

Grijalva #1

**Amendment offered by Representative Grijalva
to H.R. 1245**

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tribal Heritage and Grizzly Bear Protection Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **GRIZZLY BEAR.**—The term “grizzly bear” means a member of the subspecies *Ursus arctos horribilis*.

(2) **HISTORICAL RANGE OF THE GRIZZLY BEAR.**—The term “historical range of the grizzly bear” means the range determined by the Committee using the best available scientific and historical information.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(4) **TAKE.**—The term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(5) **TRIBAL LAND.**—The term “Tribal land” means—

(A) land located within the boundaries of an Indian reservation, pueblo, or rancharia;

(B) land not located within the boundaries of an Indian reservation, pueblo, or rancharia, title to which is held—

(i) in trust by the United States for benefit of an Indian Tribe or an individual Indian;

(ii) by an Indian Tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

(iii) by a dependent Indian community;

(C) land that is owned by an Indian Tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act ([43 U.S.C. 1601](#)) et

seq.) or that was conveyed by the United States to a Native Corporation in exchange for such land; and

(D) areas where Indian Tribes have reserved treaty rights lands.

(6) COMMITTEE.—The term “Committee” means the Grizzly Bear Scientific Committee.

SEC. 3. PROTECTION OF GRIZZLY BEARS.

(a) PROHIBITED ACTS.—Except as provided in section 5, it is unlawful for any person—

(1) to take, possess, or transport a grizzly bear, or any part thereof;

(2) to violate any condition of a permit issued under section 5; or

(3) to violate any regulation issued by the Secretary pursuant to this Act.

(b) NONAPPLICATION.—This Act shall not apply to—

(1) a grizzly bear, or any part thereof, in a population that is listed as a threatened species or an endangered species under section 4 of the Endangered Species Act of 1973 ([16 U.S.C. 1533](#));

(2) a grizzly bear, or any part thereof, taken, possessed, or transported in the State of Alaska; or

(3) a taking that is imminently necessary for self-defense or to save the life of a person in immediate danger.

(c) CIVIL PENALTY.—

(1) KNOWING VIOLATION.—Any person who knowingly violates subsection (a) may be assessed a civil penalty by the Secretary described in the first sentence of section 11(a)(1) of the Endangered Species Act of 1973 ([16 U.S.C. 1540\(a\)\(1\)](#)) as if such person knowingly violated a provision of such Act.

(2) UNKNOWING VIOLATION.—Any person who, other than knowingly, violates subsection (a) may be assessed a civil penalty by the Secretary described in the third sentence of section 11(a)(1) of the Endangered Species Act of 1973 ([16 U.S.C. 1540\(a\)\(1\)](#)) as if such person otherwise violated a provision of such Act.

(d) CRIMINAL PENALTY.—Any person who knowingly violates subsection (a) shall, upon conviction, be punished in the same manner as a person who commits a violation punishable under the first sentence of section 11(b)(1) of the Endangered Species Act of 1973 ([16 U.S.C. 1540\(b\)\(1\)](#)).

(e) CANCELLATION OF GRAZING AUTHORIZATIONS.—Any lease, license, permit, or agreement issued by the head of any Federal agency to a person authorizing the grazing of domestic livestock on Federal lands shall have no force or effect upon the conviction of such person of a violation of subsection (a). The United States shall not be liable for the payment of any compensation, reimbursement, or damages in connection with the cancellation of any lease, license, permit, or agreement pursuant to this subsection.

SEC. 4. ESTABLISHMENT OF GRIZZLY BEAR SCIENTIFIC COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of the Tribal Heritage and Grizzly Bear Protection Act, the Secretary shall establish the Grizzly Bear Scientific Committee (“the Committee”), in accordance with subsection (b) below, to carry out the expert consultations and scientific studies specified by this Act. The Secretary shall establish 6 regions within the Grizzly Bear Scientific Committee as follows:

- (1) The North Cascades Ecosystem Region shall consist of Washington.
- (2) The Selkirk Mountains Ecosystem Region shall consist of Idaho and Washington.
- (3) The Cabinet Yaak Ecosystem Region shall consist of Montana and Idaho.
- (4) The Northern Continental Divide Ecosystem Region shall consist of Montana.
- (5) The Bitterroot Recovery Ecosystem Region shall consist of Idaho and Montana.
- (6) The Greater Yellowstone Ecosystem Region shall consist of Wyoming, Idaho, and Montana.

(b) MEMBERSHIP.—The Committee shall be composed of the following members:

(1) REGIONAL REPRESENTATION.—Each of the regions listed in paragraphs (1) through (6) of subsection (a) shall be represented on the Committee by 2 members—

- (A) who are appointed by the Secretary;
- (B) who reside in a State or territory in the region that the member will represent; and
- (C) of whom—
 - (i) one shall be a Tribal representative; and
 - (ii) one shall be an individual who represents the scientific community.

(2) AT-LARGE MEMBERS.—The Secretary shall appoint as at-large members of the Committee at least one scientific expert representative from each of the following designated by the expert’s own agency:

- (A) The Fish and Wildlife Service.
- (B) The National Park Service.
- (C) The Forest Service.
- (D) The Bureau of Land Management.
- (E) The Bureau of Indian Affairs.
- (F) The United States Geological Survey.

(c) DETERMINATIONS TO BE MADE ON BASIS OF BEST AVAILABLE SCIENCE.—Determinations by the Committee pursuant to this Act shall be made solely on the basis of the best available science.

(d) NO REPLACEMENT OF EXISTING ENTITIES.—

(1) The establishment of the Committee shall not replace any existing Federal or interagency committee, task force, or study team.

(2) The functions of the Committee shall be limited to those mandated by this Act and shall not replace, repeal, or subsume any authority or function delegated to any other Federal or interagency entity.

SEC. 5. PERMITTED TAKING OF GRIZZLY BEARS.

(a) IN GENERAL.—The Secretary may issue a permit in accordance with this section authorizing the taking, possession, or transportation of a grizzly bear, or any part thereof, that is otherwise prohibited by section 3.

(b) CONDITIONS.—The Secretary may issue a permit under this section only if the Secretary has—

- (1) investigated the circumstances that gave rise to the permit application;
- (2) determined that such taking, possession, or transportation is compatible with the protection of the grizzly bear species or a population of grizzly bears occupying a geographically distinct area; and
- (3) determined that such taking, possession, or transportation is an allowable taking, possession, or transportation under subsection (c).

(c) ALLOWABLE TAKINGS, POSSESSIONS, OR TRANSPORTS.—For the purpose of subsection (b)(3), an allowable taking, possession, or transportation is any of the following:

(1) **SCIENTIFIC OR EXHIBITION PURPOSES.**—Taking, possessing, or transporting a grizzly bear, or any part thereof, for the scientific or exhibition purposes of a—

(A) public museum;

(B) scientific society; or

(C) zoological park that is accredited by the Association of Zoos and Aquariums.

(2) **RELIGIOUS PURPOSES OF FEDERALLY RECOGNIZED INDIAN TRIBE.**—Taking, possessing, or transporting a grizzly bear, or any part thereof, for the religious purposes of a federally recognized Indian Tribe.

(3) **PROTECTION OF AGRICULTURAL INTERESTS OR PUBLIC SAFETY.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), taking, possessing, or transporting a grizzly bear, or any part thereof, during such time period and in such location as the Secretary determines to be necessary to protect agricultural interests or public safety in such location.

(B) **REQUIREMENTS FOR TAKING.**—Before making a determination under subparagraph (A) with respect to a taking—

(i) the Governor of the State in which the taking will occur must request, in writing, that the Secretary make such determination;

(ii) the Secretary must conclude that nonlethal deterrents have been used in such location and proven ineffective to mitigate the threat of the grizzly bear to agricultural interests or public safety; and

(iii) the Secretary must determine, in consultation with the Committee and each federally recognized Indian Tribe identified in the report required under section 8(a)(2), that the grizzly bear cannot be relocated to support—

(I) efforts under section 8 to reintroduce grizzly bears on Tribal land; or

(II) recovery efforts for a grizzly bear population listed as a threatened species or an endangered species under section 4 of the Endangered Species Act of 1973 ([16 U.S.C. 1533](#)).

(d) **NO PERMITS FOR TAKINGS THAT WOULD EXCEED MORTALITY LIMIT.**—The Secretary may not issue a permit under this section for the taking of a grizzly bear if such taking would cause the total mortality for any population or subpopulation of grizzly bears to exceed the scientifically recommended limit determined by the Interagency Grizzly Bear Study Team, the Interagency Grizzly Bear Committee, or any relevant subcommittee thereof.

(e) **SPORT HUNTING.**—Nothing in this section may be construed to allow sport hunting of grizzly bears.

(f) **NONALIENABILITY.**—A person who has been issued a permit under this section may not sell, transfer, assign, or otherwise alienate the authority granted to such person by such permit.

(g) **CONDUCT REQUIREMENTS.**—Taking, possessing, or transporting a grizzly bear, or any part thereof, under this Act shall be conducted in a manner consistent with—

- (1) the conditions of the permit authorizing such taking, possession, or transportation; and
- (2) the provisions of this Act.

SEC. 6. LIVESTOCK LOSS PREVENTION.

The Omnibus Public Land Management Act of 2009 ([Public Law 111–11](#); [7 U.S.C. 8351](#) note) is amended—

(1) in section 6202 ([7 U.S.C. 8351](#) note)—

(A) in the heading of such section, by inserting “**AND GRIZZLY BEAR**” after “**WOLF**”;

(B) in subsection (a)—

(i) by striking “5-year”; and

(ii) in paragraph (1), by inserting “and grizzly bears” after “wolves”; and

(C) in subsection (b)(2)(A), by inserting “and grizzly bears” after “wolves”; and

(2) in section 6203 ([7 U.S.C. 8351](#) note), by striking “\$1,000,000 for fiscal year 2009” and inserting “\$5,000,000 for fiscal year 2024”.

SEC. 7. CONSULTATION WITH INDIAN TRIBES.

(a) **CONSULTATION REQUIRED BEFORE ISSUING PERMIT.**—Before issuing a permit under this Act that authorizes an activity to be carried out on the Tribal land of a federally recognized Indian Tribe, the Secretary shall consult with such federally recognized Indian Tribe.

(b) **CONSULTATION REQUIRED BEFORE TAKING MAJOR FEDERAL ACTION.**—Before taking any Federal action that may negatively impact grizzly bear habitat or increase grizzly bear mortality the Secretary or the Secretary of Agriculture, respectively, shall consult with—

- (1) the Committee; and
- (2) any relevant federally recognized Indian Tribe.

(c) REQUIREMENT.—Any consultation conducted with a federally recognized Indian Tribe under this section—

(1) shall be meaningful and be conducted within a framework developed with the free, prior, and informed consent of such Indian Tribe;

(2) shall be carried out through cooperative management agreements between the Secretary, the Secretary of Agriculture, and such Indian Tribe; and

(3) may, at the option of such Indian Tribe, be entered into under the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 5301](#) et seq.).

SEC. 8. REINTRODUCTION OF GRIZZLY BEARS ON TRIBAL LAND.

(a) PUBLIC REPORT REQUIRED.—

(1) STUDY.—The Committee, in consultation with each federally recognized Indian Tribe whose Tribal land is located within the historical range of the grizzly bear, shall conduct a study to identify Tribal land that is located within the historical range of the grizzly bear and is suitable to support grizzly bear populations.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Committee shall make publicly available on the Department’s website a report containing the results of the study conducted under paragraph (1).

(b) NOTIFICATION.—Not later than 30 days after the report is made available under subsection (a)(2), the Secretary shall notify each federally recognized Indian Tribe whose Tribal land was identified in the report required under subsection (a)(1) that grizzly bears may be reintroduced on the identified Tribal land in accordance with this Act. The Secretary shall notify the Governor of any State that is conterminous with any such Tribal land at the time such notice is provided to such Indian Tribe.

(c) REINTRODUCTION.—If a federally recognized Indian Tribe notified under subsection (b) notifies the Secretary that it agrees to have grizzly bears reintroduced on its Tribal land, the Secretary shall coordinate with such federally recognized Indian Tribe to reintroduce grizzly bears to such Tribal land.

(d) MANNER OF RELOCATION.—The relocation of grizzly bears under subsection (c) shall be carried out by the Secretary in a manner that is consistent with—

(1) the scientific advice of the Committee;

(2) the traditional ecological knowledge of the respective federally recognized Indian Tribe; and

(3) Secretarial Order 3342, issued by the Secretary on the Interior on October 21, 2016.

(e) PROTECTION OF PUBLIC SAFETY.—A grizzly bear that has been identified by the Secretary as a threat to public safety shall not be eligible for reintroduction under this section.

(f) OTHER REINTRODUCTION EFFORTS.—Nothing in this Act shall affect any effort by the Secretary to reintroduce a grizzly bear on lands other than the lands specified in this Act.

SEC. 9. MISCELLANEOUS.

(a) LIMITATION ON USE OF PREDATOR CONTROL MEASURES.—The Secretary or the Secretary of Agriculture, respectively, shall prohibit on lands under such Secretary's jurisdiction the use of predator control measures that the Interagency Grizzly Bear Study Team or the Committee has determined may result in the inadvertent taking of grizzly bears.

(b) MEETING AND ADVISEMENT.—The Interagency Grizzly Bear Committee and the Interagency Grizzly Bear Study Team shall meet with and advise State and Federal wildlife managers and affected federally recognized Indian Tribes.

(c) INCLUSION OF MEMBERS OF FEDERALLY RECOGNIZED INDIAN TRIBES ON INTERAGENCY GRIZZLY BEAR COMMITTEE.—The Interagency Grizzly Bear Committee shall include not less than 1 member of each federally recognized Indian Tribe whose Tribal land is—

(1) inhabited by grizzly bears;

(2) located within the historical range of the grizzly bear pre-Lewis and Clark Expedition;
and

(3) identified in the report required under section 8(a)(2) as suitable to support grizzly bear populations.

(d) PARTNERSHIP.—The Secretary, the Secretary of Agriculture, and relevant federally recognized Indian Tribes shall manage grizzly bears reintroduced on Tribal land under this Act using the best available science and consistent with the cultural imperatives of those federally recognized Indian Tribes, as defined in “The Grizzly: A Treaty of Cooperation, Cultural Revitalization and Restoration”.