



United States Department of the Interior

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FISH AND WILDLIFE SERVICE

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4106

January 6, 1999

Pat Graham
Montana Department of Fish, Wildlife and Parks
1420 6th Av
Helena, MT 59620

Dear Pat:

The purpose of this letter is to correct an error discovered in the Fluvial Arctic Grayling Memorandum of Agreement that Ralph Morgenweck and you signed in 1996. The error is found on Page 3 in the first sentence of the indented paragraph under "1. Short-term Goal." The sentence currently reads, "By the year 2000, a minimum of **five (5)** Montana grayling reintroductions will be in progress..." (see attached page with error marked).

This sentence should read, "By the year 2000, a minimum of **four (4)** Montana grayling reintroductions will be in progress..." so that, with the Big Hole River grayling (as stated in the same paragraph of the MOA), the total number of populations required for restoration is five. This correction makes the MOA conform to the restoration goal in Fluvial Arctic Grayling Restoration Plan, as intended.

If you concur with this correction, please sign on the line and send a copy of this letter to me for our records. Upon your and the Service's Regional Director's concurrence, this letter will serve as a correction to the MOA.

Sincerely,

Kemper M. McMaster
Field Supervisor

Concurrence:

Director,
Montana Fish, Wildlife and Parks

Regional Director,
U.S. Fish and Wildlife Service

4704

MEMORANDUM OF AGREEMENT

Between

MONTANA FISH, WILDLIFE AND PARKS

and

U.S. FISH AND WILDLIFE SERVICE

for the

IMPLEMENTATION OF THE FLUVIAL ARCTIC GRAYLING RESTORATION PLAN

I. BACKGROUND

This Memorandum of Agreement for the fluvial population of the Arctic grayling (*Thymallus arcticus*) in the upper Missouri River basin (known as the Montana grayling) is initiated in order to ensure that conservation measures needed for the continued existence and restoration of this population are initiated and carried out.

In 1982, the Montana grayling was designated as a category 2 candidate for listing under the Endangered Species Act (Act), as amended (16 U.S.C. 1531-1544). In response to a petition to list the grayling as endangered, the U.S. Fish and Wildlife Service (Service) determined that listing the Montana grayling under the Act was warranted but precluded by higher priority listing actions in 1994 (59 FR 37738). Currently, the Montana grayling is a candidate species under the Act. The Montana grayling is considered a species of special concern by the State of Montana.

Historically, the fluvial population of the Arctic grayling was widely but irregularly distributed and locally abundant in the Missouri River drainage above the Great Falls in Montana and northwest Wyoming. Presently, the only self-sustaining remnant of the indigenous fluvial Arctic grayling population exists in the Big Hole River, estimated to represent 5 percent or less of the historic range (Kaya 1992). The grayling faces threats primarily from a decrease in available habitat as a result of dewatering of streams, habitat degradation, drought, and potential competition or predation by non-native fish.

Organized in 1987, the Montana Fluvial Arctic Grayling Workgroup (Workgroup) is an interagency committee chaired by Montana Fish, Wildlife and Parks (FWP). The Service is a member of the Workgroup. The Workgroup was established to provide guidance on Montana grayling restoration, research, and management. The Workgroup developed and approved the Montana Fluvial Arctic Grayling Restoration Plan (Restoration Plan) (Attachment A). The Restoration Plan delineates a restoration goal and necessary actions to achieve that goal.

Since 1992, progeny of grayling from the Big Hole River have been reintroduced into the Gallatin and East Gallatin Rivers in Montana and Cougar Creek in Yellowstone National Park in Wyoming. It is too early to determine if these introductions have resulted in successful reestablishment of viable populations within the historic range.

II. PURPOSE

The primary objectives of this Agreement are as follows:

1. Recognize the Restoration Plan as the conservation strategy that will guide restoration efforts for the Montana grayling, thereby leading to its recovery as defined in the Restoration Plan.
2. Recognize FWP as the lead agency for overseeing implementation of the Restoration Plan.
3. Establish a framework for making decisions concerning the legal status and classification of the Montana grayling under the Act.

Full implementation of this Agreement and the Restoration Plan will result in the expansion of the present distribution of Montana grayling within the historic range and the reduction or elimination of the threats that potentially jeopardize the continued existence of fluvial Arctic grayling in the upper Missouri River basin.

III. FRAMEWORK FOR IMPLEMENTATION OF MEMORANDUM OF AGREEMENT

The restoration goal for Montana grayling, as stated in the Restoration Plan, is as follows:

The presence, by the year 2020, of at least five stable, viable populations distributed among at least three of the major river drainages within the historic range of Montana grayling in the Missouri River system upstream from Great Falls, including those upper Missouri River basin waters within Yellowstone National Park. A population will be considered stable and viable in a stream when monitoring confirms that, for at least 10 years, successful stock recruitment exceeds mortality of reproductive adults to successfully compensate for stochastic factors and perpetuate the species within suitable habitats.

Agreement Components

Under this Agreement, a short-term restoration goal for fluvial Arctic grayling of the upper Missouri basin and parameters specific to the Big Hole River population are established in

order to monitor the progress being made toward meeting the restoration goal as defined in the Restoration Plan.

1. Short-term Goal:

By the year 2000, a minimum of five (5) Montana grayling reintroductions will be in progress (grayling released into a stream) within the historic range. Each reintroduction will have a completed Reintroduction Plan and will follow procedures delineated in the Restoration Plan. Each Reintroduction Plan will be approved by the Workgroup. Measurable goals and objectives outlined in each Reintroduction Plan will be used as criteria to determine whether the reintroduction has been successful. These reintroductions will be in addition to the Big Hole River grayling population.

If, by December 2000, this short-term goal is not achieved, FWP, in cooperation with and assistance from the Workgroup, will lead a review of the Restoration Plan and associated restoration activities to determine why the short-term goal is not being met, revise the Restoration Plan as appropriate, and take the necessary corrective measures to ensure the short-term goal will be achieved.

If, by December 2002, this short-term goal is not achieved, the Service will initiate a formal status review of the fluvial Arctic grayling population in the upper Missouri River basin.

2. Big Hole River Parameters:

- A. Based on an annual fall census of the McDowell-Wisdom section of the Big Hole River, the estimated density of age 1 and older Montana grayling in the Big Hole River must equal or exceed 30 grayling per mile.
- B. Based on annual surveys, the proportion of age 1 and 2 grayling in the Big Hole River must constitute between 50 and 80 percent of the total population sampled in combined sections of the Big Hole River.

If the Big Hole River population falls below the parameters identified in Section III.2. for two (2) consecutive years, FWP will conduct, in cooperation with the Workgroup, an assessment of the limiting factors and initiate corrective actions.

The Service will initiate a formal status review of fluvial Arctic grayling population in the upper Missouri River basin, if the Big Hole River parameters are not met for three (3) consecutive years.

IV. RESPONSIBILITIES OF THE PARTIES

Therefore, with respect to the above Agreement framework, the parties agree to the following:

Montana Fish, Wildlife and Parks Agrees:

1. To serve as the lead agency for oversight on implementation of the Montana Fluvial Arctic Grayling Restoration Plan.
2. To continue to chair the Montana Fluvial Arctic Grayling Workgroup.
3. To lead, in cooperation with the Workgroup, a review of the Restoration Plan and associated restoration activities, revision of the Restoration Plan as appropriate, and initiate corrective measures if the short-term restoration goal is not realized by December 2000.
4. To conduct, in cooperation with the Workgroup, an assessment of the limiting factors and initiate corrective actions if the Big Hole River population falls below the parameters identified in Section III.2. for two (2) consecutive years.
5. To continue proactive efforts to maintain minimum instream flows that sustain Montana grayling in the Big Hole River basin.
6. To incorporate an annual report of accomplishments in meeting the short-term goal and Big Hole River parameters (as described above) into the annual monitoring report that is submitted to the Workgroup as part of the Restoration Plan.

The U.S. Fish and Wildlife Service Agrees:

1. To continue to be an active member of the Montana Fluvial Arctic Grayling Workgroup.
2. To initiate a formal status review of fluvial Arctic grayling in the upper Missouri River basin if the short-term goal is not met by December 2002 and/or the Big Hole River population falls below the parameters in Section III.2. for three (3) consecutive years. A formal status review must evaluate all factors affecting the population and result in a finding that summarizes the current status of the population. If, as a result of the status review, the population is found to be threatened or endangered as per the criteria of Section 4(a)(1) of the Act, and the parties can find no other way to address the limiting factors, the population would be immediately considered for listing.
3. To formally review the Service's 1994 "warranted but precluded" finding for the grayling and notify the public of its finding through publication in the Federal Register. As required by the Act and its implementing regulations (50 CFR 424.11), this review will

take into account the status of Montana grayling, the five listing factors, and those conservation efforts being made by the State to protect the Montana grayling.

4. To develop a genetically sound brood stock, maintain and spawn the brood stock to produce fish for use in restoration and recovery efforts.

V. ADMINISTRATION

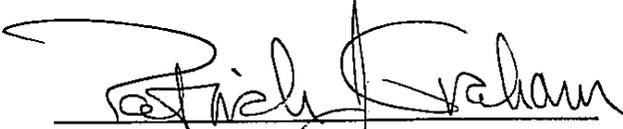
1. Annual coordination meetings will be held to facilitate implementation of this Agreement. Such meetings may be combined with the Workgroup meetings conducted pursuant to the Big Hole River Fluvial Arctic Grayling Restoration Memorandum of Understanding (Attachment B).
2. The performance of FWP and the Service under this Agreement is contingent upon the authorization and appropriation of funds.
3. Nothing in this Agreement obligates any party to the expenditure of funds in excess of appropriations authorized by law. Where exchange of funds or other resources will be involved, an appropriate agreement or procurement arrangement will be developed, contingent upon the availability of funds.
4. Nothing herein should be construed as binding the signatory agencies to this Agreement to decisions, planning schedules, or on-the-ground actions not authorized by law, regulation, or policy.
5. Amendments or supplements to this Agreement may be proposed by either party and shall become effective upon written approval by each party. The amendments or supplements will terminate if this Agreement is terminated.
6. This Agreement shall become effective as soon as signed by the subject parties and shall continue in force until formally terminated by any party hereto after thirty (30) days notice in writing to the other party of its intention to do so.
7. This Agreement in no way restricts FWP or the Service from participation in similar activities or arrangements with other public or private agencies, organizations, or individuals.
8. No member of or delegate to Congress or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to a corporation or unit of government contracting for its or for the public's general benefit.

9. During the performance of this Agreement, the participants agree to abide by the terms of Executive Order 11246 on non-discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin.

VI. SIGNATURES

Montana Fish, Wildlife and Parks

U.S. Fish and Wildlife Service



Signature

Patrick J. Graham

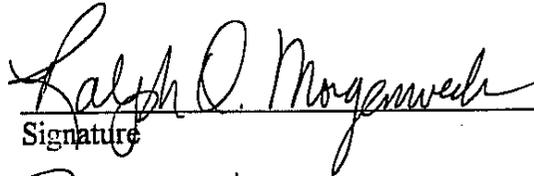
Name

Director

Title

1-30-96

Date



Signature

Ralph O. Morgenweck

Name

Regional Director

Title

2-7-96

Date