

Piikani Nation Chief and Council

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Comment Submission: USFS Draft Plan – Custer Gallatin National Forest; Inni.

Oki (Greetings):

The Blackfoot Confederacy's relationship with the United States is enshrined in Article VI of the US Constitution through the 1851 Fort Laramie Treaty and the 1855 Lame Bull Treaty. We defend these treaty rights and that government-to-government relationship today, which began when our Piikani forefathers were the first to touch the pen. The Siksikatsitapiwa – the Aapatohisipiikunniwa, Kainaiwa, Siksikawa, and Amsskapipiikunniwa – the members of the Blackfoot Confederacy, have an ancient and undeniable connection to the region now categorized as the Greater Yellowstone Ecosystem (GYE), where the Custer Gallatin National Forest is located.

The weight of our rights and claims to the region are validated by the US Constitution: "... all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." It should not have escaped the US Forest Service's (USFS) notice that the Piikani Nation's treaty rights and standing has been reaffirmed multiple times in recent years, including but not limited to, government-to-government meetings with high-ranking US government lawmakers. Because of the Piikani Nation's rights being violated in the GYE grizzly delisting process, and the federal-Indian trust responsibility being breached, the Piikani Nation of the Blackfoot Confederacy is among the multiple tribal plaintiffs that have filed suit against the US/Secretary of Interior Ryan Zinke in *Crow Tribe, et al v. Zinke*.

Further, the Piikani Nation is a full member of the Rocky Mountain Tribal Leaders Council. The Rocky Mountain Tribal Leaders Council (RMTLC) serves the tribal nations presently located in, and with treaty and ancestral rights to, Greater Yellowstone: specifically, the Blackfoot Nation, the Chippewa-Cree, the Confederated Salish & Kootenai Tribes, the Crow Tribe, the Eastern Shoshone, the Fort Belknap Indian Community, the Fort Peck Tribal Executive Board, the Little Shell Tribe of Chippewa Indians, the Northern Arapaho Tribe, the Northern Cheyenne, the Shoshone-Bannock Tribes of Idaho, and ourselves. In short, all tribal nations in Montana and Wyoming, extending into Idaho and the Province of Alberta.

With US Senate and House Chairs and Ranking Members, both former Interior Secretary Jewell and current Secretary Zinke are aware that the Piikani Nation initiated the historic North American tribal accord, *The Grizzly: A Treaty of Cooperation, Cultural Revitalization and Restoration*, which is now the most signed tribal treaty in history. The treaty is both recognized and signed by the United Nations. Our rights and titles stipulated in the treaty are protected under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which was supported by the United States in 2010.

In 2012, the Rocky Mountain Tribal Leaders Council (formerly the Montana-Wyoming Tribal Leaders Council) was unambiguous in pressing federal agencies with respective jurisdictional authority to recognize, “the trust responsibility and treaty obligations to American Indian Nations in providing for viable populations of migratory buffalo in their native habitat.” USFS’s draft assessment for the Custer Gallatin National Forest fails to do that. Consistent with its record for the last three decades in Greater Yellowstone, USFS is following the pattern of federal agencies in ceding responsibility and authority to the tri-states, in this instance the State of Montana. In respect to the “Yellowstone” buffalo, this has and continues to prove disastrous, and has contributed to the multigenerational trauma suffered by our people who, when they witness and are exposed to the scenes of slaughter and captivity in the Gardiner Basin, relate those to what our ancestors endured. Innii, the buffalo (*Bison bison*), is our relative. To quote one of our elders, **“We are the buffalo. We are Inniiwa.”**

In pursuing the path proposed in the draft assessment, USFS is violating the federal-Indian trust responsibility. The federal Indian trust responsibility is a legally enforceable fiduciary obligation on the part of the United States to protect tribal treaty rights, lands, assets, and resources. As such, imperatives of tribal nations in relation to the fate of the buffalo per se, and most particularly on treaty lands, fall within that trust responsibility. In respect to the Custer Gallatin National Forest, USFS has clear trust responsibilities, not the least of which is to ensure the viability of a wild buffalo population on open lands under its jurisdiction. I hesitate to use the designation “unclaimed lands” as these are, in fact, our treaty lands, and the treaty lands of other nations.

As we saw with the delisting of the grizzly bear and have previously seen with the bureaucratic paralysis that can be counted in Yellowstone buffalo mortalities, the policies advocated and implemented by USFS, USFWS *et al* in this region are done at the behest of states and congressional delegations bankrolled by special interests, masked by the “best available science” mantra; a mantra that wears well in the local media, but rarely survives expert scrutiny. The norm has been flagrant violations of mandated consultation requirements, violations of spiritual rights and protections covered by the American Indian Religious Freedom Act and the Religious Freedom Restoration Act, violations of treaty rights, and the abrogation of sacred site protections under NHPA and NEPA.

No legal basis or justification exists for a state to circumnavigate these laws, articles and mandates, but that is, to all intents and purposes, what the outcome of this issue will be if USFS realizes its draft assessment for the Custer Gallatin National Forest. The State of Montana has had what amounts to unconstitutional influence over the fate of the Yellowstone buffalo since the 1996 impasse that provided national and international TV audiences with footage of MFWP “wardens” gunning down buffalo as they migrated out of Yellowstone National Park. The killing didn’t even stop for tribal people to perform ceremony. Recently, Montana continued this pattern with its manipulation of the grizzly delisting process, with the state legislature’s adoption of HJ 15, a resolution actively supported and lobbied for by Montana Parks, Fish and Wildlife.

As is the case with the buffalo and the Custer Gallatin National Forest, the Piikani and our relatives in the Blackfoot Confederacy – alongside our sister tribes and allies in the Rocky Mountain Tribal Leaders Council and Great Plains Tribal Chairman’s Association - were and remain the stewards of the lands identified in HJ 15, and the entire Greater Yellowstone Ecosystem. USFS’s acquiescence to the State of Montana over the Custer Gallatin is not only unconstitutional relative to Article VI of the US Constitution, but also the Commerce Clause (Article 1, Section 8, Clause 3 of the U.S. Constitution) that articulates tribal sovereignty and the primacy of that sovereignty over a state’s sovereignty. No state, state legislature, or state agency has the right or ability to infringe upon these rights. And no federal agency, including USFS in this instance, has the right to facilitate such - you are our trustee. Clearly, under USFS’s planning rule criteria, the buffalo should be listed as a species of conservation concern, which is the desired outcome of tribal nations, regardless of the lobbying efforts of Montana’s livestock interests. With its fellow federal agencies, USFS is not the trustee of Montana special interests or legislators.

The Piikani Nation’s support for the buffalo to be listed as a species of conservation concern, and for the buffalo to be returned to Custer Gallatin National Forest Service lands – our treaty and ancestral lands – is consistent with the

Blackfoot Confederacy's leadership in the *Innii Initiative: "Blackfoot and Buffalo" – Ecosystem Restoration and Cultural Repatriation*. It is not necessary to restate all of the objectives and achievements of the *Innii Initiative* here, as they should be known to the USFS. This video, which came to fruition with the support and guidance from Piikani Nation tribal members, provides a brief insight: <https://www.youtube.com/watch?v=6LJfPMoGMAg&feature=youtu.be>

The fundamental principles of the *Innii Initiative* apply here, to the buffalo being listed as a species of conservation concern and being liberated from the political and economic interests of Montana's livestock conglomerates. It is not for the State of Montana, at the behest of its livestock industry, to dictate where migratory species can and cannot roam. It is also past time for the brucellosis controversy to be presented in its true context, not as a sensationalized talking point to justify failed policies. Between 1990 and 2002, there were no known cases of brucellosis being transmitted to domestic livestock in the GYE. In the ensuing years, some 17 cases have been investigated. "Seventeen instances of brucellosis transmission from elk to livestock were reported during the last decade. This crescendo of interspecies transmission in all 3 GYA states and involving ranches in proximity to and remote from elk feeding grounds suggests a change or combination of changes in risk factors in the GYA ecosystem." (*Transmission of Brucellosis from Elk to Cattle and Bison, Greater Yellowstone Area, USA*. Rhyan, *et al.* Center for Disease Control and Prevention – Dispatch; Vol 19. # 12. 12/13.) Strangely, elk are exempt from the brucellosis hysteria that is applied to "Yellowstone" buffalo. That, surely, cannot be because of any "best available science" standard, as the report cited is one of a number that presents the "best available science" on the matter.

USFS, in keeping with other federal agencies (most, however, under DOI's not DOA's purview), is fond of presenting tribal nations as "partners" in its various materials, and on press releases. However, unless and until USFS alters its course, fully addresses the concerns of tribal nations, fulfills its obligations under the federal-Indian trust responsibility, and entirely reconsiders its approach to tribal nations, and finally engages tribes as true partners – as sovereigns, on a government-to-government basis – that notion of partnership will remain hollow. "Dear Tribal Partner" must be more than just an alternative greeting to "Dear Tribal Leader" on stock communications from the USFS and other federal agencies. An opportunity exists now for USFS to demonstrate its commitment to fulfilling its trust responsibilities, and to proving that it does want to partner with tribal nations. In the Piikani Nation's current administration, we defer to our elders on cultural matters, and our Blackfoot elders caution:

"Because we had our ties severed, we need to include important healing elements when they are returning to us. The land itself will need to be prepared, societies and clans will make preparations; but if we wait and try and include them afterward, after the management plans and decisions are made, they are not fulfilling the role that they have been entrusted with."

Speaking as the Chief of the Piikani Nation and President of the Blackfoot Confederacy Chiefs, I have received no communication from USFS on the Yellowstone buffalo in general, or this aspect specifically, as it relates to the Custer Gallatin National Forest and categorizing the buffalo as a species of conservation concern.

Similarly, the prevailing circumstances surrounding the tribes' ability to hunt are of great concern to our elders who comment:

"Things like respect, when and how to hunt, are tied to songs and sweats. Pipes will be offered, elders will pray in ways that field staff have not any experience. It is not a religious aspect; it is the ways in which relationships endure, with the proper protocols, and the proper songs and the ones that have the rites to sing them. It is based on ancient treaties, where everyone has a role."

"Many of our young men who ought to be hunting are not being properly guided, a meaningful approach to herd management that includes targeting youth so that the young warriors understand and have a proper place in our modern culture. Our communities have high rates of suicide and gang violence."

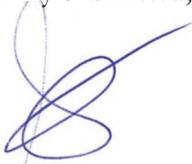
Presently, the situation for our people – both for tribes whose members participate in the hunt, and those who hear of it – is unsatisfactory in multiple ways; from the ability to fulfil cultural practices, through to safety. Confining tribal hunters to the prevailing bottleneck is a tragedy waiting to happen. Both the safety of our people and respect for the buffalo are paramount, and neither are being adequately addressed at the present time. Permitting the buffalo to migrate into the Custer Gallatin National Forest would help alleviate these problems. In keeping with the wishes of our elders, I would like to propose that the USFS partner with tribal nations to introduce a substantive program on each respective tribal nation with treaty rights and interests to Greater Yellowstone, that combines contemporary hunter safety within a cultural context, and concludes with a cultural immersion element conducted by elders and spiritual leaders. This would not require immense funding to be appropriated by USFS, but it would contribute significantly to building more progressive and cooperative partnerships, fostering more productive dialogue between tribes and federal agencies in the region.

In closing, the Piikani Nation commends the Buffalo Field Campaign for its extensive report, *American Bison A Species of Conservation Concern*, and we urge USFS to fully consider the findings and recommendations, which we support. President John F. Kennedy described the “treatment” of tribal people as “a national tragedy.” Attorney General Robert F. Kennedy said it was “a national disgrace.” It is over 50-years since JFK and RFK made those statement, and little has changed. Tribal people and *Innii*, the buffalo, have shared a sacred, symbiotic relationship since time immemorial – sadly, that extends to our “treatment” being a “national tragedy” and “national disgrace.” Today, on this issue, USFS has an opportunity to be on the right side of history. I leave you with this insight from our elders, and trust that you will do the right thing:

“Our young women are becoming mothers and are not able to pass on the values that come with cultural practices. They are the ones who have the deep connection with Inniiwa, and their role is vital to bringing back the buffalo . . . We don’t just want them (Inniiwa), we need them to be strong again.”

Nitsíniyi’taki (Thank you).

Respectfully submitted,



Chief Stanley C. Grier – Chief of the Piikani Nation and President of the Blackfoot Confederacy Chiefs.