

4 This is in all probability the same Duncan mentioned by John Muir in the chapter on "The Animals of the Yosemite" in his book, *Our National Parks* (see Bibliography, p. 667). Muir relates that Duncan, who had quite a reputation locally as a bear hunter, had a cabin on the shore of Crescent Lake. In nine years he had killed no less than 49 bears [probably both Black and Grizzly]. He kept count of his killings by "notches cut on one of the timbers of his cabin." Crescent Lake is but a short distance from Buck Camp, and Duncan was doubtless living there in 1887 when Wellman went to get his assistance. □

Grizzly Country *

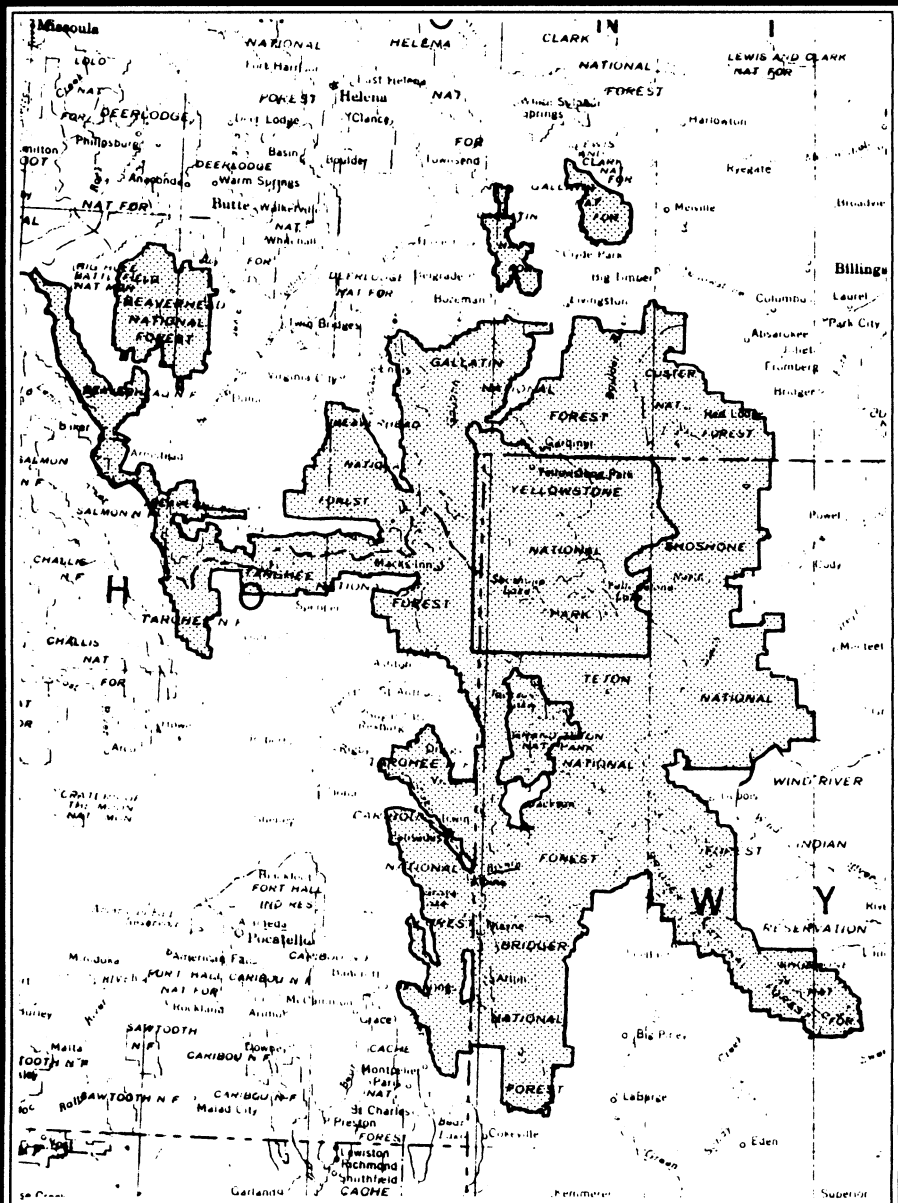
Theodore W. Sudia

The grizzly bear, (*Ursus arctos v. horribilis*), already listed on the Threatened Species list in the contiguous 48 states, is close to being eliminated from the Yellowstone region of the United States. After more than ten years of research the conclusion of Knight and Eberhard (*Ecology* 66(2): 323-334, 1985) is that without decisive action the grizzly will disappear from the Yellowstone and Grand Teton National Parks and the surrounding National Forests. The research of Knight and Eberhard points to this eradication if as few as two or three bears are killed a year. Whether the grizzly population continues to decline, levels off or increases may depend upon as little as one grizzly bear death a year.

The grizzly is a fairly long-lived animal, whose age in the wild may reach upwards of 25 years. Females characteristically do not begin to give birth to cubs until their 6th or 7th year, and then may have up to three cubs (average 2.2). At any time a mature female may have one to three cubs of the same season with her. At about age two the cubs leave their mothers and begin life on their own. The boar leads a solitary life except for the rut. The sow has cubs about every three years and keeps the company of her most recent cubs.

In nature the grizzly bear is without peer and is at the apex of the animal kingdom in North America. When provoked, the ferocity of the grizzly bear is legendary. Because of their weight (boars upwards of 700 pounds, sows 350 to 400 pounds) and size (a boar may stand 6 feet on its back feet and reach 12 feet), and the lethality of their claws and jaws, the bear is the most formidable animal on the North American Continent. Only grizzly cubs are subject to predation, then mostly from adult boar grizzlies. The grizzly is omnivorous—its diet ranges from bulbs, roots, berries and pine nuts to a variety of animals up to and including elk, living or dead. Since the females are most likely to display belligerent behavior defending their cubs, they are apt to be preferentially killed. Preferentially killing a sow with cubs results in the death of more than one animal, since the cubs cannot survive without her.

Andy Russell, in his book "Grizzly Country," describes grizzlies in the wild, as shy, intelligent and playful. They can beat a ground squirrel back to its hole, bring down elk, strip berries off a bough or crack pinyon nuts and delicately extract the nut meats. The young clown around, and in their play make slides on grassy slopes, taking



Proposed Grizzly Country

The shaded area—Grizzly Country—consists of: Yellowstone and Grand Teton national parks, and Beaverhead, Galatin, Targhee, Caribou, Bridger, Teton, Shoshone and Custer national forests, located in the states of Idaho, Montana and Wyoming.

turns to slide. They can leap into the air and they can climb trees. They are agile and fast with enormous endurance. They move with the grace of ballet dancers. Radio tracking of grizzlies in the Yellowstone area reveals an amazing pattern of movement, over all kinds of terrain—high mountains, rivers, plains and forest. A bear may range over 400 to 500 square miles of territory in a week. National Park rangers who moved bears as a part of the early bear management program were surprised to discover the same bear back a day later, making a 75-mile cross country trip in 24 hours.

In pre-Columbian time, the grizzly ranged over most of the North American Continent. The grizzly bear has close relatives in the Mexican grizzly bear, the Kodiak bear of Alaska, and the European brown bear. The grizzly bear (*Ursus arctos v. horribilis*) is the paramount symbol of the North American wilderness.

Man is the only enemy of the grizzly bear. Whether one, two or three bears a year are killed and the grizzly perishes in the Yellowstone area is a land manager's decision. The principal land manager in the Yellowstone area is the United States. It is ironic that this magnificent creature has come to this desperate pass in a sanctuary whose enabling legislation states '**No animal nor bird shall be harmed.**' To save the bears, the killing must stop.

Specific action should be taken to save the grizzly bear

1. The Congress should enact legislation designating Yellowstone and Grand Teton National Parks together with the contiguous National Forests (Beaverhead, Galatin, Targhee, Caribou, Bridger, Teton, Shoshone, and Custer National Forests) **Grizzly Country**. The law should specify that the grizzly bear has the same rights and protection in **Grizzly Country** that cattle have in 'Open Range.'

2. All roads leading into **Grizzly Country** should be prominently posted and travelers should be warned to take proper precautions.

3. Killing a grizzly bear in **Grizzly Country** should carry a fine of \$100,000 and imprisonment or both. (The fine for killing a beached whale in Australia is \$100,000. The fine was imposed after the Australian Fish and Wildlife Service killed 150 beached whales over the protests of citizens who claimed they could have saved the whales.) One-half of the fine money should be paid as a reward for information leading to the conviction of the person or persons killing grizzly bears in **Grizzly Country**. The legislation establishing **Grizzly Country** should be considered a supplement to the Endangered Species Act.

4. Setting of bait stations in **Grizzly Country** should be construed to be bait stations for the grizzly bear no matter for which animal the bait station was intended. The fine for establishing bait

stations should be \$50,000, one-half of which should be paid as a reward for information leading to a conviction. Fines or prison terms or both should be imposed.

5. Owners of grizzly bear parts should be required to register their property with the U.S. Fish and Wildlife Service. Grizzly bear parts in commerce, without proper registration papers should be presumed to be contraband and possession should carry a fine of \$25,000 or imprisonment or both, with half the fine going as a reward for information leading to conviction of illegal possession.

6. Claims of killing grizzly bears in self-defense should be heard by a special 'Board of Inquiry' convened by the Federal District Attorney to make a finding and recommendation for indictment.

7. All garbage dumps in **Grizzly Country** should be closed and no dumping of garbage should be permitted. Feeding the bears in any way should be unlawful. Fines and imprisonment should be imposed for willfully maintaining garbage dumps or feeding the bears. After suitable notice, continued disregard for regulations should result in fines of \$5,000/day until the dumping is stopped and the situation cleared up.

8. Permits for the grazing of livestock in **Grizzly Country** should be issued with the proviso that livestock owners assume the risks associated with grizzly bears and other predators in **Grizzly Country**. No tort claims for losses of livestock to predators in **Grizzly Country** should be recognized by the courts. The use of sheep protection dogs— such as the Hungarian Komondor—should be encouraged as a non-lethal bear deterrent.

9. All residents and permittees in **Grizzly Country** should receive intensive training and education about the grizzly bear, and the technology of bearproofing homes, cabins, camping equipment (hardsided permitted only), and the handling of food and edible garbage. Federal agencies permitting camping and other activities in which food is brought onto Federal land should promulgate regulations for the proper handling, preparation, storage and disposal of food and should impose fines of not less than \$100 for first infractions and fines of \$500 for repeated infractions of the regulations.

10. Hunting in **Grizzly Country** should be allowed everywhere the law permits hunting. Hunting camps should be strictly regulated with respect to the handling of food, garbage and offal so as to not attract grizzly bears. Camps in violation of the regulations should be fined \$5,000/day until the situation is remedied.

11. All claims for tort for personal injury or death, or property damage should be heard by the local Federal District Court.

12. The state and local governments having land contiguous with the Federal lands in **Grizzly Country** should be invited to participate in **Grizzly Country** by designating lands to be included in it and proposing regulations for it. The Federal legislation described in 1 (above) should apply to lands so designated.

13. A fund should be established from grizzly bear fines and from entrance and use fees for all of the Federal lands comprising **Grizzly Country** for the payment of torts or rewards. This fund should also support research on grizzly bears and other predators of **Grizzly Country** on a continuing basis. The fund should be administered by an interagency group representing all government entities having land in **Grizzly Country**.

14. All law enforcement officers whose agencies are participants in **Grizzly Country** shall have the same law enforcement authority and it should apply throughout **Grizzly Country**.

15. The residents of **Grizzly Country** and those who visit it must come to realize that they are in a very special place....**true wilderness**....and that they and their fellow citizens have made a conscious decision that the grizzly bear in the Yellowstone area is worth preserving and that come what may, life in **Grizzly Country** will adapt itself to that end so that the grizzly bear (*Ursus arctos v. horribilus*) will not perish from this place.

* see also the third reviewed item in the next article (page 15) for a discussion involving the role of state participation in National Park Resource preservation

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The National Park Service in Law Reviews and Law Journals: A Fourth Update

Thomas W. Lucke

In 1981, when I first started producing these brief annotated bibliographies for The George Wright *FORUM*, I was dismayed by the fact that very few people were involved in the question of how law, legislative histories and court cases impacted on the operation of the National Park Service. However, over the intervening years, I have seen a gradual change. Discussions involving the legal issues of the NPS are beginning to appear more and more in the legal periodical literature. Special events such as a training course on Natural