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Buffalo Field Campaign supplemental comments on restoration of quarantined buffalo from Yellowstone National Park: new vision, traditional knowledge, leadership and courageous initiatives needed for wild buffalo conservation in North America.

Bison Translocation
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As habitat coordinator for Buffalo Field Campaign and a Montana resident, I am submitting supplemental comments for your review and analysis on the decision to restore buffalo captured from Yellowstone National Park in Montana.

Buffalo Field Campaign submits that any proposal to transfer buffalo captured from Yellowstone National Park to a private, commercial entity is

prohibited, contrary to federal statute, and in violation of the purpose and conditions of the National Park Service permit issued to the U.S. Dept. of Agriculture Animal and Plant Health Inspection Service. Furthermore, Montana Fish, Wildlife & Parks lacks statutory authority to forever remove buffalo and their offspring from the public trust, to a private person, or for profit, commercial entity.

Congress created Yellowstone National Park to “conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” And now Montana Fish, Wildlife & Parks preferred alternative seeks to remove buffalo and their offspring to private, for profit, commercial ownership and exploitation. How we began with conserving America’s last wild buffalo in America’s first national park for “the enjoyment of future generations” to domesticated buffalo behind “Private, No Trespassing” signs is not accounted for, legally or otherwise, in any document you have released.

Buffalo Field Campaign demands a proper accounting of legal jurisdiction, authority and constitutional basis of the proposed action in your analysis and rationale for your decision.

Buffalo Field Campaign also requests Montana Fish, Wildlife & Parks seek an opinion from Montana’s Attorney General on the constitutional basis and statutory authority for dissolving ownership of public trust buffalo and their offspring originating from Yellowstone National Park for the purpose of private, commercial exploitation.

By definition buffalo given to a private, commercial, for profit operation are forever removed from the public trust. Privatization excludes the public from benefiting from the presence of buffalo on public and Tribal lands, and state law prohibits public access to private lands without the consent of the owner. Privatization reclassifies buffalo as a native wildlife species to domestic livestock. In sum, there is no public value served by forever removing buffalo and their offspring from the public trust to a private, for profit, commercial entity.

Federal statute (Title 16, Chapter 1, Subchapter V, section 36) gives the Superintendent discretion to “give surplus” buffalo from Yellowstone

National Park to **“Federal, State, county and municipal authorities for preserves, zoos, zoological gardens, and parks.”** (Emphasis added) Congress has granted no statutory authority to Yellowstone National Park to give or sell such buffalo to a private person or for profit, commercial entity. Any attempt by the state of Montana to circumvent federal law by placing “surplus buffalo” and their offspring in private, commercial hands is clearly inappropriate and not what Congress intended.

The purpose and conditions of Yellowstone National Park's permit YELL-2007-SCI-5506 to capture wild buffalo as test subjects in U.S. Dept. of Agriculture Animal and Plant Health Inspection Service and Montana Fish, Wildlife, & Parks quarantine feasibility study prohibits privatization or commercialization of buffalo and their offspring.

Yellowstone National Park issued permit YELL-2007-SCI-5506 for the purpose of testing “the feasibility of the bison quarantine protocol . . . to determine if bison that have successfully completed quarantine are reliably negative for brucellosis and suitable **for the establishment of new tribal and public herds.**” (Emphasis added)

One permit condition clearly states that buffalo collected under permit **“may be used for scientific or educational purposes only, and shall be dedicated to public benefit and be accessible to the public . . .”** (Emphasis added) Furthermore, “any components” - buffalo offspring in this case - **“are to be used for scientific or educational purposes only, and may not be used for commercial or other revenue-generating purposes** unless the permittee has entered into a Cooperative Research And Development Agreement (CRADA) or other approved benefit-sharing agreement with the NPS.” (Emphasis added)

Clearly, federal statute and Yellowstone National Park’s permit YELL-2007-SCI-5506 does not authorize buffalo and their offspring to be transferred to a private person, or for profit, commercial entity.

It is also evident that Yellowstone National Park issued the permit so the public would benefit and the public would have access to the buffalo as a result of its cooperation with U.S. Dept. of Agriculture Animal and Plant Health Inspection Service and Montana Fish, Wildlife, & Parks to capture buffalo inside Yellowstone National Park for quarantine.

Additionally, Yellowstone National Park's permit has specific criteria and demands a written contract for commercial exploitation. You have put forth no such documentation that such a contract has been considered or entered into.

The Interagency Bison Management Plan environmental analysis and record of decision that quarantined buffalo would benefit the public and Tribes is plainly stated: **"If the handling becomes routine, such as in a quarantine facility over a number of years, these individual bison will no longer be considered part of the Yellowstone herd and will be distributed to tribes or public entities after completing the quarantine protocol."** (Emphasis added. U.S. Dept. of the Interior 2000, page 48).

"While this separate process will define the entities receiving bison (as well as the design, location, operation, and protocol of the facility), the EIS does indicate the agency preference that they are distributed to public or tribal entities." (Emphasis added. U.S. Dept. of the Interior 2000, page 55).

Montana Fish, Wildlife & Parks lacks statutory authority to forever remove buffalo and their offspring from the public trust, to a private person, or for profit, commercial entity.

The controlling statute for reintroduction of wildlife ([87-5-711](#)) requires the Montana Fish, Wildlife & Parks Commission to determine "based upon scientific investigation and after public hearing, that a species of wildlife poses no threat of harm to native wildlife and plants or to agricultural production and that the transplantation or introduction of a species has significant public benefits."

The people of Montana have not consented to in our Constitution, and the Montana legislature has not provided any explicit authority to Montana Fish, Wildlife & Parks to forever remove a native wildlife species the buffalo and their offspring from the public trust by granting ownership to a private person, or for profit, commercial entity.

Without written, enforceable assurances that buffalo and their offspring will be managed as a wildlife species on public and Tribal lands in

perpetuity, both Guernsey State Park and Turner Enterprises Inc. should be disqualified as recipients of buffalo.

Turner Enterprises Inc. proposal is clearly a private, for profit, commercialization of buffalo and their offspring who will be forever removed from the public trust with the attendant loss of public access, natural heritage, and cultural value for Montanan's and people visiting Montana to see wild buffalo in their native habitat.

Guernsey State Park has provided no written, enforceable assurance that buffalo and their offspring will be managed as a wildlife species and not as domestic livestock, or that such buffalo may be sold, auctioned or given to a private, for profit, commercial operation. "The management approach will be to manage the animals as much as possible as wildlife." (Wyoming State Parks and Cultural Resources proposal, November 2, 2009, page 5).

It is unclear what legal authority and commitment there is binding Guernsey State Park to keep buffalo and their offspring in the public trust, and not for private, personal benefit, or for-profit, commercialization.

Buffalo Field Campaign is also concerned about the limited potential range for buffalo and their offspring on Guernsey State Park. Simply put, the potential maximum range is too small for the buffalo to adapt home ranges and live out their evolutionary potential as a nomadic, herd species. Limited range will minimize buffalo numbers to a level that is far below what is needed for a population to emerge (Traill 2009). Our cultural view of conservation must also include a commitment to recognize that the American bison is a nomadic herd species requiring large landscapes to live out their evolutionary potential as an indigenous species. For this reason, Guernsey State Park should be disqualified as a recipient of buffalo.

All binding agreements between Montana Fish, Wildlife & Parks and recipients of buffalo and their offspring must include legally enforceable terms stipulating that no private, for-profit, commercialization of buffalo and their offspring is permitted.

Include in your analysis and rationale for your decision the historic and contemporary significance of buffalo to American Indian cultural traditions.

There are 27 American Indian Tribes in government-to government consultation with the U.S. National Park Service with interests in the buffalo's future and well being (Greater Yellowstone Science Learning Center 2006). Your analysis should include the concerns of the affiliated Tribes with a direct interest in the outcome of your decision.

Wild buffalo, a native keystone species, is ecologically extinct in Montana.

Your analysis fails to disclose the keystone ecological role of restoring wild buffalo on public and Tribal lands (Knapp 1999). Please explain in a meaningful manner wild buffalo's beneficial relationships to plant, soil, water, bird, mammal, reptile, predator and other natural communities. The public deserves an up-to-date analysis of the many ecological, economic and cultural benefits of restoring wild buffalo on public and Tribal lands. The paltry paragraph you have (Draft Environmental Assessment, Bison Translocation, December 2009, page 24) is insufficient for the public to weigh the ecological, economic and cultural benefits of restoring buffalo to public and Tribal lands in Montana.

"Bison were a keystone species of the prairie ecosystem; significantly affecting the way the prairie grassland ecosystem evolved and playing an important role in maintaining it. Wild bison remain ecologically extinct in Montana. The State of Montana Department of Livestock has prevented the natural dispersal of wild bison into Montana from Yellowstone National Park because of disease issues while no attempts are underway to restore the species outside of this controversial region. Current management of private, state and Federal bison herds is leading towards domestication of bison that threatens their wild character and limits important natural selection processes." (Wildlife Society 2000)

Grazing by buffalo can reverse the loss of native grassland species and the disruption of grassland ecosystem structure and function caused by their extirpation (Collins et al. 1998).

Fallon (2009) reviewed the literature and found that the distribution and abundance of buffalo increases native plant and wildlife diversity. Buffalo grazing contributes beneficial nutrient cycling that aids plant growth and species distribution, and buffalo wallows create unique habitats beneficial to wetland species and contribute to drought and fire resistant plant

composition. Fallon also identified buffalo as a significant food source for predators in the Yellowstone ecosystem “including birds, small mammals, gray wolves and grizzly bears.” Buffalo carcasses fertilize soils.

Additionally, the conservation status of American bison as a wildlife species today needs to be plainly explained to the public for the public to support restoration of buffalo on public and Tribal lands (Hornaday 1889; Polziehn et al. 1995; Ward et al. 1999; Schnabel et al. 2000; Halbert 2003; Halbert and Derr 2007; Gardipee 2007; Olexa and Gogan 2007; Boyd 2003; Boyd and Gates 2006; Gates et al. 2005; Freese et al. 2007; Cannon 1997; Cannon 2001; Meagher 1973; Schullery and Whittlesey 2006; Gross and Wang 2005; Gross et al. 2006; National Park Service 2008; Sanderson et al. 2008; Berger 2004; among others).

It’s not well known how significant the wild buffalo inhabiting the Yellowstone ecosystem are to conservation of the species as a whole and their many ecological roles. This is a compelling narrative to share with the public and it needs to be part of your analysis and rationale for restoring buffalo on public and Tribal lands.

Contrary to your refrain of “social acceptability” the American people want to see wild buffalo restored in their native habitat:

Survey of Americans: Let Buffalo Roam

“Of the 2,000 Americans who filled out the questionnaire, fewer than 10 percent knew how many bison remain in the U.S. However, more than 74 percent believed that bison are extremely important living symbols of the American West.” Wildlife Conservation Society survey November 18, 2008 (Online: <http://www.wcs.org/new-and-noteworthy/survey-says-let-bison-roam.aspx>)

Include in your analysis additional social and economic benefits from wildlife viewing, expanded hunting opportunities, and other direct localized benefits by restoring buffalo and their offspring on public and Tribal lands.

According to a study by the U.S. Fish & Wildlife Service (2008), in Montana wildlife viewing alone contributed \$376,451,000 in retail sales, 9,772 jobs, and nearly \$100,000,000 in local, state and federal revenues. Hunting also accounts for a substantial component of local economic

activity as a result of National Forests and state wildlife management areas being managed for native wildlife species.

Presently, Montana Fish, Wildlife & Parks (2009) is studying available habitat expansion areas for wild buffalo on Gallatin National Forest lands. That dialogue should not be limited to the severe constraints of the Interagency Bison Management Plan. Your agency along with all the others was roundly criticized by the U.S. Government Accountability Office (2008) for systematically failing to carry out adaptive management to benefit wild buffalo and for demonstrating a lack of accountability to the American people and Congress. (Online: <http://www.buffalofieldcampaign.org/GAO.html>) The buffalo quarantine process has followed this failed path. Public lands abound in the Yellowstone ecosystem yet its keystone grazer is managed for extinction. The public is left wondering if any agency has the capacity to restore buffalo and their offspring as a wild, nomadic species in their native range.

Buffalo Field Campaign views this study as a chance for Montana Fish, Wildlife & Parks to engage National Forests to manage habitat and restore wild buffalo migrations in the Yellowstone ecosystem and beyond. It is truly ironic and telling that Montana Fish, Wildlife & Parks seeks to restore buffalo on the landscape through quarantine while the quarantine host population is under threat and by no means secure (Traill 2009) or recovered as a wildlife species. The claim of wildlife conservation crumbles before an agency onslaught of management actions that have severely curtailed buffalo migration in their native range and restricted buffalo population to a minimum size. This is your vision, and this is why you have failed the buffalo.

For this reason Montana Fish, Wildlife & Parks should reach out to American Indian buffalo cultures to gather insight and experience on traditional ecological knowledge that has long benefited wild buffalo and indigenous cultures that co-existed and evolved with them. From this respectful process Montana Fish, Wildlife & Parks can benefit culturally by working with American Indian Tribes to develop co-management opportunities that restore wild buffalo on the land once again.

As part of your Statewide Bison Management Plan, Buffalo Field Campaign requests Montana Fish, Wildlife & Parks engage National Forests in the region and bring the public in to discuss wild buffalo habitat restoration

on our National Forests. Such a course of action is consistent with Montana Fish, Wildlife & Parks public trust responsibilities for wildlife species conservation and recovery, and National Forest duty to carry out The National Forest Management Act (NFMA 219.19) requiring habitat be managed for indigenous species viability:

“The Forest Service shall manage fish and wildlife habitat to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area.” (Online: <http://www.fs.fed.us/r1/projects/aquatic-ecology/revision.shtml>)

Please make available for public review a copy of all Investigator’s Annual Reports, final reports, and publications including articles, theses, and dissertations resulting from the quarantine feasibility study. According to Yellowstone National Park permit YELL-2007-SCI-5506 to take wild buffalo calves captured inside Yellowstone National Park for quarantine, the U.S. Dept. of Agriculture Animal and Plant Health Inspection Service is required to submit documentation of its study annually in PDF format.

The public should have the benefit of independently reviewing methods, data, and results from this publicly financed scientific study of public trust buffalo held in quarantine in Montana. Obviously the information is available and required as a condition of the permit, and the public should have this information prior to Montana Fish, Wildlife & Parks making a decision.

Buffalo Field Campaign fully incorporates by reference the following documents for Montana Fish, Wildlife & Parks review and development of an environmental analysis and impact statement on restoration of quarantined buffalo to public and Tribal lands in Montana. These references can be reviewed for scholarly and educational use online: <http://www.buffalofieldcampaign.org/habitat/bisonconservation.html>

1. Berger, Joel. 2004. The Last Mile: How to Sustain Long-Distance Migration in Mammals. *Conservation Biology* 18(2): 320-331.

2. Boyd, Delaney P. 2003. Conservation of North American Bison: Status and Recommendations. Master's Dissertation, University of Calgary, Calgary, Alberta. 235 pp.
3. Boyd, Delaney P. and C. Cormack Gates. 2006. A Brief Review of the Status of Plains Bison in North America. JOW 45(2): 15-21.
4. Cannon, Kenneth P. 1997. The Analysis of a Late Holocene Bison Skull from Fawn Creek, Lemhi County, Idaho, and Its Implications for Understanding the History and Ecology of Bison in the Intermountain West. Report Prepared for The Department of Agriculture, United States Forest Service, Salmon-Challis National Forest, Salmon, Idaho. 82 pp.
5. Cannon, Kenneth P. 2001. WHAT THE PAST CAN PROVIDE: CONTRIBUTION OF PREHISTORIC BISON STUDIES TO MODERN BISON MANAGEMENT. Great Plains Research 11(1): 145-174.
6. Collins, Scott L., Alan K. Knapp, John M. Briggs, John M. Blair, Ernest M. Steinauer. 1998. Modulation of Diversity by Grazing and Mowing in Native Tallgrass Prairie. Science, New Series, 280(5364): 745-747.
7. Fallon. 2009. The ecological importance of bison in mixed-grass prairie ecosystems.
8. Freese, Curtis H., Keith E. Aune, Delaney P. Boyd, James N. Derr, Steve C. Forrest, C. Cormack Gates, Peter J.P. Gogan, Shaun M. Grassel, Natalie D. Halbert, Kyran Kunkel, Kent H. Redford. 2007. Second chance for the plains bison. Biological Conservation 136(2): 175-184.
9. Gardipee, Florence M. 2007. DEVELOPMENT OF FECAL DNA SAMPLING METHODS TO ASSESS GENETIC POPULATION STRUCTURE OF GREATER YELLOWSTONE BISON. Master's Thesis, University of Montana, Missoula, Montana. 63 pp.
10. Gates, C. Cormack, Brad Stelfox, Tyler Muhly, Tom Chowns, Robert J. Hudson. 2005. THE ECOLOGY OF BISON MOVEMENTS AND DISTRIBUTION IN AND BEYOND YELLOWSTONE NATIONAL PARK, A Critical Review With Implications for Winter Use and Transboundary Population Management. University of Calgary, Calgary, Alberta. 329 pp.

11. Greater Yellowstone Science Learning Center. 2006. Yellowstone National Park Ethnography Overview. 9 pp.
12. Gross, John E. and Guiming Wang. January 2005. Effects of Population Control Strategies on Retention of Genetic Diversity in National Park Service Bison (*Bison bison*) Herds. Final Report Submitted to Yellowstone Research Group USGS-BRD, Department of Biology, Montana State University, Bozeman, MT 59717.
13. GROSS, J. E., G. WANG, N. D. HALBERT, P. A. GOGAN, J. N. DERR, AND J. W. TEMPLETON. March 2006. Effects of Population Control Strategies on Retention of Genetic Diversity in National Park Service Bison (*Bison bison*) Herds. Revised Final Report Submitted to Yellowstone Research Group USGS-BRD, Department of Biology, Montana State University, Bozeman, MT 59717.
14. Halbert, Natalie D. 2003. THE UTILIZATION OF GENETIC MARKERS TO RESOLVE MODERN MANAGEMENT ISSUES IN HISTORIC BISON POPULATIONS - IMPLICATIONS FOR SPECIES CONSERVATION. Ph.D. Dissertation, Texas A&M University, College Station, Texas. 213 pp.
15. Halbert, Natalie D. and James N. Derr. 2007. A Comprehensive Evaluation of Cattle Introgression into US Federal Bison Herds. *Journal of Heredity* 98(1): 1-12.
16. Hornaday, William T. 1889. The Extermination of the American Bison, From the Report of the National Museum, 1886-'87, pp: 369-548, Smithsonian Institution, United States National Museum, Washington, D.C. Republished 2006 by The Project Gutenberg Literary Archive Foundation, Project Gutenberg EBook™, Fairbanks, Alaska.
17. Knapp, Alan K., John M. Blair, John M. Briggs, Scott L. Collins, David C. Hartnett, Loretta C. Johnson, E. Gene Towne. 1999. The Keystone Role of Bison in North American Tallgrass Prairie, Bison increase habitat heterogeneity and alter a broad array of plant, community, and ecosystem processes. *BioScience* 49(1): 39-50.
18. Meagher, Margaret M. 1973. The Bison of Yellowstone National Park. Scientific Monograph Series Number One. National Park Service, Washington, D.C. 161 pp.

19. Montana Fish, Wildlife & Parks and Gallatin National Forest. August 11-12, 2009. Available Habitat Expansion Areas.

20. Olexa, Edward M. and Peter J.P. Gogan. 2007. Spatial Population Structure of Yellowstone Bison. *The Journal of Wildlife Management* 71(5): 1531-1538.

21. Polziehn, R. O., C. M. Strobeck, J. Sheraton, R. Beech. 1995. Bovine mtDNA discovered in North American bison populations. *Conservation Biology* 9(6): 1638-1643.

22. SANDERSON, ERIC W., KENT H. REDFORD, BILL WEBER, KEITH AUNE, DICK BALDES, JOEL BERGER, DAVE CARTER, CHARLES CURTIN, JAMES DERR, STEVE DOBROTT, EVA FEARN, CRAIG FLEENER, STEVE FORREST, CRAIG GERLACH, C. CORMACK GATES, JOHN E. GROSS, PETER GOGAN, SHAUN GRASSEL, JODI A. HILTY, MARV JENSEN, KYRAN KUNKEL, DUANE LAMMERS, RURIK LIST, KAREN MINKOWSKI, TOM OLSON, CHRIS PAGUE, PAUL B. ROBERTSON, AND BOB STEPHENSON. 2008. The Ecological Future of the North American Bison: Conceiving Long-Term, Large-Scale Conservation of Wildlife. *Conservation Biology* 22(2): 252-266.

23. Schullery, Paul and L. Whittlesey. 2006. Greater Yellowstone bison distribution and abundance in the early historical period. Pages 135–140 in A. Wondrak Biel, editors, *Greater Yellowstone Public Lands: A Century of Discovery, Hard Lessons, and Bright Prospects*. Proceedings of the 8th Biennial Scientific Conference on the Greater Yellowstone Ecosystem. October 17–19, 2005, Mammoth Hot Springs Hotel, Yellowstone National Park. Yellowstone National Park, Wyoming, Yellowstone Center for Resources.

24. Science Daily. May 6, 1998. Bison Grazing Increases Biodiversity In Grasslands.

25. The Wildlife Society. April 11, 2000. Position Statement of the Montana Chapter of The Wildlife Society on Wild Bison in Montana.

26. Traill, Lochran W., Barry W. Brook, Richard R. Frankham, and Corey J.A. Bradshaw. (2009) Pragmatic population viability targets in a rapidly changing world. *Biological Conservation* (Article in Press).

27. U.S. Department of Agriculture, Forest Service, Gallatin National Forest. Gallatin National Forest Land and Resource Management Plan. 1987.

28. U.S. Department of the Interior, National Park Service, U.S. Department of Agriculture, U.S. Forest Service, Animal and Plant Health Inspection Service. December 20, 2000. Record of Decision for Final Environmental Impact Statement and Bison Management Plan for the State of Montana and Yellowstone National Park. 75 pp.

29. U.S. Fish & Wildlife Service. 2008. Wildlife Watching in the U.S. The Economic Impacts on National and State Economies in 2006.

30. U.S. Government Accountability Office, Report to Congressional Requesters. 2008. YELLOWSTONE BISON Interagency Plan and Agencies' Management Need Improvement to Better Address Bison-Cattle Brucellosis Controversy.

31. U.S. National Park Service, Yellowstone National Park. 2008. Conservation Genetics of Yellowstone Bison.

32. Ward, T. J., J. P. Bielawski, S. K. Davis, J. W. Templeton, J. N. Derr. 1999. Identification of domestic cattle hybrids in wild cattle and bison species: a general approach using mtDNA markers and the parametric bootstrap. *Animal Conservation* 2: 51-57.



Wild buffalo migrating to winter range in the Yellowstone ecosystem.
Kim Kaiser photo