

DEPARTMENT OF LIVESTOCK



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STATE OF MONTANA

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Helena, Montana 59620-2001

December 22, 2000

Dear Interested Party:

The State of Montana hereby announces its intention to implement the Interagency Bison Management Plan. This Record of Decision is the culmination of a process that began with a Notice of Intent to prepare a cooperative bison management plan and environmental impact statement which was published in the July 1990 Federal Register. The process continued with a public review of a draft EIS that began on June 12, 1998 and ended on November 3, 1998. The draft EIS was jointly prepared by U.S.D.I. National Park Service (Yellowstone National Park), U.S.D.A. Forest Service (Gallatin National Forest), and Animal Plant Health Inspection Service, and the State of Montana. The federal agencies subsequently released a final EIS in August 2000. The Montana Department of Livestock (DoL) and the Montana Department of Fish, Wildlife and Parks (FWP) developed a modified preferred alternative for analysis in their final EIS, which was released on November 15, 2000. The Record of Decision is based on the analyses contained in the draft EIS, the FEIS that was prepared by the federal agencies and released in August 2000, the federal responses to comments on the Federal FEIS, the analysis contained in Montana's FEIS, and the court ordered mediation. This document satisfies DoL's and FWP's responsibility to prepare a concise public record of decision concerning a proposed action for which an EIS is required, pursuant to the requirements of the Montana Environmental Policy Act (MEPA).

The MEPA regulations do not specify a public comment period for an FEIS (A.R.M. §12.2.439). However, DoL and FWP may not make a final decision regarding the proposed action that is evaluated in this FEIS for at least 15 days following distribution of the document.

An electronic copy of this documented has been posted on the internet and may be accessed through either DoL's or FWP's websites at www.liv.state.mt.us or www.fwp.state.mt.us. To request further information or additional copies of this FEIS, please call 406-444-7323 or mail requests to:

Montana Department of Livestock
PO Box 202001
Helena, MT 59620-2001

Thank you for your interest in bison management.

Sincerely,

Marcus Bridges
Executive Officer, Montana Department of Livestock

Patrick J. Graham
Director, Montana Department of Fish, Wildlife and Parks

Call Montana Livestock Crimestoppers 800-647-7464

STATE OF MONTANA

RECORD OF DECISION

INTERAGENCY BISON MANAGEMENT PLAN

The Montana Department of Livestock (DoL) and the Montana Department of Fish, Wildlife and Parks (FWP) have decided to implement the Interagency Bison Management Plan, as described in the attachment to this Record of Decision and approved by the Governor of the State of Montana, as the appropriate strategy for the management of bison that move from Yellowstone National Park into Montana. The Interagency Bison Management Plan is similar to the preferred alternative that was described and evaluated in the Final Environmental Impact Statement (FEIS), dated November 15, 2000, and is within the scope of that analysis. DoL and FWP will proceed to implement bison management according to the Interagency Bison Management Plan and in cooperation with the U.S.D.I. National Park Service (Yellowstone National Park), U.S.D.A. Forest Service (Gallatin National Forest), and U.S.D.A. Animal Plant Health Inspection Service. Implementation of the Interagency Bison Management Plan by DoL and FWP is contingent upon a decision by the federal agencies to implement a plan which contains the management actions described in the attached state approved plan. The effective date of the Interagency Bison Management Plan will be immediate upon issuance of the federal agencies' decision described herein.

Insofar as the Interagency Bison Management Plan and FEIS states or elaborates upon the reasons for or the methodologies used to reach this decision, those documents are incorporated into this Record of Decision by this reference.

Rationale for the Decision

Bison are essential to Yellowstone National Park because they contribute to the biological, ecological, cultural, and aesthetic purposes of the Park. However, Yellowstone National Park is not a self-contained ecosystem for bison and periodic movements of bison into Montana regularly occur. Some bison are infected with brucellosis and may transmit this disease to cattle if bison movements from the Park into Montana are not controlled. Transmission of brucellosis from bison to cattle would have significant adverse effects on Montana livestock operators in the Yellowstone area and on the Montana cattle industry, statewide. If the risks associated with brucellosis were not managed, the responses of officials who are responsible for regulation of livestock diseases in other states and countries also could adversely affect Montana's livestock industry. Several state and federal agencies each have limited authority for the management of bison, the management of brucellosis in bison and/or the management of lands used by bison. None of the agencies, acting alone, has sufficient authority to manage bison across all jurisdictional boundaries. Therefore, cooperation of the agencies and their shared commitment to a single management plan is essential to

effectively manage bison and the risk of transmission of brucellosis from bison to domestic livestock.

Bison management has been a major public controversy and a difficult issue for the State of Montana for the past 15 years. During that time DoL and FWP have participated in the development and implementation of several interim management plans. They also have evaluated a variety of options to protect the ecological integrity of bison in Yellowstone National Park and to prevent brucellosis transmission from bison to cattle.

The Interagency Bison Management Plan emphasizes measures to maintain temporal and spatial separation between bison and cattle. This plan also establishes population targets for the bison herd and identifies management actions if and when bison move beyond the YNP boundary. Given the current risk, the temporal and spatial separation provisions of the plan when completed with other management actions described in the plan, should prevent transmission of brucellosis from bison to cattle. Moreover, the provisions for vaccination of both bison and cattle should further reduce the level of risk over time. Of the various alternatives considered, the Interagency Bison Management Plan is the only alternative that the state agencies are able to implement in cooperation with the federal agencies. Implementation of the Interagency Bison Management Plan is a joint state/federal action which will require interagency cooperation and coordination. As set forth in the Plan, the agencies will enter into the appropriate Memorandum of Understanding to describe specific commitments of personnel to all management actions and delineate operation details for implementation of the Plan.

Context For The Decision

DoL and FWP have been working with U.S.D.I. National Park Service (NPS), U.S.D.A. Forest Service (USFS) and U.S.D.A. Animal and Plant Health Inspection Service (APHIS) for more than a decade to address the management of bison through development of a long-term management plan and Environmental Impact Statement (EIS). The Notice of Intent to prepare this EIS was published in the Federal Register on 11/1/89. While that plan and EIS were being prepared, the agencies agreed to cooperate in the implementation of an Interim Bison Management Operating Plan. The Interim Plan was approved in October 1990 and was revised several times thereafter. Environmental Assessments (EA) for the interim plans were prepared, in cooperation with the federal agencies, in 1990, 1992 and 1996. The Draft Environment Impact Statement (DEIS) for the Interagency Bison Management Plan for the State of Montana and Yellowstone National Park was finally released for public comment in June 1998.

While preparing responses to public comment and the Final EIS, the state and federal agencies were unable to agree on a preferred alternative. In December 1999, the federal government advised the Governor of the State of Montana of its intentions to withdraw from the Memorandum of Understanding under which the parties were preparing the EIS for the long-term bison management plan, to file a motion with the court for the dismissal of Montana's 1995 lawsuit against the federal agencies and to proceed to complete the final EIS without Montana as a co-lead. The federal agencies released a final environmental

impact statement (FEIS) for Bison Management for the State of Montana and Yellowstone National Park in August 2000. DoL and FWP reviewed that document and determined that the Interagency Bison Management Plan was similar to federal preferred alternative and within the scope of the alternatives that were analyzed in the federal FEIS. DoL and FWP released their FEIS for the Interagency Bison Management Plan on November 15, 2000. In addition, DoL and FWP reviewed the federal responses to the Federal FEIS and are in concurrence with those responses.

In response to the federal agencies' notice to withdraw from the 1992 MOU and to proceed without Montana in the preparation of the FEIS for the Interagency Bison Management Plan, Montana sought relief in U.S. District Court. Under order of the court (*Montana v. US*, Cause No. CV95-6-H-CCL) the 1992 MOU was terminated and the dispute between Montana and the federal agencies was referred to mediation. In addition, the court ordered that the federal government could proceed with preparation and completion of the FEIS. By court order, Montana and the federal agencies participated in mediation sessions, under the supervision of Judge Robert M. Holter, U.S. Magistrate, between April and November, 2000. Through that process, Montana and the federal agencies were successful in resolving the dispute and provisions in the Interagency Bison Management Plan have been agreed to by all of the state and federal agencies.

Alternatives Considered

The DEIS evaluated seven alternatives that the agencies agreed were potentially sufficient to accomplish the purpose and need for bison management. In addition, the DEIS disclosed several bison management strategies that had been suggested by the public during the scoping process; indicated that these suggestions would be precluded from further analysis; and, briefly explained the rationale for that decision. Both the federal and state FEIS disclosed and evaluated additional alternatives that were suggested during public comment to the DEIS.

Effects of the Decision

The most noteworthy effects of the Interagency Bison Management Plan include:

- The plan will limit bison distribution to Yellowstone National Park and, during limited periods of the year, in certain areas that are immediately adjacent to the park.
- The plan may occasionally result in the removal of substantial numbers of bison. These removals will not jeopardize the integrity of this herd. However, bison management has been a controversial issue since the mid-1980s, when removals in response to emigrations of large numbers of bison began, and public controversy likely will continue.
- The plan will manage the risk of brucellosis transmission from bison to cattle through area-specific strategies to maintain temporal and spatial separation between bison and cattle and with vaccination protocols appropriate for both bison and cattle.

Implementation of the plan will not eliminate the risk of transmission because it is not a brucellosis eradication plan. However, the plan will significantly reduce the risk of brucellosis transmission from bison to domestic livestock, due to the management actions prescribed.

Policy Considerations

The Interagency Bison Management Plan implements DoL's and FWP's statutory responsibilities to manage bison (81-2-120 M.C.A. and 87-1-216 M.C.A, to enter into an agreement with Yellowstone National Park and other federal agencies for the long-term management of bison, and all other statutory obligations of the agencies.

Practical Measures to Minimize Harm

The Interagency Bison Management Plan includes the following practical features to minimize the potential for environmental impacts that are inconsistent with the purpose and need for bison management:

- Bison removals will only occur near or beyond the boundary of Yellowstone National Park. The removal of nomadic bison pursuant to the plan will not jeopardize the ecological integrity of the bison herd within the park.
- Capture is the preferred method for removing bison that exceed either distribution or tolerance limits. While capture is the preferred method for removal, lethal strategies are also identified.
- The protocols for bison vaccination will be consistent with the standards for vaccine safety and efficacy, as defined by the Greater Yellowstone Interagency Brucellosis Committee.
- The plan incorporates contingency strategies to be implemented in the unlikely event that transmission of brucellosis from bison to cattle occurs.
- The plan incorporates contingency strategies to reduce lethal removals of bison when large numbers of bison have been removed.

The plan incorporates the concept of adaptive management. Adaptive management is a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.

Endangered Species Considerations

On March 17, 2000, the National Park Service provided a biological assessment to the U.S. Fish and Wildlife Service pursuant to the requirements of Section 7 of the Endangered Species Act. The biological assessment concluded that the modified preferred alternative in the federal FEIS was not likely to adversely affect the following

species listed under the ESA: bald eagle (*Haliaeetus leucocephalus*), grizzly bear (*Ursa horribilis*), Canada lynx (*Lynx Canadensis*), and gray wolf (*Canis lupus*). The National Park Service provided supplemental information on pending RB51 vaccine studies to FWS on July 6, 2000.

On July 20, 2000, the Acting Field Supervisor for the Montana Field Office concurred in the NPS determination of “not likely to adversely affect.” The Acting Field Supervisor noted that the Interagency Grizzly Bear Study Team is evaluating whether a possible reduction in other grizzly bear food sources may make bison a more important food source for grizzly bears. The study may result in needing to reinitiate Section 7 consultation. Additionally, if the final results of the ongoing biosafety studies on RB51 vaccine show that any of the listed species may be adversely affected by indirect exposure to the vaccine, NPS and Montana will need to provide a revised biological assessment.

Quarantine Facility Decision

The Interagency Bison Management Plan includes provisions to evaluate whether a quarantine facility would be an appropriate component of the plan. If so, additional NEPA/MEPA analysis would be required to determine the design, location and operation parameters for a bison quarantine facility. Therefore, this Record of Decision does not include a provision to establish a quarantine facility.

Monitoring

By its nature, a plan using adaptive management requires monitoring and adjustments as new information is obtained. The provisions of the Interagency Bison Management Plan identify the factors that the agencies will monitor to determine if the agencies are separating bison and cattle successfully, and, thus, lowering the risk of transmission of brucellosis. The agencies will meet at least twice annually to evaluate the operations of the prior winter and determine if modifications are necessary. This is also the appropriate time for the agencies to determine if the management efforts were successful and, thus, allowing the agencies to either move forward to the next step or, if at Step 3, continue at that step. DoL and FWP agree that the agencies will undertake in good faith to resolve all disputes reasonable at the local management level, elevating them only if there is an impasse. The agencies will use the best available scientific information to assist them in resolving such disputes.

Interagency Bison Management Plan

Marc Bridges

Executive Officer, Montana Department of Livestock

Patrick J. Graham

Director, Montana Department of Fish, Wildlife and Parks

Approved By:

Marc Racicot

Governor, State of Montana

Dated:

December 20, 2000