



BUFFALO FIELD CAMPAIGN

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December 11, 2014

Governor Steve Bullock
Office of the Governor
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Helena MT 59620-0801
Phone: (406) 444-3111 or (855) 318-1330
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RE: Comments on Addendum to Year-Round Bison Habitat Draft Joint
Environmental Assessment

Dear Governor Steve Bullock,

Buffalo Field Campaign was founded in 1997 to stop the slaughter of Yellowstone's wild buffalo herds, protect the natural habitat of wild free-roaming buffalo and native wildlife, and to work with people of all Nations to honor the sacredness of wild buffalo.

Buffalo Field Campaign is located in West Yellowstone, Gallatin County, Montana, and is supported by volunteers and citizens in Montana, Idaho and Wyoming, and by people from around the world who value America's native wildlife and the ecosystems upon which they depend, and enjoy the natural wonders of our irreplaceable public lands.

As an organization and on behalf of our members, Buffalo Field Campaign is deeply concerned and actively involved in protecting the last remaining indigenous buffalo in North America to occupy their original range. Buffalo Field Campaign publicizes the plight of the buffalo, works to end their slaughter and abuse by government agencies, and advocates for the long-term protection of viable populations of wild buffalo and their year-round habitat. Buffalo Field Campaign actively engages the American public to honor and protect our cultural heritage by allowing wild buffalo to exist as an indigenous wildlife species fulfilling their ecological role on their native landscape. Buffalo Field Campaign volunteers patrol habitat where buffalo migrate within the Yellowstone and Madison River drainages. These direct

experiences with buffalo on their native habitat inform our actions and strengthen our commitment to gaining permanent protections for America's last wild buffalo.

We now submit our organization's comments on the Addendum to the Year-Round Bison Habitat Draft Joint Environmental Assessment. We strongly advocate for the rejection of Alternative G, the Governor's alternative.

What has happened to Montana's need for action to designate year-round buffalo habitat in our state? Why is our organization now directing our comments at your proposal to drive the population down in Yellowstone National Park, for Montana to permit a few thousand acres of year-round habitat for migratory buffalo in Montana?

In exchange for driving the population down to an arbitrary number, what year-round habitat does Alternative G provide for migratory buffalo in Montana? It would provide "habitat" the native species largely does not use and has not migrated to in decades.

The authority to make this "exchange" lies entirely outside of your decision-making authority. How can Montana force such an "exchange" upon another jurisdiction, i.e. Yellowstone National Park.

Alternative G epitomizes the on-going government threats that will be used as evidence to list migratory buffalo in Montana under the Endangered Species Act.

Implementing Alternative G would have unacceptable outcomes for wild buffalo in the state.

Instead of providing year-round habitat buffalo use, Alternative G arbitrarily cuts a major migration corridor in two and condemns all buffalo that migrate south of the Madison River, habitat the migratory species actually uses, for habitat the buffalo does not use.

Buffalo would be permanently cut-off from tens of thousand of acres of prime habitat the migratory species currently uses and attempts to occupy in Montana.

Implementing Alternative G today would require 1,500 buffalo be destroyed from the last wild population largely in another jurisdiction, before buffalo would be permitted year-round on the Horse Butte peninsula.

Alternative G calls upon the government to permanently suppress the buffalo population in another jurisdiction in exchange for a few thousand acres of habitat on a peninsula in Montana.

Alternative G is fundamentally flawed and doomed to failure by its execrable design.

Under your proposal you would place the viability of the buffalo population in Yellowstone National Park in jeopardy before Montana would permit any year-round habitat for the migratory species.

To link an arbitrary population number on buffalo inhabiting the state of Wyoming to tolerance of the migratory species on a sliver of habitat in Montana is an offensive plan that Montanans and all Americans should condemn.

Alternative G is an absurdly contorted alternative that has gotten far away from the publicly supported plan of providing habitat in Montana for a wild population of migratory buffalo in the state.

Alternative G proposes to continue wasting millions of taxpayer dollars to empower a livestock bureaucracy that is institutionally biased against the buffalo.

The Montana Department of Livestock's statutory authority over buffalo continues to erode the state's public trust responsibility for migratory buffalo and Montana's mismanagement of this American icon must come to an end.

How did you arrive at an arbitrary population target for migratory buffalo that largely inhabits another jurisdiction for most of the year?

Montana has not disclosed how it intends to count migratory buffalo, or subject its methodology to scrutiny in determining a population number for a species that largely inhabits another state.

Alternative G does not represent and will not lead to management that supports a viable population of migratory buffalo in Montana.

Instead, Alternative G continues the wasteful boondoggle of government constructed "permanent haze-back" deadlines, "bison-tolerant zones," and the capturing, vaccination, quarantining, and slaughtering of America's last wild buffalo.

These harmful and costly "management actions" are a consequence of Montana denying buffalo year-round habitats and are not supported by the best available science or local sentiment.

Montana's Designated Surveillance Area rules are in place and remove the threat of whole herd cattle slaughter, loss of the state's brucellosis-free status, and threat of state sanctions against Montana cattle that contract brucellosis (Montana Dept. of Livestock 2010). Indeed, these rules have resulted in millions of dollars in annual savings for ranchers in Montana without a corresponding benefit in available year-round habitat for migratory buffalo.

If the purpose of protecting the livestock industry is being accomplished through Designated Surveillance Areas, why is Montana limiting year-round habitat and abundance of migratory buffalo through the Interagency Bison Management Plan?

Whatever quantifiable risk exists is localized, “predominantly low,” “zero under all scenarios,” and can be addressed by managing livestock at a significantly reduced cost to the American people while conserving wild buffalo (Kilpatrick 2009).

There is also no demonstrable disease risk on habitat where there is no susceptible cattle host (Nicoletti 2008).

Furthermore, there is no statutory or mandatory duty or legal precedent for Montana to arbitrarily remove all migratory buffalo from the state and prevent the wild species from occupying habitat year-round (Montana District Court 2013; Montana District Court 2010).

Indeed, Montana’s Constitution and laws mandate “special considerations” to assure the persistence of native wildlife species for future generations (Supreme Court of Montana 1940, 1968).

Montana District Court Judge E. Wayne Phillips ruled in 2013 that adaptive changes made by Montana for buffalo to occupy habitat in the Gardiner Basin is supported in our Constitution and laws mandating “special considerations” protecting native wildlife species:

"Montana's Constitution contains no provision safeguarding against threats to personal safety caused by naturally occurring conditions such as native wildlife. To the contrary, Montana's Constitution, laws, and regulations provide special considerations to assure that our wild places and the creatures that inhabit them are preserved for future generations." (citing State v. Huebner 1992; State v. Boyer 2002)

Montana District Court Judge John Brown also ruled in 2010 that the Interagency Bison Management Plan and Montana law "creates no legal duty mandating" that the Montana Dept. of Livestock forcefully remove or kill all wild buffalo as requested by Montana Stockgrowers and ranchers who filed suit over buffalo occupying habitat in Hebgen Basin (Montana District Court 2010).

Habitats in Montana where no cattle are grazed should, at a minimum, be designated available for migratory buffalo to roam year-round.

If there is a perceived cattle-buffalo land use conflict on public lands, wild buffalo should take precedence and Montana should work to resolve habitat availability conflicts in favor of native species.

The conservation status of buffalo (American bison) should mandate “special

considerations” be made by the state of Montana in an alternative aimed at truly recovering the wild species.

At most Alternative G permits migratory buffalo to occupy 0.3% of the habitat in the state.

The International Union for Conservation of Nature (2008) has Red Listed the American bison as near threatened.

The Wildlife Society (2000) warns that current management is leading towards domestication “that threatens their wild character and limits important natural selection processes.”

The buffalo's status in Montana is in "greatest conservation need" and "at risk because of very limited and/or potentially declining population numbers, range and/or habitat, making it vulnerable to global extinction or extirpation in the state" (Adams and Dood 2011).

More recently, Buffalo Field Campaign and Western Watersheds Project petitioned to list the Yellowstone bison as Threatened or Endangered under the Endangered Species Act in part based on the lack of regulatory mechanisms to preserve a wild population of the migratory species in Montana (WWP and BFC 2014).

If selected, Alternative G will add to the substantial body of evidence that Montana entirely lacks regulatory mechanisms that provides for migratory buffalo in the state.

By severely limiting year-round habitat for wild migratory buffalo populations, alternative G fails to fulfill Montana’s public trust responsibilities for "each generation as trustee of the environment for succeeding generations" (MCA 75-1-103).

Adoption of alternative G only “represents 0.3% of Montana’s 147,200 square miles” a habitat base that is likely to list the species as endangered in Montana (Addendum at 29).

Predicted buffalo habitat use is a fraction of the 0.3% Montana is considering (Addendum at 29).

The arbitrary line drawn south of the Madison River in Alternative G will result in ecological damage from the continued management actions to keep buffalo north of the Madison River.

In sum, Alternative G does not meet the year-round habitat needs to maintain a viable buffalo population in Montana and represents an existential threat to the wild species.

We ask you, Governor, to take a hard look at how proscribed management actions are being funded and not accounted for. There are ongoing taxpayer costs for alternative G with no oversight or checks and balances on the effectiveness of Montana's buffalo management plans.

What we do know is that since adopting the plan in 2000, the Montana Dept. of Livestock has received over 7 million federal taxpayer dollars and continues to receive such funding in cooperative agreements with the U.S. Department of Agriculture to implement MCA 81-2-120, the governor-approved Interagency Bison Management Plan (USDA APHIS and Montana Dept. of Livestock 2008, 2009, 2010).

We question why the U.S. government is funding implementation of Montana law MCA 81-2-120?

We question why Montana is being led by the fiscal nose and permitting taxpayers to bear the endless costs of mismanaging a valued native species missing from its home range in our bountiful state?

Alternative G does not provide year-round habitat to support populations of migratory buffalo on public trust lands, the right of American Indian Tribes to exercise their respective Treaties will be harmed and diminished as the outcome of such a decision severely restricts buffalo abundance and distribution and rights to self-determination (USA 1855; Harris 2008; Confederated Salish and Kootenai Tribes 2012).

The Montana-Wyoming Tribal Leaders Council (2013) has stated the state of Montana's assertion of jurisdiction over migratory buffalo (MCA 81-2-120) creates a reciprocal responsibility to legally consult and cooperate with American Indian Nations to preserve the wild species for future generations in perpetuity.

The Shoshone-Bannock Tribes (2013) also reiterated to Montana's Governor and Legislature their "desire to protect, preserve and enhance populations" of buffalo "to migrate freely across their historic range and to enhance the remaining Yellowstone herd."

In designating year-round habitats for buffalo to roam, your office "must recognize and honor its trust responsibility and Treaty obligations to American Indian Nations in providing for viable populations of migratory buffalo in the wildlife species' native habitat" (Montana-Wyoming Tribal Leaders Council 2013).

Under Article VI of our United States Constitution, Treaties made "under the Authority of the United States, shall be the supreme Law of the Land." Online: <http://www.house.gov/house/Constitution/Constitution.html>

As Governor of Montana your office needs to take into account the traditional buffalo cultures that continue to voice their interests in protecting the remaining stronghold where wild buffalo persist (LaDuke 2000; Little Thunder 2010; Looking Horse 2008).

“We seek to hold accountable those that are entrusted stewards of the land and the true and rightful inhabitants. Lack of stringent oversight can sometimes distort the necessary standards of accountability. I believe that we must bring about this scrutiny to protect the rights of a sacred species. And so, as tribal people, our challenge is to develop further strategies to preserve the core of our culture, that viable populations of wild buffalo are maintained.” Rosalie Little Thunder, Sicangu Lakota Oyate

In May 2012, the Montana-Wyoming Tribal Leaders Council urged the state of Montana to protect the buffalo in Yellowstone, to cease harassing the wild species on their calving grounds, and to recognize Treaty Obligations to American Indian Tribes to protect viable populations of migratory buffalo in their native habitat.

Governor Bullock, Montanans need you to show leadership and forego ‘permanent’ management actions that are harmful to the buffalo and the ecosystem, costly to American taxpayers and disruptive and intrusive upon the rights of locals who want buffalo and have made habitat available at no cost to Montana (Galanis 2007; Klyap 2008).

Of all wildlife species in the state, only migratory buffalo are managed by Montana in restrictive “zone-management” boundaries. Montana’s “zone management” boundaries deny year-round habitats migratory buffalo need for the population to remain viable and wild. Continued use of “zone-management” defeats both points in your objective “to further maintain a wild, free-ranging population ... by providing year-round habitat north and west of YNP” (Draft EA at 13).

Elk, which also harbor *Brucella abortus*, freely range in Montana and, based on the best available science, have infected cattle in Montana, Idaho and Wyoming (Beja-Pereira 2009; Montana Dept. of Livestock 2008; USDA APHIS Brucella Genotyping Test Reports).

This two-faced policy adopted by Montana on brucellosis stands in contradiction to the best available science.

With the adoption of new U.S. Dept. of Agriculture APHIS approved rules, Montana is implementing and providing taxpayer funding for cattle herd management plans in portions of counties in southwest Montana (Montana Dept. of Livestock 2010). This state and taxpayer supported plan accomplishes one of the primary purposes of the IBMP - “address[ing] the risk of brucellosis transmission to protect the economic interest and viability of the livestock industry in the state of Montana” -

underscoring how obsolete, wasteful, and unnecessary the Interagency Bison Management Plan has become.

For two decades Montana has severely restricted habitat and harmed the migration of buffalo, claiming the old APHIS rules required such actions to prevent brucellosis transmission to cattle. **Whatever risk is present can be effectively addressed by managing cattle.** Doing so would provide assurance to cattle producers while permitting migratory elk and buffalo to roam and adapt as wild species in the state.

The state is well aware of long-standing local support from residents in the Hebgen Basin petitioning Montana to adapt to changed circumstances and local sentiment that permits migratory buffalo to be on private lands where they are welcome and no cattle will be grazed.

Unfortunately, Alternative G draws an arbitrary line for migratory bison south from the Madison River in Hebgen Basin where local residents also welcome buffalo. This arbitrary line - smack dab in the middle of a buffalo migration corridor - is going to cause unnecessary conflicts and ecological impacts by concentrating all buffalo migrations north.

Montana's Constitution says wildlife is an integral part of the land you own and "that there may be some injury to property or inconvenience from wild game for which there is no recourse" (Supreme Court of Montana 1940).

A property owner in the State of Montana "must recognize the fact that there may be some injury to property or inconvenience from wild game for which there is no recourse" (Supreme Court of Montana 1968).

Instead of treating Montana's wildlife as property liabilities and public safety hazards, the state needs to start recognizing the migratory species 'is here to stay' and that people live in and visit Montana because of our heritage of wildlife species.

The facts demonstrate public support and economic value in having wild buffalo year-round in Montana (Geist 2011):

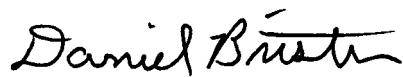
- Seventy percent of Montanans favor restoration of wild buffalo in Montana;
- Acquiring buffalo habitat outside Yellowstone National Park will "conservatively" net "measurable benefits" of over \$4 million dollars;
- Tourism and recreation accounts for over 42,000 jobs in Montana;
- Over 755,000 people engaged in wildlife-watching in Montana in 2006 generating \$375 million dollars in retail sales, creating 9,772 jobs, and bringing in nearly \$100 million dollars in

revenues.

Governor Bullock, please take action on behalf of the last remaining descendants of migratory buffalo in North America to continuously occupy their native habitats. Please honor our shared cultural heritage by allowing migratory buffalo to persist in Montana once again as a valued indigenous wildlife species.

Please keep us informed of your decision that will impact habitat for wild buffalo to freely roam in Montana.

Sincerely,

A handwritten signature in black ink that reads "Daniel Brister". The signature is written in a cursive style with a prominent flourish at the end.

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