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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

WESTERN WATERSHEDS PROJECT, GALLATIN WILDLIFE ASSOCIATION, BUFFALO FIELD CAMPAIGN, & YELLOWSTONE BUFFALO FOUNDATION, Petitioners, v. STATE OF MONTANA and MONTANA DEPARTMENT OF FISH, WILDLIFE & PARKS, an agency of the State of Montana, Respondents.	Cause No. DV-10-317A AFFIDAVIT OF KEN MCDONALD
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I, KEN McDONALD, declare under penalty of perjury, the following is true and correct:

1. I live in Helena, Montana.
2. I am employed by the Montana Department of Fish, Wildlife, and Parks (FWP or Department). I hold the position of Wildlife Bureau Chief and have been in this position since January 2007.
3. I have a Bachelor of Science degree in Fish and Wildlife Biology from the University of California at Davis and a Masters of Science degree in Zoology from The Ohio State University. I am a certified Wildlife Biologist according to the standards and criteria of The Wildlife Society, an organization of wildlife professionals.

4. As Wildlife Bureau Chief I am responsible for developing and implementing the overall program policy and direction of FWP's Wildlife Program, including budget. Components of the Wildlife Program include game management, nongame and threatened and endangered species management, wildlife conflict management, research and technical services, wildlife health, hunter access, and habitat acquisition, maintenance, and management. This includes development and implementation of management plans for species and habitats.
5. In my capacity as Wildlife Bureau Chief, I am familiar with FWP's wildlife management plans, including the Interagency Bison Management Plan (IBMP).
6. Bison quarantine was initially included in the IBMP and the Final Environmental Impact Statement (EIS) that was completed for the IBMP in 2000. Both these documents anticipated the use of quarantine as a method for live distribution of bison that otherwise would be sent to slaughter. Thus, the IBMP includes provisions for the use of a bison quarantine facility if it is determined to be an appropriate component of the plan. The quarantine procedure, if shown to be successful by the feasibility study, could be incorporated into the IBMP.
7. The primary goal of the bison Quarantine Feasibility Study (QFS) is to develop quarantine procedures using the best available science and adaptive research strategies. It is not possible to design a quarantine process until this study is successfully completed. If the study is successful, the cooperating agencies will complete additional environmental review prior to making a decision to approve an operational quarantine program.
8. Beginning in 2007, in my capacity as Wildlife Bureau Chief, I assumed leadership of implementation of the QFS for Yellowstone bison as described in the Environmental Assessment (EA) for Phase II/III of the QFS, including the Requests for Proposals (RFP) for placement of the QFS bison.

9. I also served as Chair and FWP's representative on the QFS Interagency/Tribal Bison Restoration Panel, also described in the Phase II/III EA. This panel consists of representatives from FWP, U.S. Department of Agriculture – Animal and Plant Health Inspection Service, U.S. Forest Service, the National Park Service, U.S. Fish and Wildlife Service, the Bureau of Land Management, the Montana Department of Livestock, and the Intertribal Bison Cooperative.

10. The QFS was intended to determine if seronegative bison calves can be serially tested and efficiently screened to determine the presence of brucellosis while maintaining them in a secure environment, and to determine the latent expression of brucellosis in bison and test the sensitivity of quarantine procedures for detecting the bacteria in multiple generations of bison.

11. The construction and execution of this research was in accordance with the IBMP and the 2000 EIS. The IBMP and the EIS went through their own environmental analysis process.

12. The QFS originally had four separate phases. In Phase I calves were captured and tested for brucellosis. A total of 100 bison calves that originated in Yellowstone National Park were brought into the quarantine facilities in 2005 and 2006. During the study, a portion of the research herd (50 percent), sufficient to detect at the 95-percent confidence level the prevalence of brucellosis in five percent or more of the herd, was culled and extensively tested for brucellosis. The remaining animals were moved into Phase II of the QFS.

13. During Phase II, bison were held until they reached sexual maturity, at which time they were bred. Bison were re-tested using a serological testing panel similar to that used in Phase I in late November and were sorted by pregnancy status. Non-pregnant cows were retained in Phase II and bred again in the following year. A few bulls from the first cohort were also retained in Phase II. Holdover animals would provide benefits in herd management during the

second year because they would be familiar with the settings. Pregnant cows and some bulls advanced to Phase III.

14. During Phase III, bison were held in small cohorts through calving to confirm that cows did not develop a brucellosis infection during pregnancy and that calves subsequently born also test negative for brucellosis. Pregnant bison were introduced into the Phase III calving facility in November to early December. Pregnant bison were initially sorted into groups of 10-20 in large open pens in the company of a few bulls. Bison acclimated through the winter. In February bison were again sorted into smaller test groups of 5-8 animals. Bulls were separated from cows during calving and the pregnant cow groups were sorted into calving paddocks. Bison cows and calves were tested for brucellosis within five days of calving or abortion. Newborn calves were allowed to mature in paddocks until they were ready for open pastures at about 2 months of age. All seronegative cows with seronegative viable calves were sorted back into field pastures. Bulls were with these pasture groups to breed cows that cycle back in summer to late fall.

15. Bison in test groups that remain serologically negative on all tests and demonstrate one successful calving were to be sorted and grouped for distribution.

16. The EA prepared for Phase II/III of the QFS included a process for disposition of disease-free bison by requests of proposals for potential release sites and a process for selecting the most suitable restoration site for the release of the feasibility study animals.

17. In my capacity as Wildlife Bureau Chief, I oversaw the Request for Proposals (RFP) process provided for in the Phase II/III EA. My involvement included drafting specific criteria for the proposals with input from a QFS Interagency/Tribal Bison Restoration Panel (QFS Panel), disseminating the RFPs to the public, coordinating the review with the interagency QFS

Panel, providing their recommendation to the Director of FWP, and preparing the necessary environmental analysis and Decision Notice (DN).

18. A request for pre-proposals was issued on August 4, 2008 with a deadline for submission of September 1, 2008. Five letters of interest were submitted from the Fort Peck Tribe, Fort Belknap Tribe, Northern Arapaho Tribe, Joseph William Freeman, and Sinte Gleska University on the Rosebud Sioux Indian Reservation in South Dakota.

19. On September 30, 2008 RFPs were sent to all five parties who submitted pre-proposals. Deadline for proposals was December 1, 2008. Proposals were received from the Fort Peck Tribes, the Fort Belknap Tribes, and the Northern Arapaho Tribe.

20. The Fort Peck proposal was not considered at that time because it was for the second cohort of bison, which was not the group of bison that were to be translocated with the first RFP.

21. On January 16, 2009, the QFS Panel reviewed and discussed proposals submitted in response to RFP. After clarification of some questions the panel had, they convened on a conference call on January 30, 2009.

22. The QFS Panel recommended the Northern Arapaho Tribe on the Wind River Reservation in Wyoming receive the bison. On February 12, 2009, an EA for transfer of bison to the Northern Arapaho Tribe was issued. On March 26, 2009, the DN issued.

23. Later, however, the Northern Arapaho General Counsel voted against accepting the quarantine bison.

24. A new RFP was issued on June 26, 2009 with a submission deadline of August 2, 2009. Eligible proposals were received from Turner Enterprises (TEI), the Fort Belknap Tribe, and a zoo consortium that included the Wildlife Conservation Society, Billings Zoo, and Brookfield Zoo.

25. The QFS Panel met in Bozeman on September 10, 2009, to review the proposals received in response to the second RFP.

26. Concerns were raised about clarity of the RFP with regards to future commercialization. Specifically, the RFP stated that the QFS bison *and their offspring* could not be commercialized. However, questions had been raised about whether that was practical from a management perspective.

27. The QFS Panel's recommendation was to clarify the RFP to remove the prohibition on commercialization of future generations. However, because this change could be perceived as changing the RFP criteria that previously excluded potentially interested parties (i.e., of commercial bison raisers), the panel recommend the RFP be re-issued with the modified criteria.

28. The RFP criteria were clarified with input from the QFS Panel, and on October 27, 2009 the RFP was re-issued with submission deadline of November 2, 2009.

29. Proposals were received from four entities:

- Turner Enterprises – TEI proposed to take all of the 88 bison, hold them in a 12,000-acre portion of their ranch for five years, at the end of which they would return to FWP all of the original quarantine bison plus 25 percent of the offspring. They would keep the remaining 75 percent of the offspring to recover some of their costs.
- Fort Belknap Indian Community – Fort Belknap proposed to construct a 200-acre pasture for holding bison in the winter. That would be expanded to 1,800 acres in summer. Over the next two years, Fort Belknap would phase out their existing herd of 500 bison, after which the QFS bison would be moved to the 22,000-acre pasture and allowed to expand to approximately 500 animals.

- Guernsey State Park, Wyoming – Guernsey State Park proposed to accept 8-14 animals that initially would be kept in a 200-acre paddock for 2-4 weeks while they acclimated and then be allowed to range in an approximately 800-acre pasture. The herd would be allowed to expand to 30-40 animals during the surveillance period. At the end of the surveillance period and, thereafter, excess animals would be dispersed to other public or tribal conservation herds.
- Zoo Consortium – A concept paper was forwarded by a consortium of zoos offering to accept small groups of bison across a number of zoos. The bison could be monitored during the surveillance period and offspring could be used for conservation purposes.

30. On November 10, 2009, the QFS Panel met in Bozeman, to review and discuss proposals. Generally, there was agreement that the TEI proposal was the most complete and was the only proposal that was ready to receive the bison immediately. The QFS Panel recommended that 8-14 bison go to Guernsey State Park in Wyoming, and the remainder of the bison (76-80 bison) go to TEI to be held for five years with a commitment to placing the bison that were returned to FWP at the end of five years to public or tribal lands.

31. An EA that included these recommendations as alternatives was issued on December 14, 2009. A public meeting on the proposed alternatives was held in Bozeman on January 7, 2010. On February 2, 2010, a DN was issued whereby the TEI proposal was accepted with all bison going to TEI, and TEI keeping 75 percent of the offspring.

32. Following issuance of the DN, a memorandum of understanding (MOU) was developed with TEI that outlined roles and responsibilities of TEI and FWP. The MOU was signed on February 16, 2010.

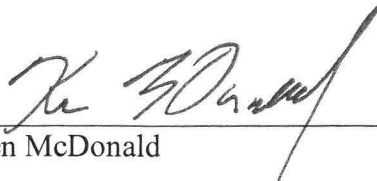
33. In addition, because the herd size of the first cohort of bison had grown and because as part of Phase III the second cohort was to be moved into the same facility, there was a need to reduce the number of animals in the quarantine facilities to keep densities low and to prevent the bison from becoming overcrowded, which causes stress to the animals and makes them more susceptible to disease.

34. For animal welfare purposes, it was desired that QFS bison, including calves, be moved out of the quarantine facilities in early winter, not later than March 10, and preferably much earlier. This was to balance allowing young-of-the-year calves to attain sufficient size and age (more than six months) versus moving pregnant cows before they are too far along in pregnancy.

35. The stress of being moved jeopardizes the pregnancy, so moving them earlier was preferred. Because the DN was not issued until February, it was understood that bison should be moved as quickly as possible after the DN was issued to avoid these problems.

36. Therefore, bison were moved to the Green Ranch to be managed by TEI on February 17, 2010.

Signed on August 17, 2012 in Helena, Montana.



Ken McDonald