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February 12, 2016

Quarantine Relocation EA for Yellowstone Bison  
PO Box 168  
Yellowstone National Park, WY 82190

Dear Yellowstone National Park:

The Montana Department of Fish, Wildlife, and Parks (FWP) supports the concept of quarantining Yellowstone bison to provide alternative and acceptable solutions for bison population management, and to improve the status of the species by providing a source of genetically pure, disease-free bison for conservation purposes. Our primary concern with the EA is to ensure that it adequately addresses the separate jurisdictional and legal status considerations for these wild animals in Montana.

In alignment with our statutory responsibilities and Montana case law, we consider any Yellowstone bison within the state and outside of YNP or tribal boundaries to be wildlife that are managed in trust for the public. Montana statute designates Yellowstone bison within Montana and outside of YNP or tribal boundaries as protected wildlife (Title 87, MCA), as well as a species in need of disease management (Title 81, MCA), under the jurisdiction of the state. As such, YNP would retain no authority over these animals once they leave the boundaries of YNP. However, Page 26 of the EA states that “ownership” of such bison would be transferred to the recipient, indicating they would no longer be considered wildlife, but seemingly subject to Montana livestock laws and administrative rules (Title 81, MCA), unless on tribal lands. Private ownership of wildlife is prohibited unless under the direction of state public trust authority. These concurrent or disparate jurisdictional questions should be made clear.

Alternative 2 contemplates a quarantine facility either inside YNP or within Montana’s Designated Surveillance Area (DSA) for brucellosis. In the case of a facility outside of YNP but within the DSA, close coordination with the state by YNP and recipients of the bison is necessary. For example, a permit from FWP is required to possess protected wildlife.

Alternative 3 contemplates a quarantine facility in Montana outside of the DSA. Placement of wild bison in such a facility outside of tribal boundaries could be considered a transplant, subject to the requirements of 87-1-216 MCA, MEPA, and Fish and Wildlife Commission approval. Similarly, placement of graduates of any quarantine program within Montana outside of tribal boundaries would be considered a wild bison transplant and subject to the same requirements.

This may result in a situation in which a recipient directs the placement of quarantine graduates under the guise of ownership, even though the state would consider wild bison placed within Montana as wildlife under the jurisdiction of state management. While we disagree, on page 28 of the EA, that: “the distribution and management of bison completing quarantine would be at the discretion of the recipient,” we do agree that placement of bison in Montana outside of tribal lands will require completion of “other environmental compliance and permits by other federal or state agencies before transporting these bison elsewhere.” We believe it is important for all parties involved to have a clear understanding of the legal designations for these bison so that all are aware of limitations on administering the quarantine facility and dispersal of quarantine graduates.

We strongly recommend that before animals enter a quarantine program, plans for their placement be reasonably well determined, to avoid a situation where a significant number of animals have no place to go. This includes ensuring any out-of-state requirements can be met, such as import permits. Because of their dual statutory designation as wildlife and as a species in need of disease management in Montana, transport of quarantine program bison and graduates across the state, even if from YNP to tribal jurisdiction, would require appropriate transport permits.

FWP strongly supports quarantine and relocation of Yellowstone bison for population management and conservation purposes. Solutions that address several important social, cultural, and ecological issues must be closely coordinated with state wildlife and animal health officials to ensure all applicable laws and rules are clearly understood and followed.

Thank you for the opportunity to comment.

Sincerely,

M. Jeff Hagener  
Director

c: Tim Baker, Office of the Governor  
Marty Zeluski, Montana Dept. of Livestock  
Ken McDonald, Montana FWP