogan National Forest Inholdings

Owner of Record	No. of Parcels	Acres	Location	Identifying Parcel Number
Christianson Ranch	5	159.13	T33NR21E sec. 6, 7	3321172002
Scott, <i>Etal</i> . Michael	1	174.84	T36NR21E sec. 6, 17	3221220005
John, Meyers	5	158	T36NR24E sec. 29,32	3624324001
T2TN	6	385.4	T36NR24E sec. 34	3624344005
Yarcho, William & Vicky	4	160.94	T36NR24E sec. 25, 26, 36	3624364001
Jones, Bill & Lawanda	10	465.12	T35NR24E sec. 34, 3	3624343003
Kazakov <i>Etal</i> .	2	118.25	T35NR24E sec. 3	3524032001
Skirving Grandchildren Trust	10	136.41	T35NR24 sec. 2	9935240206
Angie LLC	2	106.73	T32NR21E sec. 16, 21, 22	980265002
Welch, John & Diane	1	9.5	T31NR21E sec. 50	9802650001
Waller, Allen	1	10.9	T31NR21E sec. 50	9802650002
Bylin, Andrew	1	17.03	T31NR21E sec. 50, 48	9802610005
Bylin, Mark	1	12.51	T31NR21E sec. 48	9802610004
Spohn, Isabelle & Tingelsted, Richard	1	4.87	T31NR21E sec. 48	9802610006
Peabody LLC	2	21	T31NR21E sec. 48	9802610007

¹ [onXmaps Web App](#)

² [TerraScan MapSifter - Okanogan County Washington \(publicaccessnow.com\)](#)

PROPERTY INHOLDINGS INVENTORY IN THE NORTH CASCADES ECOSYSTEM

For Agency Evaluation of Risk and Avoidance of Unanticipated Takings - EO 12630

Wenatchee National Forest Inholdings¹

¹Landholders and leasee's within USFS managed lands should consider demanding in perpetuity access agreements.

Owner of Record	No. of Parcels	Acres	Location	Identifying Parcel Number
Newman, Alec	5	144.8	T29NR21E sec.21	292121420000
Watson, Ann <i>Etal.</i>	7	149.5	T29NR21E sec. 20	292117440000
Allison, John and Nocola	1	45.47	T29NR21E sec. 18, 20	292117320000
Rowe, James D.	3	57.61	T29NR21E	292118140000
Dillon Trust	2	63.71	T29NR21E sec.13	292118220000
Buris Family Enterprises	1	4.04	T29NR21E sec. 13	292013110075
Maas,, Brian and Tuong	1	21.21	T29NR20E sec. 12	292013110100
Isenhardt Wolfgang & Naoko	1	24.04	T29NR20E sec. 12	292012440050
Thompson, Richard	1	17.14	T29NR20E sec. 12	292012430100
Foundation Funding Natures	1	20	T29NR20E sec. 12	292012430000
Camas Creek Partners LLC	6	145.11	T29NR20E sec. 12	292012430000
Johnson, Ty W & Emily K,	2	5.49	T29NR20E sec. 12	292012340150 292012505055
Henderson, Harry M.	4	7.76	T29NR20E sec. 12	292012340050 292012505045
Clark, Kim	1	2.62	T29NR20E sec. 12	292012340100
Reynolds, Richard & Nancy	1	4.75	T29NR20E sec. 12	292012320200
Southwick, Dale E	1	10	T29NR20E sec. 12	292012320050
Fleek, Margaret	3	5.06	T29NR20E sec. 11	292012320250
Wood Family Ranch LLC	3	74.91	T29NR20E sec. 11	292011410060
Larson, Kyli Thomas Sessions	1	3.01	T29NR20E sec. 11	292011440350
Thomas, James	4	4.41	T29NR20E sec. 11	292011430050
Thomas Layne C	1	1.79	T29NR20E sec. 11	292011420200
Einhorn Michael T & Rebecca T	2	13.43	T29NR20E sec. 11	292011420060
L. CHELAN SAWTOOTH WILD				
Brookshire, Walter	1	3.51	T30NR19E sec.37	301905000100
Shirk, Edward & Helen V	1	0.22	T30NR19E sec.37	301905310050
Lott, Byron & Monique	1	12.3	T30NR19E sec.37	301905000050
Morehead Dean E	1	0.37	T30NR19E sec.37	301905320050
Morehead, Ellis D	1	0.73	T30NR19E sec.37	301905230060
Morehead, Cathy	1	0.55	T30NR19E sec.37	301905230050

PROPERTY INHOLDINGS INVENTORY IN THE NORTH CASCADES ECOSYSTEM

For Agency Evaluation of Risk and Avoidance of Unanticipated Takings - EO 12630

Lake Chelan Sawtooth Wilderness²

²Landholders and leasee's within Federal Wilderness Areas should consider demanding in perpetuity access agreements.

Entity	# of Parcels	Acres	Location	Identifying Parcel #
Miller Marshall V.	4 + 50	159.52	T31NR19E sec. 18	311918340000
Carpenter, Richard	1	6.8	T31NR18E sec. 39	311802340050
Huey, David	1	62	T31NR18E sec. 40	311803000000
Swartz, Richard & Christi	6	148.25	T32N R18E sec. 33	311804110000
Sawtooth Recreation	4	132.2	T32N R18E sec. 28	321828340050
Courtney, Cragg & Roberta	2	74.8	T32N R18E sec. 28	321828420000
Nolan Credit Shelter Trust	1	16.95	T32N R18E sec. 28	321828240050
Wall Properties LLC	3	148.4	T32N R18E sec. 45	321820000050
STEPHEN MATHER WILDERNESS				
McKellar Richard V 7 Karen M	1	6.39	T32N R18E	321817130100
Lewman Darrel & David	1	30.72	T32N R18E	321817130050
Barnhart Michael J & Nancy A	1	8.38	T32N R18E	321817120050
C&M I LLC	1	1.03	T32N R18E	321808340050
Pinnow Edward M	1	6.92	T32N R18E	321808340100
Kinman Marilyn M	1	0.2	T32N R18E	321808330050
McMurry Family Revocable Trust	1	5.2	T32N R18E	321806420040
Britt, James M	2	3.89	T32N R18E	321806420030
Duniway Roxanne & Robert	1	5.12	T32N R18E	321806420050
L. CHELAN REC.	AREA			
Stehekin six LLC	1	.09	T32N R18E	331831340150
Purple Creek Corp	1	.15	T33NR18E	331831340110
Stifter Patricia A	2	1.06	T33NR18E	331831230060
Glenn Nicholas A	1	.25	T33NR18E	331736140150
Hazell Christopher A	1	.20	T33NR17	331736140100
Carpenter Adrienne	1	.09	T33NR17	331736140050
Gaukroger Geoffrey G	1	.07	T33NR17	331736140050
Higgins Madden Enter.	1	.21	T33NR17	331736110150
First United Methodist	1	.30	T33NR17	331736120050
Liberty Janet L <i>Etal.</i>	1	.40	T33NR17	331736120100
Buehler, Thomas M	2	27.895	T33NR17	331725430050

PROPERTY INHOLDINGS INVENTORY IN THE NORTH CASCADES ECOSYSTEM

For Agency Evaluation of Risk and Avoidance of Unanticipated Takings - EO 12630

Lake Chelan Recreational Area

Owner of Record	No. of Parcels	Acres	Location	Identifying Parcel Number
Bohn JL 2017 Family Trust	1	.18	T33NR17	331736120150
Nielsen Tammy D	1	.36	T33NR17	331725430200
Gaskill Karl	3	5.89	T33NR17	331725430150
Stewfam LLC	1	.18	T33NR17	331736120700
Davis Lewis V	4	.72	T33NR17	331736120750
Gerhard Bethany	2	.33	T33NR17	331736120950
Parks Terry V	2	4.80	T33NR17	331736121050
Sloan Corey & Dylan	1	.36	T33NR17	331736121200
Breeze William Edward	1	.28	T33NR17	331736121250
Noble Daniel	1	.21	T33NR17	331736121255
Crozier Peter A & Elizabeth G	1	.15	T33NR17	331736121300
Haynes Shawn E & Mary E	1	.36	T33NR17	331736121350
Dinwiddie Randall R	1	.36	T33NR17	331736121450
Freeman Lillian A <i>Etal</i>	1	.22	T33NR17	331736121500
Griffiths William S..	1	.20	T33NR17	331736121550
Silver Bay Cabin LLC	1	.20	T33NR17	331736121600
Griffith Jimmy E 331736121650	1	.18	T33NR17	331736121650
Nielsen Tristina <i>Etal</i>	1	.16	T33NR17	331736121700
Gordon Carole B Custo	2	.48	T33NR17	331736121850
Wilsey John & Patty	1	.69	T33NR17	331736645030
Morse Resort Inc	1	3.7	T33NR17	331736210050
Stehekin R. Resort Inc	1	.03	T33NR17	331736645016
Oyler Gary G. Porter Bethany	1	.14	T33NR17	331736645020
Clark James D	1	1.69	T33NR17	331736220055
Weavtel LLC	1	1.68	T33NR17	331736220060
Clark Judith L	1	3.88	T33NR17	331736220050
Bishop James & Jeannene <i>Etal</i>	1	.59	T33NR17	331736220100
Griffith Family Trust	1	.48	T33NR17	331736221020
Seemiller Joseph	1	.48	T33NR17	331736221015
Burbery James & Jill	1	.48	T33NR17	331736220200
Murphy Richard & Eileen P	1	.48	T33NR17	331736220300
McGinness Collin	1	1.85	T33NR17	331736220350
Parsons Sally A	3	1.66	T33NR17	331736220150

PROPERTY INHOLDINGS INVENTORY IN THE NORTH CASCADES ECOSYSTEM

For Agency Evaluation of Risk and Avoidance of Unanticipated Takings - EO 12630

LAKE CHELAN NATIONAL RECREATION AREA

Owner of Record	No. of Parcels	Acres	Location	Identifying Parcel Number
Goodwin Jr Richard Hale	1	0.48	T33NR17E applies to all Properties below	331736220250
Theubet Christine	1	0.48		331736221005
Peterson Gregory H <i>Etal</i>	1	1.97		331736220400
Ellis James L	1	0.37		331736220500
Corkern Laura & Sean	1	1.0		331736220551
Libby Caroline	2	0.58		331736220600
Darvill Virginia T <i>Etal</i>	1	3.43		331736220750
Piper Randy & Nancy	2	3.10		331736220900
Courtney Cragg Trt	3	6.57		331725330100
Courtney Cragg Trt	1	7.15		331725330155
Hudak Renee Y <i>Etal</i>	1	0.85		331725645060
Denning Michael	1	0.85		331725645055
Staley James Eugene <i>Etal</i>	1	0.83		331725645030
Courtney Reed	1	0.14		331725645050
Courtney Family Trust	1	0.83		331725645025
Stehekin Legacy LLC	1	0.41		331725645020
Courtney Chelsea M	1	0.43		331725645010
Shaw Seth & Joanna	1	0.85		331725645005
Goodwin Jr Richard H	1	3.00		331726410250
Gross Barbara L & Blaine A	2	1.35		331726410100
Weagant Stephen D	1	0.55		331726140350
Scutt Ronald & Kim Trust	1	0.57		331726140400
True North Bus. Serv.	1	0.53		331726140300
Raymond Charles F	2	1.39		331726140250
Stehekin Rustic Retreat	1	20.21		331726110210
Sherer Wesley M & Mary E <i>Etal</i>	1	5.35		331726110270
Gans Phillip B <i>Etal</i>	1	2.0		331726120050
Thomas Nathan B	1	4.8		331723330050
Boyd Casey BP	1	0.21		331722440100
Miles Michael S	1	0.18		331722140050
Stehekin Six LLC	2	0.66		331722140100
Sweet Kelsey & Danny	1	6.7		331722130050
Valenti Ron and Vicki	1	0.70		331722120100
Robbins Jeffrey C	2	1.81		331716440055

PROPERTY INHOLDINGS INVENTORY IN THE NORTH CASCADES ECOSYSTEM

For Agency Evaluation of Risk and Avoidance of Unanticipated Takings - EO 12630

LAKE CHELAN NATIONAL RECREATION AREA

Owner of Record	No. of Parcels	Acres	Location	Identifying Parcel Number
Garfoot Wendy A	1	3.0	T33NR17E	331716440260
Kurth David W & Jeannetta L	2	1.11	T33NR17E	331716440100
Lavender Teresa	1	1.47	T33NR17E	331716440200
Bingham John & Adele	1	0.97	T33NR17E	331716410800
Burhen William S	1	2.0	T33NR17E	331716410750
Scutt Ronald & Kim	2	2.0	T33NR17E	331716410150
Winkel Martin E & Carol K	3	5.46	T33NR17E	331716410200
Winkel Alvy H & Deborah L.	2	0.71	T33NR17E	331716410400
O'Neal Terrie L <i>Etal</i>	1	2.07	T33NR17E	331716410450
Parlette Linda O'Neal	1	0.11	T33NR17E	331716411050
Pitts Thomas P	4	2.53	T33NR17E	331716410500
Robinson Aaron	1	0.67	T33NR17E	331716410850
Scherer Jonathan	1	7.0	T33NR17E	331716140050
Kitchell Joseph & Ammanda S	1	2.10	T33NR17E	331716240300
Courtney James O	1	2.14	T33NR17E	331716240250
Courtney Mark L	1	2.11	T33NR17E	331716240200
Courtney James O & Irene M	2	3.88	T33NR17E	331716240050
Courtney, Reed T	1	3.20	T33NR17E	331716240100
Courtney Clifford G & Kerry L	1	0.59	T33NR17E	331716220600
Danielson Stehekin Cabin Mgt.	1	2.43	T33NR17E	331716120150
Nielsen Tristina <i>Etal</i>	1	3.25	T33NR17E	331716120100
Lehman Robert A Trt.	1	1.04	T33NR17E	331716120100
Leaf Robert H <i>Etal</i>	1	2.3	T33NR17E	331716210100
Duke Loretta R	1	2.15	T33NR17E	331716120075
Thomson Laura J <i>Etal</i>	1	2.17	T33NR17E	331716120050
Ramos Myra	1	3.00	T33NR17E	331709340300
Courtney Logan J & Corianne E	1	7.98	T33NR17E	331709330150
Johnston Mistaya & Jacob T	1	10.44	T33NR17E	331709330050
Mundal Anne	1	0.66	T33NR17E	331716220200
Walker Allan III <i>Etal</i>	1	0.65	T33NR17E	331716220250
Neuzil Daniel F	1	1.15	T33NR17E	331716220150
Thomson Family Trust	1	0.59	T33NR17E	331716210250

PROPERTY INHOLDINGS INVENTORY IN THE NORTH CASCADES ECOSYSTEM

For Agency Evaluation of Risk and Avoidance of Unanticipated Takings - EO 12630

LAKE CHELAN NATIONAL RECREATION AREA^{3,4}

Entity	# of Parcels	Acres	Location	Identifying Parcel #
McConnell Carolyn A	1	4.36	T33NR17E	331717110050
Courtney Clifford G	2	13.18	T33NR17E	331707240055
Courtney Mark	1	6.40	T33NR17E	331707210050
Courtney Simon	1	6.92	T33NR17E	331707210100
Courtney Warren J	1	17.48	T33NR17E	331707240075
Courtney Peggy A	1	3.67	T33NR17E	331707230050

WENATCHEE NATIONAL FOREST WEST OF LAKE CHELAN

Clark Brenda Getty	1	3.72		311810200050
Sather Family LLC	1	19.66		311805140050
Holden Village Inc	2	235.22		311707420100

³ [Chelan County GIS](#)

⁴ [onXmaps Web App](#)

Attachment E

Federal Register Volume 87, Number 218

Monday, November 14, 2022 Notices

**Notice of Intent to Prepare North
Cascades Ecosystem Grizzly Bear
Restoration Plan Environmental Impact Statement**

this ICR, contact KC Craven by email at kcraven@blm.gov, or by telephone at (702) 515-5374. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on new, proposed, revised and continuing collections of information. This helps the BLM assess impacts of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BLM information collection requirements and ensure requested data are provided in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on August 15, 2022 (87 FR 50118). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again inviting the public and other Federal agencies to comment on the proposed ICR described below. The BLM is especially interested in public comment addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other

personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BLM is required to manage commercial, competitive and organized group recreational uses of the public lands, and individual use of special areas. The BLM must assess, evaluate and authorize (permit) activities proposed to be conducted on public land. The estimated annual burden is estimated to increase by 308 hours (from 5,292 to 5,600). This increase in burden hours results from increasing the number of estimated annual responses from 1,323 to 1,400. The increase in the number of responses is a result of increase demand for recreation permits. This OMB Control Number is currently scheduled to expire on April 30, 2023. The BLM request that OMB renew this OMB Control Number for an additional three years.

Title of Collection: Permits for Recreation on Public Lands (43 CFR part 2930).

OMB Control Number: 1004-0119.

Form Numbers: 2930-001—Special Recreation Application.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Applicants for recreational use of public lands managed by the BLM.

Total Estimated Number of Annual Respondents: 1,400.

Total Estimated Number of Annual Responses: 1,400.

Estimated Completion Time per Response: 4 hours.

Total Estimated Number of Annual Burden Hours: 5,600.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

The authority for this action is the PRA of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin King,

Information Collection Clearance Officer.

[FR Doc. 2022-24700 Filed 11-10-22; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF THE INTERIOR

National Park Service

Fish and Wildlife Service

[PPWONRADE2, PMP00EI05.YP0000]

Notice of Intent To Prepare North Cascades Ecosystem Grizzly Bear Restoration Plan/Environmental Impact Statement, Washington

AGENCIES: National Park Service and U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The National Park Service (NPS) and the U.S. Fish and Wildlife Service (FWS) are jointly preparing an environmental impact statement (EIS) for the North Cascades Ecosystem Grizzly Bear Restoration Plan to determine how to restore the grizzly bear to the North Cascades ecosystem (NCE), a portion of its historical range. As part of the planning and EIS process, the NPS and the FWS will evaluate various approaches for the restoration of a grizzly bear population to the NCE. Action is needed to restore grizzly bears to the NCE because they are functionally extirpated from the ecosystem, and restoration there will contribute to overall grizzly bear recovery.

DATES: All comments must be received or postmarked by December 14, 2022.

ADDRESSES: Comment submission: To submit comments for consideration in development of the EIS, you may use any one of the following methods:

- **Agency website:** <https://parkplanning.nps.gov/NCEGrizzly>.

- **U.S. mail:** Office of the Superintendent, 810 State Route 20, Sedro-Woolley, WA 98284; or Washington Fish and Wildlife Office, 500 Desmond Dr. SE, Lacey, WA 98503.

Document availability: Information regarding the public scoping process for the EIS and virtual public meetings is available for public review online at <https://parkplanning.nps.gov/NCEGrizzly>; or, by appointment in the Office of the Superintendent, 810 State Route 20, Sedro-Woolley, WA 98284 (360-854-7200, telephone); and in the Washington Fish and Wildlife Office, 500 Desmond Dr. SE, Lacey, WA 98503 (360-753-9440, telephone).

FOR FURTHER INFORMATION CONTACT: Denise Shultz, Public Information Officer, North Cascades National Park Service Complex, 810 State Route 20, Sedro-Woolley, WA 98284 (360-854-7200; nce_grizzly@nps.gov), or Andrew LaValle, Public Affairs Specialist, Washington Fish and Wildlife Office, 500 Desmond Dr. SE, Lacey, WA 98503 (360-753-9440, telephone).

FOR FURTHER INFORMATION CONTACT: Denise Shultz, Public Information Officer, North Cascades National Park Service Complex, 810 State Route 20, Sedro-Woolley, WA 98284 (360-854-7200; nce_grizzly@nps.gov), or Andrew LaValle, Public Affairs Specialist, Washington Fish and Wildlife Office, 500 Desmond Dr. SE, Lacey, WA 98503 (nce_grizzly@nps.gov).

SUPPLEMENTARY INFORMATION:**Purpose and Need**

Pursuant to the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*; see 42 U.S.C. 4332(2)(C)), the NPS and the FWS are jointly preparing an NCE Grizzly Bear Restoration Plan and EIS. The purpose of the Grizzly Bear Restoration Plan is to determine how to restore the grizzly bear to the NCE, a portion of its historical range.

Action is needed at this time to:

- Restore grizzly bears to the NCE because they are functionally extirpated from the ecosystem.
- Contribute to the restoration of biodiversity of the ecosystem for the benefit and enjoyment of present and future generations of people.
- Enhance the probability of long-term survival of grizzly bears in the NCE and thereby contribute to overall grizzly bear recovery.
- Support the recovery of the grizzly bear to the point where it can be removed from the Federal List of Endangered and Threatened Wildlife.

Preliminary Proposed Action and Alternatives

As part of the planning and EIS process, the NPS and FWS will evaluate various approaches for the restoration of a grizzly bear population to the NCE. Preliminary alternatives to be considered in the EIS are described in greater detail below.

Actions Common to All Action Alternatives

All the action alternatives would seek to restore a self-sustaining population through the capture and release of grizzly bears into the NCE. Each of the action alternatives would involve several of the same elements, including a similar approach for the capture, release, and monitoring of grizzly bears; enhanced public education and outreach; guidelines for management actions to respond to human—grizzly bear conflicts; improved sanitation on public lands; additional releases of grizzly bears to replace individuals lost to mortality; access management; and habitat management.

No Action Alternative—Existing Management

Under the no action alternative, existing management practices would be followed, and no new management actions would be implemented. Existing management actions would continue to be focused on improved sanitation, poaching control, motorized access management, outreach and educational

programs to provide information about grizzly bears and grizzly bear recovery to the public, and research and monitoring to determine grizzly bear presence, distribution, habitat, and home ranges.

Proposed Action—Restoration as an Experimental Population Under the ESA

Under the proposed action, the NPS and the FWS would capture bears from source populations in either interior British Columbia or the Northern Continental Divide Ecosystem. Approximately 3 to 7 captured grizzly bears would be released into the NCE each year over roughly 5 to 10 years, with a goal of establishing an initial population of 25 grizzly bears. After the initial population of 25 grizzly bears has been reached, an adaptive management phase would allow additional bears to be released into the ecosystem over time to address mortality, population and demographic trends, genetic limitations, and distribution or to adjust the population's sex ratio to improve reproductive success. The proposed action is expected to result in a population of approximately 200 grizzly bears within 60 to 100 years.

The proposed action would also include a proposal to designate the reintroduced grizzly bears in the NCE as an experimental population under section 10(j) of the U.S. Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). An experimental population is a group of reintroduced plants or animals that is geographically isolated from other populations of the species. Experimental populations must contribute to a species' recovery and may include special protective regulations under the ESA. Designation of grizzly bears released into the NCE as an experimental population would allow the FWS to specify protective regulations to provide greater management flexibility (*e.g.*, relocation or removal) in the event of human—grizzly bear conflict situations.

Other Potential Alternatives

Additional alternatives may be analyzed in the EIS. Potential additional alternatives include restoring the NCE grizzly population without an experimental population designation, as well as varying the number and frequency of grizzly bear releases into the NCE to achieve the restoration goal in a shorter or longer time period.

Summary of Expected Impacts

The proposed action is expected to result in restoration of a grizzly bear population in the NCE. Expected impacts from implementation of grizzly

bear restoration actions include potential environmental impacts on wildlife and fish (including grizzly bears), wilderness, visitor use and recreational experience, public and employee safety, socioeconomics, and ethnographic resources.

Anticipated Permits and Authorizations

The NPS and the FWS will comply with the ESA for potential impacts to threatened and endangered species. If a decision is made to pursue rulemaking, the FWS will lead the experimental population rulemaking process. The NPS and the FWS will use and coordinate the NEPA public scoping process to help fulfill the public involvement requirements under the National Historic Preservation Act (54 U.S.C. 306108) as provided in title 36 of the Code of Federal Regulations (CFR) at § 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the alternatives will assist the NPS and the FWS in identifying and evaluating impacts to such resources, and consulting with affected Indian Tribes and the State Historic Preservation Officer(s).

Schedule for the Decision-Making Process

- Agencies have 2 years from the date of the issuance of the notice of intent to the date a record of decision is signed to complete an EIS (40 CFR 1501.10).
- The NPS and the FWS expect to make the draft EIS available to the public in the summer of 2023.
- After public review and comment, the NPS and the FWS expect to make the final EIS available to the public in the spring of 2024.
- The NPS and the FWS would issue a record of decision after the final EIS in accordance with the applicable timeframes under 40 CFR 1506.11.

Public Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. The NPS and the FWS will host virtual public scoping meetings. During the virtual public scoping meetings, the NPS and the FWS will present information pertinent to the EIS and allow the public to ask questions regarding the scope of issues and alternatives that should be considered when preparing the EIS. While the NPS and the FWS will not solicit oral comments at these virtual public meetings, written comments may be submitted at any time during the scoping process. See **ADDRESSES**, above, and *Submitting Comments*, below, for more information. Details regarding the

exact dates and times of these virtual public scoping meetings will be announced on the project website (<https://parkplanning.nps.gov/NCEGrizzly>) and through local and regional media. The virtual public scoping meetings will also be announced through email notification to individuals and organizations, press release, and social media.

The NPS and FWS will also seek to engage directly with Tribes. Consistent with Executive Order 13175, the NPS and FWS welcome Tribal input and are available to engage in meaningful government-to-government consultation with Tribes at their request.

The NPS and the FWS previously proposed to restore grizzly bears to the NCE and produced a draft EIS for public review and comment in 2017 (82 FR 4416, January 13, 2017). Public comments that were provided during that prior EIS process will also inform this new EIS and the development of alternatives.

Reasonable Accommodations

Persons needing reasonable accommodations to attend and participate in the virtual public scoping meetings should contact Denise Shultz (NPS) or Andrew LaValle (FWS) using one of the methods listed in **FOR FURTHER INFORMATION CONTACT** as soon as possible. To allow sufficient time to process requests, please make contact no later than 1 week before the desired virtual public meeting.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

The NPS and the FWS request comments concerning the scope of the analysis, identification of potential alternatives, and information and analyses relevant to the planning process. The NPS and the FWS will consider these comments in developing the draft EIS. Specifically, the NPS and the FWS are seeking information on:

- Potential effects that the alternatives could have on other aspects of the human environment, including ecological, aesthetic, historic, cultural, economic, social, environmental justice, or health effects;
- Other possible reasonable alternatives that the NPS and the FWS should consider, including additional or alternative avoidance, minimization, and mitigation measures;
- Approaches for managing reintroduced grizzly bears, particularly in regard to potential conflicts with human activities; and

- Other information relevant to grizzly bear restoration and its impacts on the human environment.

Submitting Comments

If you wish to comment, you may submit comments by one of the methods listed above in **ADDRESSES**. Comments will not be accepted by fax, email, or by any method other than those specified above. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. Comments must be provided by the close of the comment period and should clearly articulate the submitter's concerns and contentions.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments submitted anonymously will be accepted and considered.

Decision Makers

The decision makers are the NPS Regional Director for Interior Regions 8, 9, 10, and 12 and the FWS Regional Director for the Pacific Region.

Frank Lands,

Regional Director, Interior Regions 8, 9, 10, & 12, National Park Service.

Nanette Seto,

Acting Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2022–24717 Filed 11–10–22; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–1340]

Certain Electronic Devices, Semiconductor Devices, and Components Thereof Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 6, 2022, under section 337 of the Tariff Act of 1930, as amended, on behalf of Bell Semiconductor, LLC of

Bethlehem, Pennsylvania. Supplements to the complaint were filed on October 21 and 28, 2022. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, semiconductor devices, and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,231,626 (“the ‘626 Patent’”) and U.S. Patent No. 7,260,803 (“the ‘803 Patent’”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2022).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on November 7, 2022, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims