

Congress of the United States
Washington, DC 20515

March 20, 2024

Martha Williams
Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, D.C. 20240

Dear Director Williams,

We support the recent settlement between the state of Idaho and U.S. Fish and Wildlife Service regarding the Endangered Species Act status of grizzly bears in Idaho. This settlement, which was granted court approval on March 5, will revise or remove the flawed 1975 listing of “lower 48” grizzly bears as a threatened species under the Endangered Species Act.

This outcome generally tracks with legislation introduced last year, the Grizzly Bear Review and Resource Restart Act, which proposed a similar process for ending unnecessary protections for robust grizzly bear populations and focusing resources on animals that are truly endangered or threatened.

While we are pleased with the Service’s commitment to correct the flawed “lower 48” grizzly bear listing, the issues of that listing are unfortunately not unique or confined to a single listing from the 1970s. These “lower 48” listings have been made repeatedly over the decades, usually based on contrived differences with conservation or population status in Canada. These partial listings of species and subspecies flaunt Congressional direction that listing of “distinct population segments” of biological species be used *sparingly*.

Instead of the sparing use of ESA protections for DPSs based on populations that are truly discrete and significant to preventing threatened or endangered extinction of biological species, we see an out-of-control, counterproductive DPS policy.

Listings that apply only to the members of a species “wherever found” in the contiguous United States appear to be based on faulty premises, severely discount Canadian conservation efforts, or ignore the expansive Alaska and Canada populations that have extremities extending into only part of the lower 48.

Several problematic listings include ill-defined “lower 48” DPSs or non-species entities for bull trout, Canada lynx, North American wolverine, and gray wolf. The rationale for artificial population delineation with Canada stretched to the absurd with the recent wolverine listing. Despite a flourishing population in Canada, the U.S. Fish and Wildlife Service listed the 300 or

so wolverine that have recolonized extirpated range in Idaho and three adjacent states. We're aware that Idaho and Montana have sent letters of intent to sue over the wolverine listing.

We're also aware that the U.S. Fish and Wildlife Service has invested years on developing post-delisting monitoring plans for Canada lynx because listing is not warranted biologically and because regulatory mechanisms are inadequate. The Service has apparently abandoned the appropriate delisting path of Canada lynx and proposed a recovery plan revision for 20 years of maintenance and monitoring *before* delisting to ensure the status quo is satisfactory.

These legally and biologically flawed listings are not harmless. They impose unnecessary restrictions and administrative requirements, not only for the U.S. Fish and Wildlife Service, but also for federal land management agencies, states, and a wide swath of private enterprise and citizens. These listings have also provided fertile ground for procedural lawsuits that not only fail to produce conservation benefits, but divert limited federal resources to pay millions of dollars to plaintiff organization attorneys under the ESA's citizen suit provisions. The Service's actions and inactions are leaving states few options other than bringing their own suits and shifting resources from conservation to attorneys.

We call upon the Service to prioritize the removal of resource-intensive listings that have recovered, or listings that should never have been considered distinct population segments, like the wolverine. It's long past time for the ESA to function as intended, with sparing use of DPS designations. We must focus protection on truly imperiled species rather than feeding a growing number of attorneys at government expense.

Sincerely,



James E. Risch
United States Senator



Mike Crapo
United States Senator



Russ Fulcher
Member of Congress