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Statement for November 18, 2009 Big Hole Watershed Committee monthly meeting

You may have heard recently that the Fish and Wildlife Service settled the most recent round of litigation involving Arctic grayling. This is indeed the case, and I wanted to quickly update folks on what that means.

If you may recall, in 2007 the Fish and Wildlife Service removed fluvial Arctic grayling from the ESA candidate list, which not surprisingly resulted in a lawsuit by Center for Biological Diversity and others challenging that decision. In October 2009 the FWS settled that litigation and acknowledged that plaintiffs were the “prevailing party” in the action, and agreed to pay plaintiffs attorneys’ fees (\$27,000) and complete a new 12-month finding by August 30, 2010. I have provided Noor with a copy of the settlement agreement.

What this means is yet again, as it did in 1994 and 2007, FWS will have to make a determination on whether Arctic grayling is, or is not, warranted for listing. So there are two outcomes – if not warranted, grayling will have no ESA status (as is the case now); if listing is warranted then grayling would again be placed on the candidate list with a proposed rule to list being the next step. It is not possible at this time to say how quickly a proposed rule would follow a warranted determination – grayling would be put in line and prioritized relative to other species or populations already on the candidate list.

Two other things are worth mentioning in relation to the new finding. First, the Fish and Wildlife Service also agreed to consider population groups that included native lake populations of grayling in addition to the native fluvial type. Also, the Fish and Wildlife Service published a formal request for information to give people and agencies an opportunity to submit information for consideration in the 12-month finding. I have provided Noor with a copy of this notice. For the most part, the type of information we expect to get is population monitoring data, for example from Fish, Wildlife and Parks. However, information could also take the form of anecdotal observations on current or past grayling occurrence. From a private citizen of the Big Hole, we would certainly consider historical observations – e.g., as a kid I used to capture grayling in such-an-such a location – as relevant information if they chose to report it.

Thanks for listening and don’t hesitate to contact me if you have any questions.